

By-Law No. PLB-03-B01

**A BY-LAW FOR THE PRESERVATION,
PROTECTION AND MANAGEMENT OF BIG GAME**

WHEREAS the Council of the Pelican Lake Band desires to make a by-law governing the preservation, protection and management of Big Game on the reserve, matters ancillary thereto, and penalty for the violation thereof;

AND WHEREAS the Council of the Pelican Lake Band has the power to make such by-law pursuant to paragraphs 81 (l)(o), (q) and (r) of the Indian Act;

AND WHEREAS it is considered expedient and necessary to provide for the preservation, protection and management of Big Game on the reserve;

NOW THEREFORE, without prejudice to Aboriginal Rights of Self-Determination and to Treaty Six rights and powers, the Council for the Pelican Lake Band hereby makes the following by-law under the Indian Act:

Short Title

1. This by-law may be cited as the "Big Game Hunting By-law on the Pelican Lake Indian Reserve."

Interpretation

2. In this by-law

"Band" means the Pelican Lake Band;

"Big Game" means mule and white tail deer, moose, elk and bear together with such other vertebrate animal that is wild by nature as may be designated by way of an amending by-law;

"Council" means the Council, as defined in the Indian Act, of the Pelican Lake Band;

"Game Officer" means a member of the Royal Canadian Mounted Police and a game officer having exclusive lawful jurisdiction designated by

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Council pursuant to section 3 of this by-law to administer and enforce this by-law;

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

"Reserve" means the Pelican Lake Reserve as it may exist from time to time and includes all lands added to the reserve after the date of this by-law;

"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 Big 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;

"Wildlife" also "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;

Administration

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

By-Law No. PLB-03-B01**General Prohibition on Hunting and Trapping**

5. (1) No person shall engage in hunting Big Game within the reserve except as permitted by this by-law.
- (2) Notwithstanding anything in this by-law, a person may, where necessary for the prevention of:
- a. damage to private property, or
 - b. injury or any impending peril to occupants or persons on reserve land

hunt, take, trap, snare, shoot or kill Big Game at any time if the incident is immediately reported, and such game or carcass is surrendered, immediately to the nearest game officer or a member of the Council.

Hunting and Trapping by Band Members

6. Notwithstanding any provision of this by-law, members of the band may engage in hunting and trapping within the reserve at any time pursuant to their rights under Treaty Six.

Hunting Permits

7. (1) A person who is not a member of the Band may apply to the Council for a permit to hunt Big Game on the reserve.
- (2) The application shall specify:
- a. The name, address, and age of the applicant;
 - b. the place for which the permit is sought;
 - c. the species of Big Game for which the permit is sought;
 - d. whether the hunting equipment to be used is bow and arrow, muzzle loader or rifle; and
 - e. 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;

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- b. whether or not the applicant has previously held a permit and, if so complied with the provision of the permit and this or any previous by-law with respect to hunting;
 - c. the extent of the contribution, if any, the applicant agrees to contribute to the reserve;
 - d. the number of permits already issued for the species of game of which the permit is sought; and
 - e. whether or not there is sufficient game of the species in the reserve at the time to meet the needs of Band members and permit holders without detrimentally affecting the population or health of the species.
- (4) No person shall hunt on the reserve unless guided by a person approved by the Council by Band Council Resolution.
- (5) A subsisting guiding agreement between the permittee and the guide or guides stating the fees and a description of the services to be rendered that is acceptable to the Council and not inconsistent with this by-law shall be a condition precedent to eligibility for any person who applies for a permit under this section.
- (6) 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 on the reserve.

In compliance with this section, the Council may issue a written permit authorizing the applicant 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 and to issue a written export permit allowing the permittee to take game on the Reserve to his place of origin.

- (7) The fee for consideration of a permit:
- a. is Three Hundred Dollars (\$300.00).
 - b. If after consideration the permit is refused the amount of (\$300.00) shall be returned to the applicant.
- (8) A permit issued pursuant to this section is non-transferable.

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8. A person holding a permit under subsection 7(6) shall not hunt within the reserve except in accordance with the terms of the permit issued by the Council.
9. A permit issued under this by-law 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 under the authority of a permit issued pursuant to section 7(6) shall have the permit on his person while hunting on the reserve.
- (2) A Band Councilor or game officer may at any time require any permit holder who is hunting within the reserve to produce his permit.
11. The Council may, after 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 by-law;
 - or
 - b. that the continuation of the permit be detrimental to the preservation or protection of Big game animals 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 could be prosecuted if he were not the holder of a permit.
13. No permit shall be issued to authorize hunting for Big Game between January 1 and August 31.
14. Notwithstanding section 13, a permit for Spring black bear may be issued between April and May 31.

Prohibited Zones

15. No person shall at any time engage in hunting within the following areas of the reserve:
- a. within 150 metres of any occupied residence on the reserve;

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- b. within 150 metres of any settlement, public structure or construction site on the reserve.

Hunting with Firearms

16. No person while engaged in hunting shall discharge a firearm within one hundred and fifty metres of:
- a residential building;
 - a public road or bridge; or
 - a game preserve or fish sanctuary.
17. No person while engaged in hunting shall discharge a firearm:
- on or from a public road;
 - across a public road; or
 - from an aircraft or power boat.

Safety

18. All persons, while engaged in hunting, shall wear an orange colored cap or an orange closed fitting head covering.
19. No person, while engaged in hunting on the reserve, shall conceal his identity or wear a mask or disguise.
20. No person while engaged in hunting or while going to or returning from a hunting camp, or while in a locality where Big Game is usually found, shall between one half-hour after sundown and one half-hour before sunrise have a firearm in his possession unless it is unloaded and encased.
21. No person, while engaged in hunting, shall have a loaded firearm in his possession while he is under the influence of alcohol or drugs.
22. Everyone 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 or property.
23. Everyone is guilty of the offence of jack lighting who, while hunting at any time uses a searchlight, spotlight, or jacklight for the purpose of hunting any wildlife on Pelican Lake lands.

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- 24. No person shall use any poison, explosive, deleterious substance for hunting purposes.
- 25. No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanism or which causes a firearm to discharge without the hunter himself pressing upon the trigger of such firearm.

Conservation

- 26. A person shall not:
 - a. destroy, injure, disturb, gather or take the nest or eggs of any game bird;
 - b. destroy or injure the shelter or habitat of any wildlife.
- 27. A person who:
 - a. fails to observe or who otherwise contravenes any provision of this by-law or any ban or restriction imposed hereunder; or
 - b. resists or willfully obstructs a game officer in the performance of any duty or in the exercise of any power under this by-law, commits an offence.
- 28. Where an act or omission is in contravention of this by-law or any ban or restriction imposed hereunder continues for more than one day, such an 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

- 29. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 or to the imprisonment for a term not exceeding thirty days, or to both.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Pelican Lake Band this 25th day of June 2003.

Voting in favor of this by-law are the following members of Council.


(Chief)


(Councilor)

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Gilbert Chamberlain
(Councilor)

Wilhelm Thron
(Councilor)

Peter Sabatow
(Councilor)

Roméo Miron
(Councilor)

(Councilor)

David Thomas
(Councilor)

being the majority of those members of council of the Pelican Lake First Nation present at the aforesaid meeting of the Council.

The Quorum of the Chief and Council is four (4) members. Number of members of the Chief and Council present at the meeting: 6.

[Signature] Chief/Councilor of the Pelican Lake First Nation, 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 Direct/Regional/Hull office (as the case may be) pursuant to subsection 92(1) of the Act, This 25th day of June, 2003.

[Signature]
Witness

[Signature]
Chief/Councilor

