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O-CHI-CHAK-KO-SIPI FIRST NATION
BY-LAW NO. 99-2
A BY-LAW FOR THE PRESERVATION,
AND MANAGEMENT OF WHITE-TAILED DEER
ON THE O-CHI-CHAK-KO-SIPI FIRST NATION RESERVE

WHEREAS THE Council of O-Chi-Chak-Ko-Sipi First Nation desires to make a by-law governing the preservation, protection and management of white-tailed deer on reserve lands;

AND WHEREAS the Council has the power to make such a by-law under paragraphs 81(1)(o), (q) and (r) of the *Indian Act RSC 1985 c. I-5*;

AND WHEREAS such a by-law is considered expedient and necessary to provide for the preservation, protection and management of white-tailed deer on reserve lands;

NOW THEREFORE the Council of the O-Chi-Chak-Ko-Sipi First Nation makes the following by-law:

Short title:

1. This by-law may be cited as The O-Chi-Chak-Ko-Sipi First Nation White-tailed Deer By-Law.

Interpretation:

2. In this by-law,

Agriculture Canada means the Government of Canada department called the Department of Agriculture;

band member means a member of the Indian band called O-Chi-Chak-Ko-Sipi First Nation;

Council means the band council, as defined in the Indian Act, of the O-Chi-Chak-Ko-Sipi First Nation;

First Nation means the O-Chi-Chak-Ko-Sipi First Nation;

habitat means the soil, water, food and cover components of the natural environment that are necessary to sustain wildlife;

hunting means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, trapping, attempting to trap, shooting at, stalking or lying in wait for wildlife whether or not the wildlife is subsequently captured, killed, taken or wounded, but does not include stalking, attracting, searching for or lying in wait for wildlife by

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an unarmed person solely for the purpose of watching or taking pictures of the wildlife;

wildlife tag means a unique identification tag issued under this by-law;

license means a valid and subsisting license issued under this by-law;

person includes a first nation, municipal corporation, partnership, society, organization, club, and unincorporated association;

to process includes to slaughter an animal or to make or obtain a product from an animal;

reportable disease means a reportable disease as prescribed for the purposes of s.2 of the *Health of Animals Act* SC 1990 c.21;

reserve means the lands defined as a reserve within the meaning of the Indian Act and set apart for the use and benefit of the O-Chi-Chak-Ko-Sipi First Nation,

resolution means a recognized declaration of intent duly authorized by Council at a duly authorized meeting of Council and recorded and incorporated in the official minutes;

trade means offer for sale, expose for sale, advertise for sale, sell, buy, barter, exchange, deal or solicit;

trapping means taking, capturing or killing or attempting to take, capture or kill wildlife by any means or contrivance designed to enclose, capture, hold, ensnare or otherwise restrain an animal, whether or not that means or contrivance kills the animal or not.

uniquely identified means identified by means of

- (a) an O-Chi-Chak-Ko-Sipi First Nation wildlife tag,
- (b) a federal health of animals tag issued by Agriculture Canada under the Health of Animals Act, and
- (c) where applicable, a United States Department of Agriculture tag issued under the Identification of Animals for Inter-State or International Movement Regulations (United States);

veterinary inspector means

- (a) a veterinary inspector as defined in the Health of Animals Regulations,
- (b) a veterinary inspector appointed under the Animal Diseases Act (Manitoba) RSM 1987 c.A-85, and
- (c) a person qualified to practice veterinary medicine under the laws of the place he or she practices and authorized by Council to conduct examination of wildlife animals under this by-law;

wildlife means a vertebrate of any species or type which is wild by nature, but does not include fish;

wildlife farm means an area where wildlife is kept, raised, bred or propagated in captivity, for any purpose;

wildlife farm animal means a wildlife animal which was born or is or has been kept or raised on a wildlife farm;

wildlife officer means a person appointed as a wildlife officer by Council under section 4.

Application of by-law

3. (1) This by-law applies within the reserve of O-Chi-Chak-Ko-Sipi First Nation.
- (2) The Schedules are part of this by-law.
- (3) Where a form is prescribed in this by-law, the form used may vary from the prescribed form as long as it contains all of the relevant information referred to in the prescribed form.
- (4) This by-law shall be interpreted in such a way as not to conflict with the *Health of Animals Act and Regulations*.
- (5) This by-law shall be interpreted in such a way as to supersede provincial jurisdiction over the preservation, protection and management of white-tailed deer within reserve lands.

Wildlife officers

4. (1) Council may by resolution appoint one or more wildlife officers to perform the functions of administration and enforcement called for in this by-law.
- (2) Council may by resolution empower the Band Constable to perform the functions of a wildlife officer as defined in this by-law.
- (3) Council may in the resolution provide for reasonable remuneration to be paid to a wildlife officer so appointed.

Agreements for joint action

5. Council may on behalf of the First Nation enter into an agreement with the government of Canada, the government of a province or territory of Canada, or the government of a foreign country or a state thereof, or an agency of any of the foregoing, or with a municipality or local government district, or any person for
- (a) the joint management of wildlife, or mutual assistance in the enforcement of laws relative to wildlife;
 - (b) the development and implementation of joint informational, educational or training programs
 - (c) the conduct of joint biological or ecological investigations;
 - (d) reciprocal arrangements for fees to be charged for licenses, permits and tags issued under this by-law and their counterparts issued in other jurisdictions
 - (e) the joint management of wildlife habitat;
 - (f) the development and implementation of joint programs for the control of damage caused by wildlife;
 - (g) the development and implementation of joint programs for the control of wildlife animals;

or for all or any of those matters, and the agreement may include provisions for contributions by the First Nation toward the cost of implementing its provisions.

General prohibition on hunting and trapping

6. (1) No person shall engage in hunting or trapping within the reserve except as permitted in this by-law and the O-Chi-Chak-Ko-Sipi First Nation Hunting By-Law (No. 99-1).

White-tailed deer protection measures

7. (1) Council may by resolution designate part of the reserve as wildlife protection areas and may prohibit developments that would adversely impact on white-tailed deer habitat.
- (2) Council may by resolution prohibit hunting by all persons within designated areas or during specified seasons

Wildlife farms

8. (1) Council may by resolution develop wildlife farms for the captive propagation of white-tailed deer
- (2) Council may by resolution enable the wildlife farms to engage in any of the following commercial activities:
- (a) sale of live white-tailed deer
 - (b) licensed trophy hunting for sport hunters
 - (c) photographic and viewing opportunities
 - (d) capture of white-tailed deer on reserve

Licenses

9. (1) (a) No person shall establish or operate a wildlife farm, unless the person holds a valid and subsisting wildlife farm license issued under this by-law.
- (b) No person shall possess a white-tailed deer unless authorized to do so under the provisions of this by-law

Application

- (2) A person wishing to obtain a license shall
- (a) submit an application to Council on an application form as set out in Schedule "A";
- (b) provide Council with any other information it considers necessary; and;
- (c) pay a fee of \$100.00

Issuance

- (3) Council may issue a license in the form of Schedule "B", with or without additional special conditions.

Renewal

- (4) Unless renewed in accordance with subsection (a), a license expires on December 31 of the year of its issuance or renewal, as the case may be.
- (a) Council shall renew a license if the license-holder
- (i) is in compliance with this by-law and any conditions to which the license is subject; and
- (ii) pays a fee of \$100.00.

Suspension

- (5) Subject to subsection (6), Council may by resolution suspend for any period that it considers appropriate or cancel a license if the license-holder fails to comply with this by-law or any condition to which the license is subject.
- (6) Council may not suspend or cancel a license under subsection (1) without first giving the license-holder reasonable notice and an opportunity to be heard.
- (7) Despite subsections (5) and (6), where it is in the opinion of Council in the public interest to do so, Council may by resolution immediately suspend or cancel a license, and on the suspension or cancellation, giving the license-holder
- (a) written notice of the suspension or cancellation, and

- (b) an opportunity to be heard within 15 days of the suspension or cancellation.
- (8) Suspension or cancellation under this section is in addition to any other penalty that may be imposed under this by-law or any other law.

Wildlife farm facilities

- 10. On a wildlife farm, animal enclosures shall have the following features:
 - (a) contain natural bluffs comprised of trees and shrubs;
 - (b) a perimeter fence constructed with wire mesh game fence, at least 8 feet high with poles spaced no more than 20 feet apart;
 - (c) secure locked gates to prevent escape of animals or unauthorized public entry;
 - (d) handling facilities that enable the animals to be held.

Husbandry

- 11. An adequate standard of white-tailed husbandry and care shall be provided and the operator is responsible for ensuring that the following requirements are met:
 - (a) stocking density shall not exceed three (3) adult white-tailed deer per acre.
 - (b) white-tailed deer animals shall be provided with feed and water adequate to meet normal seasonal maintenance and production requirements.
 - (c) dehorning, antler removal, semen collection and all other white-tailed deer handling procedures shall be conducted in a humane manner;
 - (d) no person who holds white-tailed deer shall allow them to
 - (i) roam free,
 - (ii) escape from captivity, or
 - (iii) be released to the wild.
 - (e) white-tailed deer born on a wildlife farm shall be uniquely identified.

Records

- 12. A wildlife farm operator shall maintain written records for each animal in its possession containing the following information:
 - (a) dates of birth and death,
 - (b) dates and particulars of purchase and sale,
 - (c) identifying visual characteristics,
 - (d) unique identification tag numbers, and
 - (e) dates and particulars of changes in unique identification.

Inspections

- 13. A white-tailed deer farm operator shall make all white-tailed deer animals held on the farm available for inspection at all reasonable times by:
 - (a) a wildlife officer,
 - (b) a veterinary inspector authorized by Council, or
 - (c) an Agriculture Canada Inspector

Exports

14. No person shall export from the reserve a white-tailed deer, part of a white-tailed deer, or a white-tailed deer product unless he acquires an export permit by resolution of Council

Enforcement

16. Everyone commits an offense who
 - (a) fails to observe or contravenes any provision of this by-law or any ban, restriction or rule imposed under it; or
 - (b) resists or willfully obstructs a wildlife officer or a veterinary inspector in the performance of any duty or in the exercise of any power under this by-law.
17. Where an act or omission in contravention of this by-law or any ban, restriction or rule imposed under it continues for more than one day, the act or omission shall be deemed to be a separate offense committed on each day it continues, and may be punished as such.
18. A peace officer may arrest without warrant a person the officer finds apparently committing an offense under this by-law and bring the person before a court of competent jurisdiction to be dealt with according to law.

Penalty

19. A person who commits an offense under section 16 is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment not exceeding 30 days, or to both.

Severability

20. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of the
O-Chi-Chak-Ko-Sipi First Nation this day of , 1999.

Voting in favour of the by-law are the following members of Council:

John McDonald
Chief

Anthony
Councillor

Councillor

Raymond
Councillor

being a majority of those members of the Council of O-Chi-Chak-Ko-Sipi First Nation
present at the meeting of Council.

A quorum of the members is members. members were present at the meeting.

I, John McDonald, Chief/Acting Chief/Councillor of O-Chi-Chak-Ko-Sipi First Nation,
hereby certify that a true copy of this by-law was mailed to the Minister of Indian Affairs
and Northern Development at the District/Region/Hull office under subsection 82(1) of
the *Indian Act*, this day of , 1999.

Verneha Forte
Witness

John McDonald
Chief

SCHEDULE "A"
(section 9)

O-CHI-CHAK-KO-SIPI FIRST NATION
APPLICATION FOR WILDLIFE FARM LICENSE

Name of applicant:
Contact person:
Mailing address:

Telephone no.:
Fax no.:
Location of farm:

Attach proof of possession of land.

Describe perimeter fence:

- w wire (height to top, material, density):
- w posts (length, thickness at top, depth in ground):
- w additional measures to assist containment (electrification, fence alarm, buffer fence):
- w gates on perimeter (width, height, construction, locking):
- w barbed wire location on perimeter fence:

Show or describe proposed corner brace construction:

Describe land to be included in game farm (i.e. grassland pasture, open/dense forest, meadow/muskeg - give approximate percentages):

Does natural bush exist in land included in proposed elk farm?

Provide sketch layout of proposed elk farm including perimeter fencing, gates, handling system, quarantine pen and waterers.

- w Number of suitable habitat acres in initial elk farm plan:
- w number of acres if application is for expansion:

Type of squeeze chute:

[SCHEDULE "A", continued]

Type of handling modules:

Provide scale drawing including dimensions of the proposed handling facility including:

- w alleyway leading to handling pen
- w gates
- w handling pens or modules
- w squeeze chutes
- w loading facilities
- w water supply
- w quarantine facility

I agree to comply with the *O-Chi-Chak-Ko-Sipl First Nation White-tailed deer By-Law*.

Signature:

Date

Fee: \$100.00

SCHEDULE "B"
(Section 9)

O-CHI-CHAK-KO-SIPI FIRST NATION

WILDLIFE FARM LICENSE

Name:
Mailing address:

is hereby licensed under O-Chi-Chak-Ko-Sipi First Nation White-tailed deer By-law to
operate an elk production farm at the following location:

Conditions/restrictions:

Expiry date:

Chief

Date:

NOTICE:

This license is not transferable.