

**BY-LAW NO. 1 - 95
OF THE NEKANEET INDIAN BAND**

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

WHEREAS the Council of the Nekaneet 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 Nekaneet Band has the power to make such by-law 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 Big Game on the reserve;

NOW THEREFORE the Council of the Nekaneet Band hereby makes the following by-law;

Short Title

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

Interpretation

2. In this by-law,

"*Band*" means the Nekaneet Band;

"*Big Game*" means deer, moose, elk, and antelope together with such other vertebrate animal that is wild by nature as may be designated by resolution of the Council.

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

"*game officer*" means a game officer appointed under section 3, and includes an officer who has been designed by the Council, pursuant to section 4, 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;

"*officer*" means a police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law enforcement officer or any other

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person appointed by the Council for the purpose of maintaining law and order on the reserve;

"reserve" means the reserve of the Nekaneet Band as it may exist from time to time and includes all land added to the reserve after the date of this by-law.

"snare" means any device for the taking of Big 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 Big Game.

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 by-law 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 by-law 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 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 to occupants of occupied land,

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

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Hunting and Trapping by Band Members

6. Subject to the provisions of this by-law, members of the Band may engage in hunting within the reserve at any time.

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 within the reserve.

(2) the application shall specify:

- (a) the place of which the permit is sought;
- (b) the species of Big Game for which the permit is sought;
- (c) the type of hunting 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 by-law with respect to hunting;
- (c) the extent of the contribution, if any, the applicable makes 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 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 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 or trapped by the person holding the permit.

(5) The fee for consideration of a permit is three hundred dollars (\$300).

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- (6) A permit issued pursuant to this section is non-transferrable.
8. A person holding a permit issued under subsection 7(4) 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 or trapping under the authority of a permit issued pursuant to section 7 shall have the permit on his person while hunting within the reserve.
- (2) A Band Councillor 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 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 by-law; or
 - (b) that the continuation of the permit would be detrimental to the preservation or protection of Big Game 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 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 of any year.

Prohibited Zones

14. 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;
 - (b) within 150 metres of any settlement on the reserve, which shall, for the purpose of this by-law, mean the Upper Camp, Lower Camp and the Healing Lodge.

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Hunting with Firearms

15. No person while engaged in hunting shall discharge a firearm within one hundred and fifty metres of:

- (a) a residential building;
- (b) a public road or bridge; or
- (c) a game preserve or bird or fish sanctuary.

16. 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.

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

18. No person while engaged in hunting or while going to or returning from a hunting camp, or while in a locality that Big 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 possession unless it is unloaded and encased.

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

20. 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.

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

22. 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.

Protected Species

23. No person shall at any time engage in the hunting of any species which may, from time to time, be designated by resolution of the Council a protected species.

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24.(1) The Council may designate a species of Big Game as a protected species and impose a temporary ban or restriction on the hunting of any species of Big Game under section 23, 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 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 thirty days, unless a further ban or restriction is imposed and further notice is given in accordance with subsections (2) and (3).

Conservation

25. A person shall not:

- (a) disturb, destroy, injure, gather or take the nest or eggs of any game bird;
- (b) disturb, destroy or injure the shelter or habitat of any game including Big Game.

26. 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.

Rules of Hunting

27. No person shall hunt a moose, deer, elk or antelope by means of a trap or snare.

28. No person shall kill or attempt to kill any species of Big Game by the use of poison.

29. No person shall:

- (a) hunt Big Game in any day later than one-half hour after sunset or earlier than one-half hour before sunrise; or
- (b) hunt Big Game by means of or with the assistance of a light.

30.(1) No person shall hunt moose, deer, elk or antelope by means of, or with the assistance of a dog or when accompanied by a dog.

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(2) Subsection (1) does not apply where the hunting of Big Game with a dog is necessary of 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.

31. No person shall hunt Big Game using a crossbow.

32. 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 activities.

Enforcement

33. 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 wilfully obstructs a game officer in the performance of any duty or in the exercise of any power under this by-law,

commits an offence.

34. 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 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.

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Penalty

35. 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.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Nekaneet Band this 26 day of October, 1995.

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

Glen Oakes
(Member of Council)

Robert Wright
(Member of Council)

Larry Oakes
(Member of Council)

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

The Quorum of the Council is 3 members.

Number of members of the Council present at the meeting: 3.

I, Glen Oakes Chief/Councillor of the 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 District/Regional/Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 26 day of October, 1995.

Seah Vellinga
Witness

Glen Oakes
Chief/Councillor