

HUNTING BYLAW ON THE THUNDERCHILD RESERVE

BYLAW NO. 1995.01

A BYLAW FOR THE PRESERVATION, PROTECTION AND MANAGEMENT OF FUR BEARING ANIMALS AND OTHER GAME

WHEREAS the Council of The Thunderchild Band desires to make a bylaw governing the preservation, protection and management of fur bearing animals and other game on the reserve, matters ancillary thereto, and a penalty for the violation thereof;

AND WHEREAS the Council of the Thunderchild Band has the power to make such bylaw pursuant to paragraphs 81(1) (O), (q), and (r) of The Indian Act;

AND WHEREAS it is considered to be expedient and necessary to provide for the preservation, protection and management of fur bearing animals and other game on the reserve;

NOW THEREFORE the Council of the Thunderchild Band hereby makes the following bylaw:

Short Title

1. This bylaw may be cited as the "hunting Bylaw on the Thunderchild Indian Reserve".

Interpretation

2. In this bylaw,

"Band" means the Council, as defined in the *Indian Act*, of the Thunderchild Band;

"fur bearing animal" includes a black bear, wolf, fox, beaver, mink, otter, fisher, marten, muskrat, skunk, racoon, weasel, bobcat, lynx, coyote, squirrel and varying hare;

"game" means any vertebrate animal or bird, excluding fish, amphibians and reptiles, that is wild by nature, and includes deer, moose, elk, caribou and fur bearing animals;

"gaming officer" means a game officer appointed under section 3, and includes an officer who has been designated by the Council, pursuant to section 4, to administer and enforce this bylaw;

"hunting" means taking, wounding, killing, chasing, pursuant, worrying, capturing, following after or on the trail of, searching for, shooting at, stalking or lying in wait for any game, whether or not the game is subsequently captured, wounded or killed;

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

"reserve" means the reserve of the Thunderchild Band and includes the Band's present Reserves No. 115B, 115C and 115D, as well as any other reserves added hereafter;

"snare" means any device for the taking of game whereby it is caught in a noose;

"take" includes the capturing or the taking into possession of game, whether dead or alive;

"trap" means any spring trap, gin, deadfall box or net used to capture game;

"trapping" means taking game by a snare or trap.

Administration

3. (1) The Council may, by resolution, appoint one or more game officers to perform such functions in respect of the administration and enforcement of this bylaw as are prescribed herein.
- (2) The Council may, in the resolution, provide for reasonable remuneration to be paid to a game officer appointed under subsection (1).
4. The Council may designate any officer to perform such functions in respect of the administration and enforcement of this bylaw as are prescribed herein to be performed by a game officer;

General Prohibition on Hunting and Trapping

5. (1) No person shall engage in hunting or trapping within the reserve except, as permitted by this bylaw.
- (2) Notwithstanding anything in this bylaw, a person may, where necessary for the prevention of

- (a) damage to private property, or
- (b) injury to occupants of occupied land,

hunt, take, trap, snare, shoot or kill game at any time if the incident is reporting, and such game or carcass is surrendered, immediately to the nearest game officer.

Hunting and Trapping by Band Members

6. Subject to the provisions of this bylaw, members or the Band may engage in hunting and trapping within the reserve at any time.

Hunting and Trapping Permits

- 7.
- (1) A person who is not a member of the Band may apply to the Council for a permit to hunt or to trap game within the reserve.
 - (2) The application shall specify
 - (a) the place for which the permit is sought;
 - (b) the species of game for which the permit is sought;
 - (c) the type of hunting or trapping equipment to be used; and
 - (d) such other information as is required to enable the Council to address the considerations set out in subsection (3) and the criteria set out in subsection (4).
 - (3) In determining whether or not a permit should be issued, the Council shall take into consideration
 - (a) whether or not the applicant is a resident of the reserve;
 - (b) whether or not the applicant has previously held a permit and, if so, has complied with the provisions of the permit and this or any previous bylaw with respect to hunting and trapping;
 - (c) the extent of the contribution, if any, the applicant makes to the reserve community;
 - (d) the number of permits already issued for the species of game for which the permit is sought; and
 - (e) whether or not there is sufficient game of that species in the reserve at the time to meet the needs of Band members and permit holders without detrimentally affecting the species.

- (4) Where the Council determines that
- (a) the issue of a permit will not detrimentally affect the species of game in respect of which the permit is sought; and
 - (b) the applicant is a suitable person to have a permit to hunt or trap on the reserve,

the Council may issue a written permit authorizing the person to hunt on the reserve, specifying therein the time, place, type of equipment, bag limit, size limit and species of game that may be hunted by the person holding the permit.

- (5) The fee for a permit is as follows:

Hunting:

Moose, white-tail deer, mule deer, elk, and black bear - \$100

Trapping:

To be determined by Council;

- (6) A permit issued pursuant to this section is non-transferable.

8. A person holding a permit issued under subsection 7(4) shall not hunt or trap within the reserve, except in accordance with the terms of the permit issued by the Council.

9. A permit issued under the bylaw is invalid

- (a) if it is not signed by the person to whom it is issued,
- (b) if the date of expiry has been omitted, removed or defaced.

10. (1) A person hunting or trapping under the authority of a permit issued pursuant to section 7 shall have the permit on his or her person while hunting or trapping within the reserve.

- (2) A game officer may at any time require any permit holder who is hunting or trapping within the reserve to produce his or her permit.

11. The Council may, after a notice and hearing, cancel the permit of any person where it is satisfied

- (a) that the person has contravened the terms of the permit or of this bylaw, or
- (b) that the continuation of the permit would be detrimental to the preservation or protection of fur bearing animals or other game on the reserve.

12. The holder of a permit obtained by any false or misleading statement or information made or given in respect to any information required for the issuance of the permit shall be deemed to be the holder of a void permit and the holder may be prosecuted in the same manner and with the same effect as he or she could be prosecuted if he or she were not the holder of a permit.

Hunting or Trapping by a Person Under the Age of Sixteen Years

13. A non Band member who is under the age of sixteen years may hunt or trap without a permit if accompanied by and under the supervision of a Band member or a person holding a permit issued under section 7.

Hunting Season

14. No permit shall be issued to authorize hunting for moose, elk, deer or black bear between January 16th and August 31st of any year.

Trapping Season

15. The trapping season and the species to be trapped shall be determined by Council on a year by year basis, not later than September 1st of any year.

Prohibited Zones

16. No person shall at any time engage in hunting within the following areas of the reserve:

Sacred or ceremonial grounds

Trapping Equipment

17. The equipment used by any person for trapping game shall meet the following standards:

Those determined by provincial legislation and regulations.

18. No person shall trap game using the following equipment:

Those prohibited by provincial legislation and regulations.

Hunting with Firearms

19. No person while engaged in hunting shall discharge a firearm

(a) within one 1,000 metres of the established townsite,

(b) 500 metres of a residential building,

and 150 metres of

(c) a public road or bridge, or

(d) a game preserve or bird or fish sanctuary.

20. No person while engaged in hunting shall discharge a firearm

(a) on or from a public road,

(b) across a public road, or

(c) from a vehicle, aircraft or power boat.

21. No person while engaged in hunting on the reserve shall conceal his or her identity or wear a mask or disguise.

22. No person while engaged in hunting or trapping or while going to or returning from a hunting camp, or while in a locality that game usually inhabits or in which game is usually found, shall between one half-hour after sundown and one half-hour before sunrise have a firearm in his or her possession unless it is unloaded and encased.

23. No person while engaged in hunting shall have a loaded firearm in his possession while he or she is under the influence of alcohol or a drug.

24. Every person is guilty of the offence of hunting carelessly who, being in possession of a firearm for the purpose of such hunting, discharges or causes to be discharged or handles the firearm without due care and attention or without reasonable consideration for person and property.

25. No person shall use any poison, explosive or deleterious substance for hunting purposes.

26. No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanisms or which causes a firearm to discharge without the hunter himself pressing upon the trigger of such firearm.

Protected Species

27. No person shall at any time engage in the hunting or trapping of the following species:

Birds of prey, any game or animal on the established endangered list, unless the consent is first obtained from the Council for a specific traditional use.

- 28.
- (1) The Council may impose a temporary ban or restriction on the hunting or trapping of any species not mentioned in section 25, by giving notice in accordance with subsections (2) and (3).
 - (2) Notice of the ban or restriction shall be posted not less than 24 hours prior to the ban or restriction coming into force,
 - (a) in conspicuous places in areas of the reserve in which hunting or trapping is engaged in; and
 - (b) in the office of the Band Council.
 - (3) The notice shall specify the date and time the ban or restriction is to come into force and to cease, and the particulars of the ban or restriction imposed.
 - (4) No ban or restriction imposed under this section shall remain in force for a period of more than fourteen days, unless a further ban or restriction is imposed and further notice is given in accordance with subsections (2) and (3).

Conservation

29. A person shall not
- (a) disturb, destroy, injury, gather or take the nest or eggs of any game bird;
 - (b) disturb, destroy or injure the shelter or habitat of any game.
30. A person shall not cut, break or destroy a beaver house or beaver dam, except where the cutting, breaking or destroying is necessary to prevent damage to the property of that person or the Band.

Rules of Hunting and Trapping

31. No person shall hunt a moose, deer, elk or caribou by means of a trap or snare.
32. No person shall kill or attempt to kill any species of game by the use of poison.
33. No person shall
- (a) hunt game in any day later than one-half hour after sunset or earlier than one-half hour before sunrise; or
 - (b) hunt game by means of or with the assistance of a light.
34. (1) No person shall hunt moose, deer, elk, caribou or any fur bearing animal by means of, or with the assistance of, a dog or when accompanied by a dog.
- (2) Subsection (1) does not apply where the hunting of game with a dog is necessary for the prevention of
- (a) damage to private property, or
 - (b) injury to occupants of occupied land,
- if the incident is reported, and the carcass is surrendered, immediately to the nearest game officer.
35. No person shall hunt game using a crossbow, hand-gun, fully automatic weapons and those smaller than a .23 calibre.

- 9 -

36. No person shall use an aircraft, sail boat, power boat or motorized vehicle in connection with hunting, except as a means of transportation before and after any hunting activity.

Enforcement

37. A person who

- (a) fails to observe or who otherwise contravenes any provision of this bylaw or any ban or restriction imposed hereunder, or
- (b) resists or wilfully obstructs a game officer in the performance of any duty or in the exercise of any power under this bylaw,

commits an offence.

38. Where an act or omission in contravention of this bylaw or any ban or restriction imposed hereunder continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

Penalty

39. A person who commits an offence under this bylaw 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.

40. Bylaw number 95-01 enacted on the 2nd day of November, 1995 and bearing a Bylaw to regulate the preservation, protection and management of fur bearing animals and other game, be and the same is hereby repealed.

THIS BYLAW IS HEREBY made at a duly convened meeting of the Council of the Thunderchild Band this 2nd day of November, 1995

Voting in favour of the bylaw are the following members of the Council.

Shirley Aschuk - Chief
Chief

Member of the Council

Donald Dzus
Member of the Council

- 10 -

Member of the Council

Joseph Jones
Member of the Council

Charlie Paddy B.
Member of the Council

John P. Jones
Member of the Council

Maurice P. Jones
Member of the Council

Don R. Wapin
Member of the Council

being the majority of those members of the Council of the Thunderchild Band present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 7.

I, *Nelson Abeskuk* Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing bylaw was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull office (as the case may be) pursuant to subsection 82(1) of the *Indian Act*, this 2nd day of November, 1995.

Joseph Jones
Witness

Nelson Abeskuk - Chief
Chief Councillor