

**HUNTING AND TRAPPING BY-LAW
FOR WITCHEKAN LAKE FIRST NATION**

1420 H20 PA 895X 2005 SEP 20

**BY-LAW #
OF THE WITCHEKAN LAKE FIRST NATION**

WHEREAS the Council of the Witchekan Lake First Nation is desirous of making a Bylaw for the preservation, protection and management of Big Game, Fur Bearing Animals and Upland Birds on Witchekan Lake First Nation Lands, matters ancillary thereto, and penalties for the violation thereof;

AND WHEREAS the Council of the Witchekan Lake First Nation has the power to make such Bylaws pursuant to paragraph 81(1), (q) and (r) of the *Indian Act* R.S.C. 1985, c.1-5, as amended from time to time;

AND WHEREAS the Council of the Witchekan Lake First Nation considers it expedient and necessary to provide for the preservation, protection and management of Game and Fur Bearing Animals on Witchekan Lake First Nation lands and lands acquired through the Treaty Land Entitlement Process;

AND WHEREAS the Council of the Witchekan Lake First Nation will appoint a designated authority to sign, distribute and manage all Big Game, Fur Bearing Animals and Upland Birds permits;

AND WHEREAS the Council of the Witchekan Lake First Nation will negotiate an outfitting agreement fee schedule;

AND THEREFORE the Council of the Witchekan Lake First Nation hereby enacts the following Bylaw.

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SHORT TITLE

1. This Bylaw may be cited as the "Hunting and Trapping Bylaw of the Witchekan Lake First Nation #407".
2. (1) In this Bylaw, the following word and phrases shall have the meaning ascribed thereto:
 - a) "Act" mean the *Indian Act*, R.S.C. 1895 c. 1-5 as amended or replaced from time to time and any reference to a section of the Indian Act shall include that the section as amended from time to time;
 - b) "Band" means the Witchekan Lake Indian Band #407;
 - c) "Client" means a person who has obtained a hunting permit under the Witchekan Lake First Nation Hunting and Trapping Band Bylaw and is required to use the outfitting services and guide services provided under the direction of this Bylaw;
 - d) "Council" means the Council of the Band as defined in the Act, as duly elected by the Members of the Witchekan Lake First Nation;
 - e) "Designated authority" means the person assigned the signing authority to validate Witchekan Lake First Nation game permits and to monitor Game and fur bearing populations in Witchekan Lake First Nation Lands;
 - f) "Fur Bearing Animal" includes a bear, fox, beaver, mink, otter, muskrat, raccoon, weasel, bobcat, lynx, coyote, squirrel and varying hare along with any other fur bearing animal as may be designated by resolution of the Council;
 - g) "Game" means any vertebrate animal, fur bearing animal or bird, excluding fish, amphibians and reptiles that are wild by nature and include, without restricting the generality of the foregoing, deer, moose, elk and antelope along with any other species of Game as may be designated by resolution of the Council;
 - h) "Game Officer" means any person or persons appointed by resolution of the Council to administer and enforce this Bylaw as provided for in Article 3 hereof;
 - i) "Guiding Services" means the service of direction, assistance, guidance or expertise where provided or identified by the Witchekan Lake First Nation;
 - j) "Hunting" means the taking, wounding, killing, chasing, pursuing, 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;

- k) **"Hunting season"** means September 1 to December 31 of any given year;
- l) **"Member"** means a Member of the Band within the meaning of the Act, and unless otherwise provided for herein, shall include all registered Members recorded on the Department of Indian Affairs and Northern Development Indian Register in respect of the Band;
- m) **"Motorized Vehicle"** includes a motorized conveyance, trailer, tractor, snowmobile, all-terrain vehicle or any other conveyance that is drawn, propelled or driven by any mechanical means and includes any accessory attached to the vehicle;
- n) **"Officer"** means a police officer, police constable or other person charged with the duty to preserve and maintain the public peace including any person appointed by the Council for the purpose of maintaining law and order on Witchekan Lake First Nation Lands;
- o) **"Outfitting Agreement"** means an agreement entered into between a client and the Witchekan Lake First Nation;
- p) **"Outfitting Services"** means the provision of guiding services and equipment where provided or identified by the Witchekan Lake First Nation;
- q) **"Permit"** means the authority granted to permit holder to harvest Game on Witchekan Lake First Nation Lands;
- r) **"Predator"** means any Fur bearing animal including without limitation, coyotes, foxes and wolves, who prey on Game;
- s) **"Snare"** means any device for taking of Game whereby it is caught in a noose;
- t) **"Special permit"** means authority granted to permit holder to harvest predators on Witchekan Lake First Nation Lands;
- u) **"Take"** includes the capturing or the taking into possession of Game whether dead or alive;
- v) **"Trap"** means any spring trap, deadfall bow or net used to capture Game;
- w) **"Trapping"** means the taking of Game by snare or trap;
- x) **"Witchekan Lake First Nation Lands"** includes all Reserve Lands of the Witchekan Lake Indian Band, held for the use and benefit of the band, by Her Majesty in right of Canada.

ADMINISTRATION

3. (1) The Council may by Band Bylaw amendment 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 Bylaw amendment provide for reasonable remuneration to be paid to a Game Officer or person designated authority appointed under subsection (1) hereof.

GENERAL PROHIBITIONS ON HUNTING AND TRAPPING

4. (1) No person shall engage in the hunting or trapping of Game on Witchekan Lake First Nation Lands except as permitted by this Bylaw;
- (2) Notwithstanding anything else herein contained, a person may, where necessary for the preservation of:
 - a) damage to private property, livestock or other domestic animals; or
 - b) injury to occupants of occupied Witchekan Lake First Nations Lands;
 - c) hunt, take, trap, snare, shoot, or kill Game at any time provided the incident is immediately reported to the Band Council and such Game or carcass is immediately surrendered to the nearest Game Officer or Officers.

HUNTING AND TRAPPING BY BAND MEMBERS

5. (1) Except as otherwise provided herein, Members of the Band may engage in hunting or trapping on Witchekan Lake First Nation Land at any time;
- (2) With the exception of the provisions of subsection (1) hereof and with the provisions of Article 6 hereof, respecting the issuance of hunting and trapping permits, all remaining provisions of this Bylaw shall apply to Band Members.

HUNTING AND TRAPPING PERMITS

6. (1) A person who is not a Member of the Band may apply to the Council for a hunting permit or Special permit to hunt or trap Game on Witchekan Lake First Nation Lands;

- (2) Every application for a permit shall specify:
 - a) the name, age and address of the applicant;
 - b) whether the applicant has attended and completed a hunting safety course;
 - c) whether the applicant has ever been convicted of any offences involving hunting or the use of firearms;
 - d) the dates and locations for which the permit is sought;
 - e) the species of Game for which the permit is sought;
 - f) the specific type of hunting equipment to be used; and
 - g) such other information as may be required by Council.

- (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 Witchekan Lake First Nation;
 - b) whether or not the applicant has previously held a permit and if so, has complied with the provisions of the permit;
 - c) the number of permits already issued for the species of Game for which the permit is sought;
 - d) whether or not there is sufficient Game of that species on Witchekan Lake First Nation Lands at the time of the application to meet the needs of Members and permit holders without detrimentally affecting the species, and in question;
 - e) whether or not the predator population is growing;

- (4) Prior to the commencement of hunting and trapping seasons in each respective year, Council shall by Band By-law amendment, prescribe the fees payable with respect to the obtaining of hunting and trapping permits by non-Band Members;

- (5) Every applicant for a permit shall:
 - a) submit the application to the Council;

- b) include in the application all information or materials as may be required by Council pursuant to the provisions hereof; and
 - c) submit to the Council, the fee in the amount prescribed by Council in accordance with the provisions of subsection (4) hereof;
- (6) Where an application is received, by the Council, the Council may:
- a) issue to the applicant a permit to hunt or trap Game in the Witchekan Lake First Nation Lands where the Council is satisfied that:
 - i) the issuance of a permit to the applicant will not detrimentally affect the species of Game in respect of which the permit is sought;
 - ii) the applicant has paid the prescribed fee as required in accordance with the provisions of subsection (4) hereof; or
 - b) refuse to issue the permit;
- (7) Council may by Band Bylaw amendment amend any provision of the permit that Council considers appropriate;
- (8) Every permit issued shall be signed by the Designated authority on behalf of the Council and shall specify therein the time, place, type of equipment, bag limit, and species of Game that may be hunted or trapped by the person holding the permit along with duration for which the permit is to be in effect. Except as otherwise provided for in the permit, its duration shall be a period commencing on Monday sunrise (1/2 hour before sunrise) and end five days later at sundown (1/2 hour after sunset);
- (9) Notwithstanding anything to the contrary herein contained, the Council may from time to time issue Special permits which would allow non-Band Members to hunt or trap on Witchekan Lake First Nation Lands under the supervision of trained outfitters and guides. The provisions respecting the granting of permits as provided for hereunder shall apply equally to the granting of Special permits by Council;
- (10) Council may by Band By-law amendment affix the rates payable to the Band with respect to the provision of trained outfitters and guides. All costs associated with respect to the provision of guiding and outfitting service provided to an applicant shall be borne exclusively by the applicant;
- (11) Any permit issued to an applicant shall be non-transferable;
- (12) No person shall hold more than one permit per Game species in a hunting season;
- (13) No person shall hunt coyotes or fox unless they hold a Special permit;

- (14) A person holding a permit issued under this Bylaw shall not hunt or trap on Witchekan Lake First Nation Land except in accordance with the terms of the permit as issued by the Council;
- (15) A permit issued under this Bylaw is invalid:
- a) if it is not signed by a person to whom it is issued; or
 - b) if the date of expiry has been omitted, removed, defaced, or not to be identified from the Witchekan Lake First Nation;
- (16) A person hunting or trapping under the authority of a permit issued pursuant to this Bylaw shall be required to have the permit on his person at all times while hunting or trapping on Witchekan Lake First Nation Lands;
- (17) A Designated authority, Game Officer or officer may at any time require any permit holder who is hunting or trapping on Witchekan Lake First Nation Lands to produce their permit for inspection;
- (18) Where it has reasonable grounds to believe that a person to whom a permit has been issued has contravened the terms of the permit or this Bylaw, or that the continuation of the permit would be detrimental to the preservation or protection of Game on Witchekan Lake First Nation Lands, the Council may after giving the permit holder, as the case may be, the opportunity to be heard, revoke, suspend, or cancel the permit granted to the permit holder;
- (19) Copies of all decisions made by Council pursuant to subsection (18) hereof shall be provided to all Game Officers upon issuance by Council;
- (20) The holder of a permit obtained as a result of the provision of any false or misleading statement or information made or given in respect of any information required for the issuance of the permit shall be deemed to be the holder of a void permit and may be prosecuted pursuant to the provisions of this Bylaw;
- (21) For the purpose of regulating the conduct of hunting and trapping on Witchekan Lake First Nation Lands, the Council may by Band Bylaw amendment:
- a) set the hunting and trapping seasons for any particular species of Game and prescribe the time during the course of any year upon which hunting or trapping of game may or may not be engaged in, as the case may be, by non-Band Members; and
 - b) adopt any policies or procedures regulating or governing the conducting of hunting or trapping on Witchekan Lake First Nation Lands, as may be deemed necessary by Council;

- (22) Copies of all By-law amendments and/or policies adopted by Council pursuant to the provisions of subsection (21) hereof shall be:
 - a) posted in conspicuous places throughout Witchekan Lake First Nation Lands in which hunting and trapping is engaged;
 - b) posted at the offices of the Council or such other place as may be designated by Council; and
 - c) provided to each applicant upon issuance of a permit as provided for under this Bylaw.

GAME PRESERVES AND SANCTUARIES

- 7. (1) Council may by Band By-law amendment designate any portion of Witchekan Lake First Nation Lands as a Game preserve or sanctuary for any species of Game;
- (2) Notice of the location of all Game preserves and sanctuaries as designated by Council shall be:
 - a) posted in conspicuous places throughout Witchekan Lake First Nation Lands in which hunting or trapping is engaged in;
 - b) posted at the office of the Council or such other places as may be designated by Council; and
 - c) provided to each applicant upon issuance of a permit as provided for under this Bylaw.

PROHIBITED HUNTING AND TRAPPING AREAS

- 8. (1) No person shall at any time engage in hunting or trapping within the following areas:
 - a) within 150 meters of any occupied residence on Witchekan Lake First Nation Lands;
 - b) within 150 meters of any settlement on Witchekan Lake First Nation Lands which, without restricting the generality of the foregoing, shall include the Witchekan Lake First Nation commercial buildings, Witchekan Lake Community Education Centre, Band Administration Office or any other public building or complex situated on the Witchekan Lake First Nation Lands;

- c) on lands with standing crops;
- d) on lands on which herds of domesticated livestock are pastured or stored;
or
- e) on any Game preserve or sanctuary as established by the Council in accordance with the provisions of subsection 7(1) hereof.

HUNTING WITH FIREARMS

- 9. (1) No person while engaged in hunting shall discharge a firearm within 150 meters of:
 - a) any occupied residence, building or settlement as referenced in subsection 8(1)(a) and (b) hereof;
 - b) a public road or bridge; or
 - c) any Game preserve or sanctuary as established by the Council in accordance with the provisions of subsection 7(1) hereof;
- (2) No person engaged in hunting shall discharge a firearm:
 - a) on or from a public road or bridge;
 - b) across a public road or bridge; or
 - c) from a motorized vehicle, aircraft or boat;
- (3) Unless otherwise provided for herein or in any permit issued pursuant to this Bylaw, no person while engaged in hunting on the Witchekan Lake First Nation Lands shall conceal his identity or wear a mask or disguise;
- (4) No person while engaged in hunting or trapping or while going to or returning from a hunting camp or while in a locale 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 their possession unless it is unloaded and encased;
- (5) No person while engaged in hunting or trapping shall operate or have in their possession a loaded firearm while that person is under the influence of alcohol or drugs or while that person is in operation of a motorized vehicle, aircraft or boat;
- (6) 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 or property;

- (7) No person shall use any poison, explosive or deleterious substance for hunting or trapping purposes;
- (8) 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

- 10. (1) The council may by Band Bylaw amendment resolution designate a species of Game as a protected species and impose a temporary ban or restriction on the hunting or trapping of any species of Game by giving notice in accordance with the provisions of this section;
- (2) Notice of the ban or restriction shall be posted not less than 24 hours prior to the ban or restriction coming into force;
- (3) Notices of the ban or restriction shall be:
 - a) posted in conspicuous places throughout Witchekan Lake First Nation Lands in which hunting or trapping is engaged in;
 - b) posted at the offices of the Band Council or such other places as may be designated by the Council; and
 - c) provided to each applicant, where applicable, upon issuance of a permit as provided for under this Bylaw;
- (4) The notices shall specify the date and time the ban or restriction is to come into force and to cease and shall specify the particulars of the ban or restriction imposed.

CONSERVATION

- 11. (1) No person shall at any time:
 - a) disturb, destroy, injure, gather or take the nest or eggs of any bird; or
 - b) disturb, destroy, or injure the shelter or habitat of any Game without permission first having been obtained from the Council or a Game Officer.

RULES OF HUNTING AND TRAPPING

12. (1) No person shall at any time:
- a) engage in hunting or trapping of Game within a Game preserve or sanctuary as designated by Council pursuant to the provisions of Article 7(1) hereof;
 - b) engage in the hunting or trapping of any species of Game designated by Council as a protected species;
 - c) engage in the hunting of deer, bear, moose, elk or antelope by means of trap or snare;
 - d) attempt to kill any species of Game by use of any poison, explosive or deleterious substance;
 - e) engage in hunting and trapping of Game in any day later than one-half hour after sunset or earlier than one-half hour before sunrise;
 - f) engage in the hunting and trapping of Game by means of or with the assistance of light;
 - g) use of a motorized vehicle, aircraft or boat in connection with hunting or trapping except as a means of transportation before and after hunting activities; or
 - h) engage in the hunting or trapping of Game using a restricted firearm as may be prescribed by resolution of Council in accordance with the provisions of Article 13(1) hereof;
 - i) hunt while under the influence of alcohol.

RESTRICTED FIREARMS

13. (1) Council may by Band Bylaw amendment designate a class or classes of firearms as restricted firearms which may not be used in conjunction with hunting activities on Witchekan Lake First Nation Lands;
- (2) Copies of all By-law amendments adopted by Council pursuant to subsection (1) hereof shall upon issuance be provided to all Game officers for their records.

OUTFITTING AND GUIDE PROHIBITION

14. (1) No person shall, without the authority of the Witchekan Lake First Nation Chief and Council:
- a) act as an outfitter or guide; or
 - b) advertise or promote outfitting services on the Witchekan Lake First Nation Lands and or Treaty Land Entitlement Lands of the Witchekan Lake First Nation.

HUNTING CLOTHING

15. (1) All hunters shall wear orange, red, white, and/or camouflage clothing for the purpose of hunting, and shall wear similarly coloured cap or toque.

ENFORCEMENT

16. (1) Any 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 willfully obstructs a Game officer or officers in the performance of any duty or exercise of any power under this Bylaw;
 - c) shall be deemed to have committed an offence under this Bylaw;
- (2) 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 a separate offence committed on each day during which it continues and may be enforced as such;
- (3) A Game Officer or Officer may after obtaining a warrant authorized by a court of competent jurisdictions, seize:
- a) any Game that has been hunted or trapped in violation of this Bylaw or permit issued hereunder; and
 - b) any firearm or other weapon or trapping equipment that has been used in contravention of the provisions of this Bylaw or permit issued hereunder;
- (4) Where a Game Officer or Officer believes on reasonable and probable grounds that a person is committing or has committed an offence under this Bylaw he may, after obtaining a warrant authorized by a court of competent

jurisdiction, stop any motorized vehicle, aircraft, boat or other means of transportation of any description and search it for Game or any prohibited equipment provided for under this Bylaw.

PENALTY

17. (1) A person who commits an offence under this Bylaw is liable on summary conviction to a fine not exceeding \$ 1,000.00 or to imprisonment of a term not exceeding thirty days, or to both.

ENACTMENT

18. (1) This Bylaw is hereby enacted by the Council of the Witchekan Lake Indian Band at a duly convened meeting held on the 19 day of Sept 2006

Voting in favor of the Bylaw are the following Members of the Council:

Councillor

George Jim
Councillor

Councillor

John Lipman
Councillor

Being the majority of those members of the Council of the Witchekan Lake Indian Band No. 407 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: 4

I, Kenneth Thomas Chief 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 Saskatchewan District/Regional Office pursuant to subsection 82(1) of the Indian Act, this 19 day of

Sept 2006.

[Signature]
Witness

[Signature]
Chief Kenneth Thomas