



Taykwa Tagamou Nation

**TRESPASS LAW  
2019  
Law No. 001**

**Preamble**

- A. Whereas Taykwa Tagamou Nation wishes to exercise, through this law, its inherent rights of self-governance as well as its by-law powers under s. 81(1) of the *Indian Act*, RSC 1985, c I-5, including subsections (c) the observance of law and order, (p) the removal and punishment of trespassers, as well as (p.1) the residence of band members and other persons on the reserve, (q) ancillary matters, and (r) summary conviction offences;
- B. And whereas our Reserve has been set aside for the use and benefit of the Taykwa Tagamou Nation;
- C. And whereas the Council of Taykwa Tagamou Nation wishes to pass this law in the best interests of our Nation;
- D. And whereas Council has a duty to protect peace, health and safety in the community for the wellbeing of our citizens, and our community members have asked Council to take action on those issues;

**NOW THEREFORE** the Council of Taykwa Tagamou Nation enacts as follows:

**Short Title**

1. This law may be cited as the "*Taykwa Tagamou Nation Trespass Law, 2019*".

## Interpretation

2. In this law:

**“Band Council Resolution”** means a resolution in writing of the Council, passed by the majority of the Chief and Councillors present at a meeting at which quorum is constituted;

**“Dependent Family Member”** means any of a natural or adopted/adoptive child of a Taykwa Tagamou Citizen who is a Reserve Resident; or a parent, grandparent, or sibling of a Taykwa Tagamou Citizen who is a Reserve Resident if any such person is dependent on the Taykwa Tagamou Citizen who is a Reserve Resident for care or financial support; or a spouse of a Taykwa Tagamou Citizen who is a Reserve Resident, whether married or common law;

**“Executive Director”** means the employee of Taykwa Tagamou Nation who is the head administrator of the affairs of Taykwa Tagamou Nation;

**“Indian Act”** means the *Indian Act*, RSC, 1985, c.I-5, a statute of the Federal Crown;

**“Officer”** means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and any person appointed by the First Nation for the purpose of enforcing laws including the laws of Taykwa Tagamou Nation or for maintaining law and order on the Reserve;

**“Person”** may include a corporation;

**“Reserve”** means all those lands defined as a "Reserve" within the meaning of the *Indian Act* and set apart for the use and benefit of the Taykwa Tagamou Nation;

**“Reserve Resident”** means any person that ordinarily resides on the Reserve or has lawful authority to use, possess or occupy land on the Reserve;

**“Reside”** means being resident in a dwelling or a structure capable of being a dwelling, all for the purpose of domestic day-to-day activities;

**“Taykwa Tagamou Nation”** or **“TTN”** means the Taykwa Tagamou Nation as represented by its Council, being the Chief and Councillors, and the Council may delegate any powers under this law in its discretion;

**“Taykwa Tagamou Citizen”** means a person whose name appears on the Taykwa Tagamou Nation membership list or citizenship list, or who is entitled to have his or her name appear on the Taykwa Tagamou Nation membership or citizenship list, as determined by such law of Taykwa Tagamou Nation with respect to membership or citizenship as may be in force from time to time, or if none, as determined by Taykwa Tagamou Nation;

**“Trespassing”** or **“Trespass”** means, in accordance with the common law of Canada, the entry onto, or the presence on, the Reserve or a Premise on the Reserve, by a person without lawful authority or justification.

2. Any reference to a law of Taykwa Tagamou Nation includes a by-law.

#### **Residence on Reserve**

3. The Reserve has been set aside for the use and benefit of the Taykwa Tagamou Nation, and is intended for residence by Taykwa Tagamou Citizens, including their Dependent Family Members, subject to sections 18.1, 20, 24, 28(2), 58(3) and any other applicable provisions of the *Indian Act*, and subject to this or any other law of Taykwa Tagamou Nation.
4. Persons who are not Taykwa Tagamou Citizens or their Dependent Family Members require permission from the Taykwa Tagamou Nation to Reside on Reserve. Any such person is encouraged to obtain written confirmation of such permission, however permission of Taykwa Tagamou Nation is deemed to exist unless the person affected is notified otherwise in writing, or unless the Taykwa Tagamou Nation made reasonable efforts to notify the person affected in writing. Such permission, i.e. permission of the Taykwa Tagamou Nation for a non-Taykwa Tagamou Citizen and non- Dependent Family Member to Reside on Reserve, may be revoked or made conditional at any time.
5. Taykwa Tagamou Nation reserves the right to determine the locations on the Reserve that are appropriate for residential use and to regulate permissible uses in different locations within the Reserve. This right may be exercised through Council decisions of any kind, including but not limited to zoning, capital planning, Band Council Resolutions, and other collective decision-making processes.

#### **Trespass Conduct**

6. The following persons are on the Reserve for a prohibited purpose and may be declared to be in Trespass by the procedure described below in this law:
  - (a) a person residing on the Reserve who does not do so in accordance with sections 3-5 of this law;

- (b) persons other than Taykwa Tagamou Citizens and Dependent Family Members engaged in hunting, fishing, trapping, or other harvesting in or on the Reserve without permission of Taykwa Tagamou Nation, which is required in all such cases, and/or without a valid permit or licence, which may be required under other laws (e.g. for non-First Nations persons);
  - (c) a person not lawfully Residing on the Reserve of Taykwa Tagamou Nation (i.e. visitor) who is reasonably deemed by Taykwa Tagamou Nation to be, as indicated in a Band Council Resolution: causing a nuisance on the Reserve, disturbing the peace, harassing people on the Reserve, disrespectful to Cree culture or to the Taykwa Tagamou community, or otherwise unwelcome as determined by Taykwa Tagamou Nation; or
  - (d) persons reasonably deemed by Taykwa Tagamou Nation to be, as indicated in a Band Council Resolution: threatening the peace, health or safety of Reserve Residents or those lawfully on Reserve; impeding the ability of Taykwa Tagamou Nation to govern; or impeding the ability of Taykwa Tagamou Nation or its employees or agents to effectively function.
7. A person reasonably deemed to be threatening to the peace, health or safety under clause 6(d) may include but is not limited to:
- (a) a person with a record of one or more of violent or sexual criminal offences, or criminal offences against children or youth or other vulnerable persons, or pending charges of that nature; or
  - (b) a person who is selling, producing, manufacturing or distributing drugs, alcohol or other intoxicants on the Reserve or importing them onto the Reserve.
8. When considering whether to deem a person to be threatening to the peace, health or safety under clause 6(d), Taykwa Tagamou Nation may consider any relevant factor, which may include:
- (a) the nature and seriousness of the person's past behaviour;
  - (b) the person's healing and rehabilitation, and the likelihood the person will engage in further dangerous behaviour;
  - (c) the wishes of community members, including the people who live with or near the person or deal most closely with the person;

- (d) any measures that may mitigate the risk to peace, health and safety;
- (e) any other relevant factor.

9. For greater certainty, clauses 6(a) and 6(d):

- (a) may include Taykwa Tagamou Citizens or non-Citizens;
- (b) may include Residents or non-Residents;

10. A person may be considered a Trespasser and a Notice of Trespass may be issued under the procedure below apply whether or not the person is present on the Reserve.

#### **Procedure for Removal and Exclusion of Trespassers**

11. At any time, the Council of Taykwa Tagamou Nation may issue a Band Council Resolution authorizing that a Notice of Trespass be served on a person who satisfies one or more grounds for Trespass under clause 6.

- (a) The Notice of Trespass may be in the form of Schedule A, or make take another form if it covers the essential information required by clause 12 of this law.
- (b) The Notice of Trespass will be served on the person identified in the notice by an Officer, or a Council member, administrator, employee or other person authorized by Taykwa Tagamou Nation, together with a copy of this law or information on where the law can be obtained. Personal service to the individual shall be used if possible, or if not possible, by delivery to their last known address by registered mail.
- (c) A Notice of Trespass may be served within or outside of the Reserve.
- (d) A copy of the Notice of Trespass will be kept by the Taykwa Tagamou Nation.

12. The Notice of Trespass shall:

- (a) identify of the ground(s) for Trespass under clause 6;
- (b) indicate whether the person is required to vacate the Reserve or a specific location within the Reserve that is identified;
- (c) identify the time by which the person must vacate the Reserve, and:

- (i) if the person is believed to be Residing in the place in which they are Trespassing, the notice shall identify a time to vacate no less than one week from service of the Notice of Trespass;
  - (ii) in other circumstances, the notice shall identify a time to vacate which may be immediate, or may be assumed to take effect immediately if no time is identified.
- (d) indicate that the person may request a review to dispute the Notice of Trespass, and reasonably identify how that request may be made.

13. A Notice of Trespass is assumed to be an order to vacate the entire Reserve, for all purposes, without further conditions, unless specified otherwise, but it may set particular conditions in which the person is permitted to be on the Reserve, such as:

- (e) conditions prohibiting or restricting the person from attending specified locations or events on the Reserve;
- (f) conditions prohibiting the person from being within a certain distance from specified locations or persons;
- (g) conditions limiting the duration, timing or frequency of visits;
- (h) conditions requiring advance notification to the Taykwa Tagamou Nation, police, or any person before authorized visits;
- (i) any other conditions as determined by the Council.

14. A person served with a Notice of Trespass:

- (a) shall vacate the Reserve or the specified location within the Reserve, as required by the Notice of Trespass, within the time indicated on the Notice of Trespass;
- (b) shall remove any building, structure or thing required to be removed by the Notice of Trespass, within the time indicated on the Notice of Trespass; and
- (c) shall not enter or re-enter the Reserve or the specified location within the Reserve, as required by the Notice of Trespass, without written permission from the Taykwa Tagamou Nation; and
- (d) shall abide by all conditions, if any, specified in the Notice of Trespass.

15. Despite a Notice of Trespass, the following entries are permitted:

- (e) where entry is necessary in an emergency situation;
- (f) if the person so requests, the Council shall permit at least one entry in order to collect the person's personal belongings under the supervision of an Officer or another person designated by Taykwa Tagamou Nation;
- (g) if the person has provided information to the Council about a service they require that they receive from a service provider located on the Reserve and has requested continued access, the Taykwa Tagamou Nation may assist with arrangements to provide the person with a reasonable alternative to access that service or to access a reasonable replacement service, and if the Taykwa Tagamou Nation does not specify that alternative within one week of the request, the person may, with 2 business days advance notice to Taykwa Tagamou Nation, enter specifically to access their service.

#### **Request for Review**

16. A person identified in a Notice of Trespass may, within two weeks (14 days) of being served with the Notice of Trespass, request a meeting with the Council of Taykwa Tagamou Nation to review their case. The request must be made in writing, substantially in the form of Schedule B, and delivered to the Executive Director of Taykwa Tagamou Nation. The Executive Director is responsible for communicating the request to the Council.

17. In a review, the person may dispute the presence of valid grounds for issuing the Notice of Trespass, or may raise other arguments as to why the Notice of Trespass should be withdrawn or varied.

18. If a person requests a review, the effect of the Notice of Trespass will be suspended during the review process unless, in at least one of the following circumstances, Taykwa Tagamou Nation has decided that the Notice of Trespass shall remain in effect during the review:

- (a) The person is not a Reserve Resident;
- (b) The threat posed to peace, health or safety is significant; or
- (c) Other exceptional circumstances apply.

19. If a request for review under clause 16 is received, Taykwa Tagamou Nation shall convene a meeting to conduct the review, and shall give the person identified in the Notice of Trespass reasonable notice of the meeting date.

- (a) The person identified in the Notice of Trespass is invited to attend the meeting, and may speak to the issues personally or using a lawyer or other representative if they wish to do so. The person may also bring a person for emotional or spiritual support if they wish to do so.
- (b) If the Notice of Trespass has not been suspended and the person is not permitted to be on the reserve, Taykwa Tagamou Nation may, in its discretion, choose how to conduct the review process without violating the Notice of Trespass during the review process, such as: holding the review meeting in an off-reserve location, allowing an exception for the person's attendance at the review meeting on reserve (which does not otherwise waive the effect of the Notice of Trespass), or requiring the person to participate in the meeting by video rather than in-person.
- (c) The person identified in the Notice of Trespass may give their own evidence, and may call evidence through witnesses and submission of documents, and may give oral arguments. The Taykwa Tagamou Nation may also ask or allow other witnesses to give evidence and may consider any document. This part of the meeting will be public, unless the Council decides to apply confidentiality restrictions for special reasons requiring confidentiality.
- (d) Following the evidence and arguments, the Council may deliberate its decision in private.
- (e) The Council may govern the procedure of the review in any manner it reasonably considers to be fair and appropriate.

20. Following the meeting, the Council shall render a decision and may:

- (a) maintain the Notice of Trespass;
- (b) vary the Notice of Trespass; or
- (c) withdraw the Notice of Trespass.

21. The Council's decision shall be communicated in writing, with reasons, to the person identified in the Notice of Trespass. If the effect of the Notice of Trespass was suspended during the review process, it resumes effect as of the date that the review



decision is communicated if the notice is affirmed. In such instance, an updated date in which the person must vacate shall be indicated along with the decision.

22. Any person subject to an ongoing Notice of Trespass may request an additional review of their case if at least one year has passed since the previous review.

### **Offences**

23. A person who:

- (a) fails to comply with a Notice of Trespass; or
- (b) resists or interferes with an Officer enforcing this law;

commits an offence, and a person who commits an offence under this law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 30 days, or to both.

24. Every re-entry to the Reserve or a location on the Reserve contrary to a Notice of Trespass is a separate offence.

### **Enforcement**

25. Officers are hereby authorized to enforce this law, and such enforcement includes but is not limited to:

- (a) serving Notices of Trespass;
- (b) supervising any visits authorized in a Notice of Trespass, supervising the collection of belongings, and enforcing any conditions;
- (c) removing a person from the Reserve or from a specified location within the Reserve, as the case may be;
- (d) barring a person's entry to the Reserve or to a specified location within the Reserve, as the case may be;
- (e) any other action reasonably required for enforcement of this law in the opinion of the Officer, including the use of reasonable force.

26. If a building, structure or thing is required to be removed by a Notice of Trespass and is not removed by the deadline provided in the Notice of Trespass that is in effect, it may be removed at the direction of Taykwa Tagamou Nation, and any costs incurred in the removal may be charged to the person identified in the Notice of Trespass and is a debt recoverable to Taykwa Tagamou Nation.

27. Taykwa Tagamou Nation and all its Officers, councillors, employees, contractors, and agents have no liability whatsoever for any damage caused to a building, structure or thing removed under this law.
28. Council may, by resolution, lift any Notice of Trespass completely or temporarily, and may provide any person with permission to enter, be present in, or reside in the Reserve, and shall communicate such resolutions to Officers and to the person identified in the Notice of Trespass.

### **General Provisions**

29. Should a court determine that a provision of this law is invalid for any reason, the provision shall be severed from the law and the validity of the rest of the law shall not be affected. Taykwa Tagamou Nation may replace the severed provision with another provision, if necessary, in order to maintain the intent of this law.
30. This law comes into force immediately after its enactment on the day it is published on the Taykwa Tagamou Nation internet site, in the First Nations Gazette or in a newspaper that has general circulation on the Reserve of the Taykwa Tagamou Nation, whichever Taykwa Tagamou Nation considers appropriate in the circumstances.
31. Any prior trespass laws of Taykwa Tagamou Nation, if any, are hereby repealed. Any prior Band Council Resolutions of Taykwa Tagamou Nation as to trespass remain in effect and are hereby continued under this law, and may be reviewed in accordance with this law.
32. The following pages are attached to and form a part of this law:
  - Schedule A: Notice of Trespass
  - Schedule B: Request for Review

***(approval page and schedules attached)***

This Trespass Law is hereby enacted by a quorum of the Council of the Taykwa Tagamou Nation at a duly convened meeting on the 19<sup>th</sup> day of October, 2019 and approved by our Nation at our Annual General Meeting. The record of that decision is attached.

**SCHEDULE A**  
**NOTICE OF TRESPASS**

**issued under Clause 11 of the Taykwa Tagamou Nation Trespass Law**

**TO:** \_\_\_\_\_ (name of trespasser)

**FROM:** The Council of Taykwa Tagamou Nation

**TAKE NOTICE THAT** the Council of the Taykwa Tagamou Nation has declared you to be trespassing on the reserve pursuant to the *Taykwa Tagamou Nation Trespass Law, 2019* ("*TTN Trespass Law*").

A copy of the *Taykwa Tagamou Nation Trespass Law, 2019*:

- is attached; or
- can be obtained at (website or location): \_\_\_\_\_

You are declared a trespasser on (TTN to check one):

- the entire Taykwa Tagamou Nation reserve
- this/these location(s) within the Taykwa Tagamou Nation reserve:  
\_\_\_\_\_

You are (TTN to check one):

- not permitted to be in the area identified above, without conditions;
- permitted to be in the area identified above only under the following conditions, and you are considered to be trespassing if these conditions are violated:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (conditions).

You are trespassing because you are (TTN to check one or more – see clause 6 of the TTN Trespass Law):

- residing on the reserve contrary to clause 3-5 of the law as per 6(a);
- a non-TTN Citizen engaged in harvesting without permission or valid permit or licence as per 6(b);
- a visitor engaged in nuisance, harassment or other unwelcome conduct as per 6(c); or, deemed by Council to be, as per 6(d):
  - threatening to the peace, health or safety of reserve residents;
  - impeding the ability of Council to govern; or
  - impeding the ability of TTN or its employees or agents to function.

**You are required to vacate** the area in which you are trespassing (identified above) by \_\_\_\_\_ (date and time).

In addition (TTN to check and complete if applicable):

- You are required to remove** \_\_\_\_\_ which you built, erected, deposited, left or installed on the reserve without authorization, or that you caused to be built, erected, deposited, left or installed in the reserve without authorization, by \_\_\_\_\_ (date and time). If you do not do so, these items may be removed by Taykwa Tagamou Nation and the cost will be charged to you.

**REQUEST FOR REVIEW:**

You have the right to ask the Council to review this Notice of Trespass. In a review, the Council could withdraw or vary this notice, or could maintain it as is.

To ask for a review, you must complete and submit the Request for Review attached as Schedule B of the *Taykwa Tagamou Nation Trespass Law, 2019* to the Executive Director **within 14 days** of being served with this Notice of Trespass. Please consult the law for further details.

Please note that (TTN to check one):

- If you make a request for review, the effect of this Notice of Trespass is suspended during the review process. In other words, you will not be required to vacate or to remove items unless the Council confirms that decision after a review.
- Under the law, Council has determined that based on the circumstances of your case, the effect of this Notice of Trespass is not suspended during a review process. You are required to vacate the reserve and remove items as of the date(s) indicated in this Notice of Trespass, whether or not there is a review.

*Signed by the Chief or other representative authorized by Council:*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Signed by person delivering:*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_ Method of delivery: \_\_\_\_\_

**SCHEDULE B**  
**REQUEST FOR REVIEW**

**under Clause 16 of the Taykwa Tagamou Nation Trespass Law**

I, \_\_\_\_\_ (print name), received a  
Notice of Trespass on \_\_\_\_\_ (date) and I am requesting a  
review by Council under Clause 16 of the *Taykwa Tagamou Nation Trespass Law, 2019*.

I am available to meet with Council on the following dates (list a minimum of 15 dates within  
the upcoming 2 months): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My contact information is:

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Signature of person requesting the review: \_\_\_\_\_

Date of signature: \_\_\_\_\_

***For office use only:*** Date received by the Executive Director or other authorized recipient on  
behalf of Taykwa Tagamou Nation: \_\_\_\_\_

Taykwa Tagamou Nation  
Annual General Meeting  
October 19, 2019

RESOLUTION #      2019-10-19-08  
MOVED BY:            Betty Whiskeychan  
SECONDED BY:       Stanley Sutherland

---

That Taykwa Tagamou Nation membership approves the Trespass Bylaw as presented with the addition of 7(b) illicit drugs.

All in favor:    51  
Against:        0  
Abstentions:    1  
Motion Carried:    Carried

Approved by the Council the same day, October 19, 2019.

I hereby certify that this document is a complete and true copy of the original document consisting of 15 pages.

Certified this 15th day of June, 2020, by:  
Judith Rae, legal counsel to Taykwa  
Tagamou Nation

Signature: 

---