

**BIGSTONE CREE NATION
REMOVAL OF TRESPASSERS AND
PERSONS FREQUENTING THE
RESERVE FOR PROHIBITED
PURPOSES BYLAW**

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BIGSTONE CREE NATION

A BYLAW GOVERNING THE REMOVAL AND PUNISHMENT OF PERSONS TRESPASSING OR FREQUENTING THE BIGSTONE CREE NATION RESERVE FOR PROHIBITED PURPOSES

WHEREAS Chief and Council derives its authority from the membership of the Bigstone Cree Nation and is responsible for the peace, order and good government of the Bigstone Cree Nation;

AND WHEREAS Chief and Council may enact a Bylaw governing the residency of Members and Non-Members of the Bigstone Cree Nation Reserves pursuant to ss. 81(1)(p), (p.2)(q), 81(2) and 81(3) of the *Indian Act*, R.S.C. 1985, c I-5, as amended;

AND WHEREAS Chief and Council has decided it is in the best interests of the Bigstone Cree Nation to establish a Bylaw to provide for the removal and punishment of persons trespassing on the Bigstone Cree Nation Reserve or frequenting the Bigstone Cree Nation Reserve for prohibited purposes;

THEREFORE BE IT RESOLVED THAT CHIEF AND COUNCIL OF THE BIGSTONE CREE NATION HEREBY ENACTS THE FOLLOWING BYLAW:

Part 1 Interpretation

1.0 SHORT TITLE

1.1 This Bylaw may be cited as the *Bigstone Cree Nation Removal of Trespassers and Persons Frequenting the Reserve for Prohibited Purposes Bylaw*.

2.0 DEFINITIONS

2.1 In this Bylaw:

- (a) "BCN" means Bigstone Cree Nation;
- (b) "Council" means the Chief and Council of the Bigstone Cree Nation;
- (c) "Indian Act" means the *Indian Act* R.S.C. 1985, c I-5, as amended;
- (d) "Member" means a person whose name appears on the Nation's Membership List in accordance with the Membership laws applicable to the Nation;

- (e) “Non-Member” means a person who is not registered as a Member of the Bigstone Cree Nation under the Bigstone Cree Nation Membership Code and includes a person reinstated to Indian status under the Bill C-31 amendment to the *Indian Act* who has not met the requirements of the Bigstone Cree Nation Membership Code;
- (f) “Officer” means any R.C.M.P., police officer, bylaw enforcement officer or any other person appointed by Chief and Council to preserve and maintain the public peace;
- (g) “R.C.M.P.” means Royal Canadian Mounted Police;
- (h) “Reserve” means the lands that have been set apart, the legal title of which is vested in Her Majesty in Right of Canada for the use and benefit of the Members of the Bigstone Cree Nation and includes Bigstone Indian Reserves No. 166 (Sandy Lake), 166A, 166B, 166C & 166D, Jean Baptiste Gambler Indian Reserve No. 183 and any other lands which may be acquired by way of land claims agreements;
- (i) “Residence” means the place where a person lives from day to day;
- (j) “Reside” means to live in a dwelling otherwise than as a visitor on the BCN reserve;
- (k) “Visitor” means a person who has received written permission from the Bigstone Cree Nation or from an affiliated corporation of the Bigstone Cree Nation to enter upon the Reserve for a maximum period of four (4) months and upon expiration or early termination of the period of four (4) months that person shall immediately leave the Reserve.

Part 2 Visitor

3.0 VISITOR

- 3.1 A Visitor who enters onto the Bigstone Cree Nation Reserve is not a trespasser.
- 3.2 A Visitor shall leave the Bigstone Cree Nation Reserve upon the expiration or early termination of the period of four (4) months that he/she has been permitted to enter the Reserve.

- 3.3 A Visitor who does not leave upon the expiration or early termination of the four (4) month period shall be considered a trespasser.

**Part 3
Trespassing**

4.0 TRESPASSING

- 4.1** A person who enters onto the Bigstone Cree Nation Reserve without lawful justification is a trespasser and shall have committed an offence contrary to this Bylaw.
- 4.2** Upon review of all relevant facts an Officer or the Residency/Trespass Bylaw Board or Chief and Council shall determine who is a trespasser under this Bylaw.

**Part 4
Frequenting the Reserve for Prohibited Purposes**

5.0 FREQUENTING THE RESERVE FOR PROHIBITED PURPOSES

- 5.1.** (1) A person, other than a person referred to in subsection (2), who conducts on the Reserve any of the following activities:
- (a) hunting, fishing or trapping;
 - (b) hawking or peddling of wares or merchandise;
 - (c) loitering;
 - (d) panhandling;
 - (e) trafficking or using illegal substances;
 - (f) vagrancy;
 - (g) public intoxication;
 - (h) commits an offence under the Criminal Code (Canada);

shall have frequented the Reserve for a prohibited purpose and have committed an offence contrary to this Bylaw.

- (2) Subsection (1) does not apply to:

-
- (a) a person who is a lawful resident of the Reserve; or
 - (b) a person who, under a Bylaw of the Chief and Council, holds a valid license to conduct any activity referred to therein or is otherwise permitted to conduct that activity.

**Part 5
Powers of Enforcement**

6.0 REMOVAL FROM THE RESERVE

6.1 Upon the direction of an Officer or the Residency/Trespass Bylaw Board or Chief and Council:

- (1) Any person who trespasses on the Reserve or who frequents the Reserve for a prohibited purpose shall be ordered to leave the Reserve immediately and if they shall fail to do so, they shall have committed an offence contrary to this Bylaw.
- (2) Any person who commits an offence under Section 3.1, 4.1, or 5.1 commits an offence punishable on summary conviction and may be arrested in accordance with s. 495(2) of the Criminal Code.
- (3) It is acknowledged and agreed by Chief and Council and the Members of the Bigstone Cree Nation that an officer as defined in section 2.1 herein, has full and sufficient authority to enforce this bylaw to best of his/her ability.

7.0 PENALTY

7.1 Any person who commits an offence under this Bylaw is subject to a fine not more than \$1,000.00 or imprisonment for a term not more than 30 days, or both for having committed an offence

**Part 6
General Matters**

8.0 TREATY RIGHTS

8.1 This Bylaw shall be interpreted in accordance with the traditions, customs and values of the Bigstone Cree Nation and nothing in this Bylaw shall be interpreted as to deny, abrogate or derogate any Aboriginal or Treaty rights of the Bigstone Cree Nation or its Members.

9.0 INVALIDITY

9.1 If any provision of this Bylaw is determined by the Court to be invalid for any reason the provision shall be severed from the Bylaw and shall not affect the validity of the remaining provisions of the Bylaw.

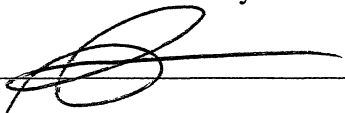
10.0 AMENDMENT

10.1 This Bylaw may be amended by Chief and Council in accordance with the following procedure:

- (a) in the first reading, a draft of the proposed amendment(s) shall be tabled with Chief and Council after which the proposed amendment(s) shall be available to Members of the Bigstone Cree Nation for their information;
- (b) in the second reading, Chief and Council, shall review the proposed amendment(s) on a clause by clause basis and during this period shall consult with the BCN Membership as deemed necessary by Chief and Council;
- (c) in the third reading, the proposed amendment(s) shall be voted upon by Chief and Council.

THIS BYLAW IS HEREBY made at a duly convened meeting of the Chief and Council of the Bigstone Cree Nation this 10 day of July, 2013.

Voting in favour of the Bylaw are the following Members of Chief and Council:




CHIEF




COUNCILLOR



COUNCILLOR




COUNCILLOR



COUNCILLOR

COUNCILLOR



COUNCILLOR



COUNCILLOR



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