

## By-Law No. 03 of the T'Sou-ke Indian Band

### A By-Law For the Removal and Punishment of Persons Trespassing on Reserve and the Prevention of Disorderly Conduct and Nuisances

**WHEREAS** the Council of the T'Sou-ke Band desires to make a by-law to provide for the removal and punishment of persons trespassing on the reserve and the prevention of disorderly conduct and nuisances;

**AND WHEREAS** the Council of the T'Sou-ke Band is empowered to make such by-law, pursuant to paragraphs 81 (1)(c), (d), (q), and (r) of the Indian Act.

**AND WHEREAS** it is considered to be expedient and necessary, for the benefit, comfort and safety of the inhabitants of the T'Sou-ke Band to provide for the removal and punishment of persons trespassing on the reserve and for the prevention of disorderly conduct and nuisances on the reserve;

**NOW THEREFORE** the Council of the T'Sou-ke Band hereby makes the following by-law;

#### Short Title

- 1) This by-law may be cited as "T'Sou-ke Band Removal of Trespassers and the Prevention of Disorderly Conduct and Nuisances By-law".

#### Interpretation

- 2) In this by-law:

"*Council*" means the Council of the T'Sou-ke Band as defined in the Indian Act

"*Disorderly Conduct*" means any act or behavior, including

- (a) Fighting;
- (b) Making or causing unreasonable noise;
- (c) Using abusive language;
- (d) Using offensive or indecent gestures or displays
- (e) Being drunk;
- (f) Loitering;
- (g) Exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon; or

- (h) Interfering in any manner with the orderly conduct or commercial, administrative, educational, recreational, health care, religious or ceremonial activities of the reserve;

That disrupts public order on the reserve, scandalizes the community, or causes public inconvenience, annoyance or alarm;

*"Minister"* means the Minister of Indian Affairs and Northern Development;

*"Nuisance"* means any act, activity or condition, including

- (a) The abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (b) The storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances, or furniture;
- (c) The dumping or storage of tires, garbage or other refuse;
- (d) The burning of tires, grass, garbage, leaves or other refuse;
- (e) The discharge of any substance in to the air or water;
- (f) Noise

The materially impairs, otherwise than by direct physical interference, the use and enjoyment of a persons' property, or that prejudicially affects a person' health, comfort or convince of the public health, safety, or welfare of the reserve community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

*"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 Council for the purpose of maintaining law and order on the reserve;

*"Person"* includes a corporation;

*"Reserve"* means the T'Sou-ke Reserves No. 1 and No. 2;

*"Trespass"* means the entry onto, or the presence on, the reserve by a person without lawful justification;

### **Trespass**

3. (1) An officer may order any person who trespasses on the reserve or who frequents the reserve and engages in disorderly conduct or nuisance to leave the reserve immediately.

- (2) Where a person who has been ordered to leave the reserve fails or refuses to do so, an officer may take such reasonable measures as may be necessary to remove the person from the reserve
- (3) No person shall fail or refuse to comply with an order made under subsection (1) to leave the reserve, or shall resist or interfere with an officer acting under subsection (2).

### **Disorderly Conduct**

4. (1) Any person who commits an act of disorderly conduct is guilty of an offense.
- (2) An officer may order any person who is causing or who threatens to cause a nuisance on the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.
- (3) In determining whether a period fixed by an officer under subsection (2) was reasonable in the circumstances, a court shall take into account
  - (a) the nature and extent of the nuisance;
  - (b) the methods available to abate the nuisance;
  - (c) the approximate time required to abate the nuisance; and
  - (d) the effect of the order on any business or means of livelihood of the person who is subject of an order.

### **Enforcement**

6. (1) Where a person who has been ordered to leave the reserve, or to stop engaging in disorderly conduct, or to refrain from causing a nuisance or to abate a nuisance within a specific period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to remove the person from the reserve or to stop the disorderly conduct, or to prevent or to abate the nuisance.
- (2) A person who fails or refuses to comply with an order under subsection 3(2), or subsection 4(2), or subsection 5(2), or who resists or interferes with an officer acting under subsections 3(2), 4(2) or subsections 6(1) commits an offense.

### **Penalty**

7. A person who commits an offense under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 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 T'Sou-ke Band this 25 day of MAY, 2000.

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

Linda Bristol  
(Chief)

[Signature]  
(Councilor)

[Signature]  
(Councilor)

Being the majority of those members of the Band Council of the T'Sou-ke Band present at the aforesaid meeting of the Council.

The quorum of the Band Council is 2 members.

Numbers of members of the Band Council present at the meeting: 3

I, LINDA BRISTOL Chief/Councilor of the T'Sou-ke 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 Regional Office, Vancouver, pursuant to subsection 82(1) of the Indian Act, this 25 day of MAY, 2000.

[Signature] Witness  
Linda Bristol Chief/Councilor