

BY-LAW NO. 1999-02
of the Dakota Tipi First Nation Band
A By-law for the Prevention of Nuisances

WHEREAS the Council of Dakota Tipi First Nation Band desires to make a by-law governing the prevention of nuisances, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

AND WHEREAS the Council of Dakota Tipi First Nation Band is empowered to make such by-law pursuant to paragraphs 81(1)(d), (q) and (r) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Dakota Tipi Reserve to provide for the prevention of nuisances on the reserve;

AND WHEREAS the Council of the Band did enact By-law Number 3 on the 7th day of October, 1981, and wishes to repeal the said By-law Number 3 and replace it with this by-law;

NOW THEREFORE the Council of Dakota Tipi First Nation Band hereby makes the following by-law:

Short Title

1. This by-law may be cited as the "Nuisances By-law".

Interpretation

2. In this by-law,

"*Band*" means the Dakota Tipi first Nation Band;

"Council" means the Council of the Dakota Tipi First Nation Band;

"Nuisance" means any act, activity or condition, including

- (a) the abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (b) the storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (c) the dumping or storage of tires, garbage or other refuse;
- (d) the burning of tires, grass, garbage, leaves or other refuse;
- (e) the discharge of any substance into the air or water;
- (f) noise;

that materially impairs, otherwise than by direct physical interference, the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of the reserve community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

"Officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

"Person" includes a corporation;

"Reserve" means the reserve of the Dakota Tipi First Nation Band and includes the Band's Reserves No. 1.

Nuisance

- 3.(1)** Every one who creates or causes a nuisance is guilty of an offence.
- (2)** An officer may order any person who is causing or who threatens to cause a nuisance on the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.
- (3)** In determining whether a period fixed under subsection (2) was reasonable in the circumstances, the officer shall take into account
- (a)** the nature and extent of the nuisance;
 - (b)** the methods available to abate the nuisance;
 - (c)** the approximate time required to abate the nuisance; and
 - (d)** the effect of the order on any business or means of livelihood of the person who is the subject of an order.

Enforcement

- 4.(1)** Where a person who has been ordered to refrain from causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to prevent or to abate the nuisance.
- (2)** A person who fails or refuses to comply with an order made under subsection 3(2) or who resists or interferes with an officer acting under subsection 4(1), commits an offence.

Penalty

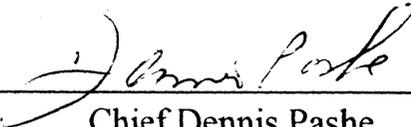
- 5.** A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both.

Repeal

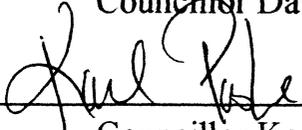
6. By-law number 3 enacted on the 7th day of October, 1981, and being a Disposal of Garbage By-law, be and the same is hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Dakota Tipi First Nation Band this 8 day of June, 1999

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



Chief Dennis Pashe

Councillor David M. Pashe


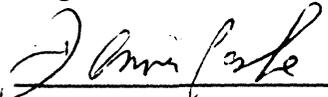
Councillor Karl Pashe

being the majority of those members of the Council of the Dakota Tipi First Nation Band present at the aforesaid meeting of the Council.

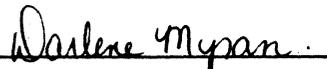
The quorum of the Council is 2 members.

Number of members of the Council present at the meeting: 2.

I, Dennis Pashe, Chief of the Dakota Tipi First Nation Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the Regional office, this 8th day of June, 1999.



(Chief)



(Witness)