

Fort McKay First Nation

PO BOX 5360, Fort McMurray, AB, T9H 3G4, 780-828-4220

NOTICE OF NOISE AND DISTURBANCE BYLAW

WHEREAS section 81, paragraph (a), (b), (c), and (d), of the *Indian Act* empower the Council to pass bylaws to provide for the health of residents on the Reserve, the regulation of traffic, the observance of law and order, and the prevention of disorderly conduct and nuisances, in addition to matters arising out of or ancillary to the exercise of powers and the imposition of a penalty for the violation of any such bylaw;

AND WHEREAS the Council is of the opinion that the residents of the Reserve are entitled to enjoy peaceful living in the community and that noise, nuisances, and disturbances should be reduced as far as possible particularly during evening hours when most residents are sleeping;

THEREFORE, the Council of the Fort McKay First Nation enacts this Noise and Disturbance Bylaw, as follows:

1 Interpretation

1.1 In this Bylaw:

- (a) "Council" means the Council of Fort McKay First Nation;
- (b) "Enforcement Officer" means:
 - (i) a police officer with the Royal Canadian Mounted Police or any other local detachment of a police service; or
 - (ii) a person employed by the Council for the purpose of enforcing the provisions of this Bylaw;
- (c) "First Nation" means the Fort McKay First Nation;
- (d) "Industrial Area" means any area of the Reserve classified as industrial by the Council;
- (e) "Reserve" means the lands set apart by Her Majesty the Queen in right of Canada for the use and benefit of the First Nation and for the purposes of this Bylaw includes any bodies of water (including lakes, ponds, rivers, or creeks) located on, adjacent to or near the Reserve;
- (f) "Residence" means each single unit home being a fully or semi-detached building, a multiple unit Residence, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried out on;
- (g) "Residential Area" means any area of the Reserve classified as residential by the Council and any area in which one or more Residences may be located, regardless of any formal classification of the area;
- (h) "Signaling Device" means any horn, bell or other device that produces an audible sound for the purpose of drawing people's attention to an approaching Vehicle;
- (i) "Vehicle" means any device in, on or by which a person may be transported on roads, cross-country, water, snow or other natural terrain and for the purposes of this Bylaw includes:
 - (i) Private passenger automobiles such cars and trucks;

- (ii) Commercial motor vehicles such as buses and tractors with load hauling trailers;
- (iii) Farm machinery and implements;
- (iv) Heavy duty vehicles and equipment;
- (v) 4-wheel drive vehicles;
- (vi) Motorcycles and other 2-wheel vehicles;
- (vii) Amphibious machines;
- (viii) All-terrain vehicles;
- (ix) Miniature motor vehicles and mini-bikes;
- (x) Snow vehicles; and
- (xi) Motor boats.

2 Application

2.1 This Bylaw applies to every person residing or visiting on the Reserve.

3 General Abatement of Noise

3.1 Except to the extent it is allowed by this Bylaw, no person shall make, continue, cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace, or safety of other persons on the Reserve.

3.2 Except to the extent it is allowed by this Bylaw, no person shall allow property on the Reserve or any part of the Reserve which may be occupied by that person or under his or her control to be used so that there originates from that property any loud, unnecessary noise or any noise whatsoever which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace, or safety of other persons on the Reserve.

3.3 What is a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others is a question of fact and may be determined by the reasonable exercise of judgment and discretion of an Enforcement Officer having regard for the following factors:

- (a) Proximity of the noise to a place where people may be sleeping;
- (b) The time of day or night the sound occurs;
- (c) The duration and volume of the sound; and
- (d) Whether the sound is recurrent, intermittent or constant.

3.4 The provisions of this section are not intended to prevent:

- (a) The sounding of a general or particular alarm or warning to announce a fire or other emergency or disaster;
- (b) The sounding of police, fire or ambulance sirens;

- (c) The sounding of a whistle or other device by a person in distress;
- (d) Noise arising from a community event which has been approved or in respect of which a permit has been issued by the Council which approval or permit contemplates certain noise including the playing of a band, musical instruments, or recordings;
- (e) Noise originating in an Industrial Area which arises from carrying on an industrial activity approved or in respect of which a permit has been issued by the Council which approval or permit contemplates such noise and activities; provided that the level of noise does not exceed what is necessary to perform the activity in accordance with normal methods and industry standards; or
- (f) Noise resulting from an activity which has been approved or permitted by the Council in accordance with section 7.

4 Vehicle Noise

- 4.1 No person may operate a Vehicle of any kind at any time of the day or night in such a way as to unduly disturb a Residential Area.
- 4.2 No person operating a Vehicle on the Reserve may use a Signaling Device and except where reasonably necessary and upon the condition that it does not make more noise than is reasonably necessary for the purpose of giving notice or warning other persons of the presence of a Vehicle.
- 4.3 No person may operate a Vehicle on the Reserve that is not properly equipped with a muffler or similar equipment on the Vehicle or other internal combustion engine which ensures that exhaust gases from the engine are cooled and expelled without excessive or unreasonable noise.
- 4.4 Without limiting the generality of section 4.3, the following apply to Vehicles in the nature of a motor boat:
 - (a) No person may launch or operate a motor boat if that motorboat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air without first passing through water unless the motorboat is equipped with a muffling device that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise;
 - (b) No person shall operate any motorboat powered by an engine equipped with exhausting devices commonly described as dry stacks or dry headers;
 - (c) No person shall operate a motorboat powered by an engine equipped with exhausting devices commonly described as water injected headers unless a properly operating muffler is also installed; and
 - (d) No person shall operate a motorboat powered by an engine equipped with exhausting devices commonly described as over-transom water cooled exhaust unless a properly operating muffler is also installed.
- 4.5 No person may use engine retarder brakes to slow or stop a Vehicle in a Residential Area.
- 4.6 No person shall allow the diesel motor on a Vehicle which pulls a trailer or semi-trailer truck to remain running for longer than twenty minutes while the tractor-trailer or tractor alone is not in motion in or near any Residential Area.

5 Domestic Noise

- 5.1 No person shall cause a noise disturbance in a Residential Area by loud partying, fighting, screaming, shouting, or similar behavior.

- 5.2 No person who owns, or who has been granted a right of tenancy, or who lives in or occupies a Residence may allow or permit a noise disturbance to emanate from that Residence by reason of loud partying, fighting, screaming, shouting, or similar behavior.
- 5.3 No person may harbor or keep any animal or bird which makes noise that unduly disturbs people in a Residential Area.
- 5.4 No person may operate power tools including lawn mowers, snow blowers, chain saws, or other equipment in a Residential Area between the hours of ten o'clock in the evening and eight o'clock the following day.

6 Construction Noise

- 6.1 No person may carry on any construction related activities in a Residential Area which involve hammering, sawing, or the use of any machine tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried out between the hours of ten o'clock in the evening and eight o'clock the following day.
- 6.2 No person may operate any of the following equipment in a Residential Area without first obtaining an approval or permit from the First Nation:
 - (a) A riveting machine;
 - (b) A concrete mixer;
 - (c) A gravel crusher;
 - (d) A steam shovel;
 - (e) A trenching machine;
 - (f) A drag line;
 - (g) An air or steam compressor, jack-hammer, pneumatic drill;
 - (h) A tractor or bull-dozer; or
 - (i) Any other tool, device, or machine of a noisy nature which may create a noise, cause confusion, or a disturbance in a Residential Area.

7 Approvals or Permits

- 7.1 Application may be made to the Council for a Band Council Resolution approving or permitting an activity which may otherwise contravene this Bylaw. The Band Council Resolution shall specify:
 - (a) The nature, scope and limitations of the activity including any restrictions on the maximum level of decibels of noise allowed;
 - (b) The persons permitted to carry on the activity;
 - (c) The location of the activity;
 - (d) The dates and hours on which the activity may be conducted; and
 - (e) Any other provision reasonably necessary to balance the benefits which may accrue to the First Nation or a person as a result of the activity with the impact of the activity on

other persons on the Reserve including those who may be residing in an affected Residential Area.

- 7.2 Unless otherwise specified by the Council, a construction contractor retained directly by the First Nation in respect of a First Nation project is exempt from the necessity of obtaining an approval or permit, provided that the activities in question are specifically contemplated by the terms of the contract between the contractor and the First Nation.


8 Penalties and Other Remedies

- 8.1 Each occurrence of a contravention of this Bylaw, or in the case of continuous contraventions, each hour the contravention occurs or continues constitutes a separate offence and may be punished separately.
- 8.2 Any person who has been instructed by an Enforcement Officer to cease and desist from a contravention of this Bylaw and who fails to comply with the instructions of the Enforcement Officer is guilty of an additional offence, separate and distinct from the initial contravention and may be punished separately.
- 8.3 Every person who contravenes any of the provisions of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than One Thousand (\$1,000) Dollars or to a term of imprisonment not to exceed thirty (30) days for each act of contravention.
- 8.4 In addition to any other remedy available to the First Nation, the First Nation shall be entitled to apply to the Court of Queen's Bench of Alberta for an order in the nature of an injunction requiring a person cease and desist from any contravention of this Bylaw and for any other relief that may be just in the circumstances.
- 8.5 Nothing in this Bylaw shall be deemed to limit any other remedies available to the First Nation, including remedies in the civil courts.

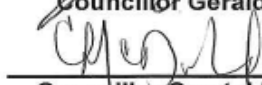
9 Coming into Force

- 9.1 This Bylaw comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

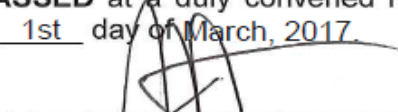
APPROVED AND PASSED at a duly convened meeting of the Council of the Fort McKay First Nation this 1st day of March, 2017.




Councillor Gerald Gladue




Councillor Crystal McDonald



Chief Jim Boucher



Councillor Peggy Lacorde



Councillor Raymond Powder

A COPY OF THE PROPOSED LAWS may be obtained from: Communications Department, Fort McKay.

CONTACT INFORMATION: For further information or questions regarding the Proposed Laws, this Notice or the making of written representations to Council, please contact Communications Department at Fort McKay First Nation, by telephone at 780-828-4220 or by email at communications@fortmckay.com.

Dated: March 1st, 2017

Fort McKay First Nation

PO BOX 5360, Fort McMurray, AB, T9H 3G4, 780-828-4220

NOTICE OF RESPONSIBLE PET OWNER BYLAW

WHEREAS section 81, paragraph (a), (d), (e), (q) and (r), of the *Indian Act* empower the Council to pass by-laws to provide for the health of residents on the Reserve, the prevention of nuisances, the protection against and the prevention of trespass by domestic animals, in addition to, matters arising out of or ancillary to the exercise of powers and the imposition of a penalty for the violation of any such by-law;

AND WHEREAS the Council is of the opinion that the uncontrolled running at large of animals may be detrimental to the health of the residents on the Reserve, and a nuisance to such residents;

THEREFORE, the Council of the Fort McKay First Nation enacts this Animal Control By-Law, as follows:

1 Interpretation

1.1 In this By-Law:

- (a) "Animal" means any Animal which is kept or maintained on the Reserve as a pet or otherwise;
- (b) "Animal Control Officer" means:
 - (i) an Animal Control Officer, appointed pursuant to section 3;
 - (ii) a By-Law enforcement officer of the Regional Municipality of Wood Buffalo with authority to act under an Animal Service Control Agreement between the First Nation and the Regional Municipality of Wood Buffalo;
 - (iii) a police officer with the Royal Canadian Mounted Police or any other local detachment of a police service; or
 - (iv) a person employed by the Council for the purpose of enforcing the provisions of this By-Law;
- (c) "Animal Register" means the register kept by the Animal Control Officer for the purpose of the registration of all Dogs and other Animals required to be registered on the Reserve;
- (d) "Cat" means any Cat, male or female;
- (e) "Council" means the Council of Fort McKay First Nation;
- (f) "Dog" means any Dog, male or female and includes an Animal that is a cross between a Dog and a wolf;
- (g) "Dwelling" means each single unit home being a fully or semi-detached building, a multiple unit Dwelling, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried out on;
- (h) "First Nation" means the Fort McKay First Nation;
- (i) "Large Animal" means any Animal other than a Dog or a Cat which in the adult form weighs more than 10 kilograms and includes livestock and horses;

- (j) "Medical Officer of Health" means the Medical Officer of Health so appointed by the Council;
- (k) "Muzzle" means to secure a Dog's mouth in such a fashion that it cannot bite anything;
- (l) "Owner" of an Animal includes a person who possesses or harbors an Animal on the Reserve, and the terms "owns" and "owned" have a corresponding meaning;
- (m) "Reserve" means the lands set apart by Her Majesty the Queen in right of Canada for the use and benefit of the First Nation;
- (n) "Running at Large" or "At Large" means off the premises of the Owner and not Muzzled or under the control of any person;
- (o) "Vicious Dog" includes:
 - (i) Any Dog that demonstrates any ferocious, vicious, or aggressive behaviour;
 - (ii) Any Dog that an Animal Control Officer, upon reasonable and probable grounds, believes to be a Vicious Dog;
 - (iii) Any Dog which has been the cause of a prosecution under this By-Law within the previous six months where a conviction against anybody had been entered concerning that specific Dog; and
 - (iv) Any Dog which has bitten another Animal or human without provocation.

2 Application

- 2.1 This By-Law applies to all Owners of Animals residing or visiting on the Reserve.

3 Animal Control Officer

- 3.1 The Council may appoint, by Band Council Resolution, an Animal Control Officer to provide for the administration and enforcement of this By-Law and more specifically to receive registrations and to issue identification tags under this By-Law.
- 3.2 The Council may, in the Band Council Resolution, provide for reasonable remuneration to be paid to the Animal Control Officer.

4 Registration and Identification of Animals

- 4.1 Every Dog and any other Animal that the Council has determined, by Band Council Resolution, must be registered under this By-Law, shall be registered by the Owner.
- 4.2 An application for registration and identification tag shall be filed with the Animal Control Officer and it will include:
 - (a) The applicant's name;
 - (b) The applicant's address or lot number;
 - (c) A description of the Animal sought to be registered, including species, age, sex, name and breed if known;
 - (d) Disclosure as to whether or not the Animal has been spayed or neutered;
 - (e) The number of Animals in the household;

- (f) A record that the Animal is immunized against rabies, noting the date of such immunization, the name of the person immunizing the Animal, including the manufacturer's name of the vaccine and its batch number; and
 - (g) Any other information deemed by the Animal Control Officer to be necessary for the proper administration of this By-Law.
- 4.3 The charge for registration and identification tags shall be \$10.00 dollars per year per Animal or such further or other amount as may be designated by the Council, from time to time, by Band Council Resolution.
- 4.4 The Animal Control Officer shall issue the license tag upon registration and payment of the annual fee and, if necessary, proof that the Animal has been immunized against rabies.
- 4.5 In the case of a Dog, the license tag shall be securely attached to the collar or harness of the Animal at all times and in all other cases the Owner shall be responsible for the production of the license tag upon the request of the Animal Control Officer.
- 4.6 The registration and identification tag will be valid for one full year from the date of issuance.

5 Immunization of Animals

- 5.1 All Animals on the Reserve must be immunized in accordance with generally accepted veterinary standards.
- 5.2 The Owner of any Animal exposed to rabies shall, on demand by the Council, surrender such Animal to the First Nation to be held by the Animal Control Officer in quarantine for a period of 14 days and such Animal shall not be released from such quarantine without the written permission of the Medical Officer of Health.
- 5.3 Upon demand of the Council, the Owner of any Animal shall forthwith surrender to the Animal Control Officer any Animal which has bitten any person or which has been exposed to rabies to be held in quarantine at the discretion of the Medical Officer of Health.
- 5.4 Any Animal found to be infected with rabies shall be destroyed by the Animal Control Officer at the Owner's expense.

6 Limitation on Animals Per Dwelling

- 6.1 The Council may, by Band Council Resolution, limit the number of Animals and the species of Animals that may be kept, harbored or possessed in any Dwelling.

7 General Prohibitions

- 7.1 Subject to subsection 7.2, every Owner of an Animal shall keep the Animal safely tethered or penned at all times in a manner that is suitable to the Animal.
- 7.2 A Dog need not be tethered or penned up if the Dog is:
- (a) Held on a leash by a person capable of restraining the Dog's movements;
 - (b) Being used by a person for the purpose of hunting;
 - (c) Being used by a person to work in a lawful manner with domestic livestock; or
 - (d) Used by a visually impaired person as a guide Dog.

- 7.3 No Owner shall allow a female Dog in heat to remain in any public place unless the Dog is attached to a leash and is accompanied by and is under the observation and control of the Owner or his agent.
- 7.4 The Owner of an Animal who fails to take all necessary measures to ensure that such Animal is under the appropriate control or supervision or in the possession of the Owner at all times, upon any property on the Reserve, is guilty of an offence.
- 7.5 The Owner of an Animal which causes damage to any property including moveable property, lawns, flower gardens, flower beds, bushes or plants, or other parts of property, is guilty of an offence.
- 7.6 The Owner of a Dog shall, when the Dog is on public property immediately pick up and thereafter dispose of, any feces, vomit, or any other waste left by the Dog on the property.
- 7.7 No Owner shall allow an Animal to remain unfed or without water whereby it either amounts to cruelty or causes the Animal to become a nuisance.
- 7.8 No person shall punish or abuse an Animal in a manner which is cruel or unnecessary.

8 Prohibitions by Council Order

- 8.1 The Council may at any time, by Band Council Resolution, prohibit the keeping of Animals or specific species of Animals within any area of the Reserve.
- 8.2 Notice of any prohibition made by Council pursuant to subsection 8.1 shall be posted in the First Nation's Administration Office and after the date of the posting of such notice, no person shall keep or have an Animal within the prohibited area.
- 8.3 No person may establish, own or operate a facility for the boarding or treatment of Animals within the limits of the Reserve, without express written authorization to that effect from the Council, by way of Band Council Resolution.
- 8.4 The Council may at any time, by Band Council Resolution:
- (a) Prohibit the keeping of any particular breed of Dog on the Reserve; or
 - (b) Require that an Owner residing on Reserve abide by certain terms and conditions for the Ownership of a Dog and any particular breed or size of Dog.

9 Vicious Dogs

- 9.1 Anyone owning a Vicious Dog must post a clearly visible sign notifying the public.
- 9.2 At all times, a Vicious Dog must be Muzzled and kept on a leash whenever it is in a public place.
- 9.3 On private property, a Vicious Dog shall be kept on a secure leash or in a restricted area which shall be constructed so as to prevent any escape by the Dog and to prevent the entry of children.

10 Impounding and Seizure

- 10.1 No Owner shall permit an Animal to be At Large on the Reserve.
- 10.2 An Animal found At Large on the Reserve may be impounded for not less than ten (10) days if it is registered under this By-Law or three (3) days if it is not registered under this By-Law and, after notifying the Owner, may thereafter be humanely destroyed or otherwise disposed of, unless in the meantime such Animal has been claimed by its Owner and the costs incurred for the impounding of the Animal have been paid.

- 10.3 An Animal Control Officer may seize an Animal from any person whom he has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this By-Law.
- 10.4 If an Animal is apprehended because it has inflicted an unprovoked attack upon another Animal or human person, the Animal Control Officer shall impound the Animal for such period of time as specified by a veterinarian.
- 10.5 Subject to sections 10.6 and 10.8, an Animal Control Officer who has seized an Animal shall release the Animal to its Owner where:
- (a) The Owner claims possession of the Animal within five (5) days after the date of seizure;
 - (b) The Owner pays to the Animal Control Officer all expenses incurred in securing, caring for and feeding the Animal; and
 - (c) The Owner has obtained the necessary registration identification tag from the Animal Control Officer before the Animal is released.
- 10.6 Where an Animal has not been reclaimed within five (5) days after seizure and notification has been given to the Owner, the Animal Control Officer may humanely destroy or dispose of the Animal where a veterinarian so directs and no damages or compensation may be recovered as a result of the destruction or disposal of such an Animal.
- 10.7 The Animal Control Officer shall seek veterinary attention for an Animal found to be diseased, where the Owner has declined, failed or neglected to do so. Any fee arising from the provision of such veterinary care shall be a charge against the Owner of the Animal.
- 10.8 If an Animal is seized which is injured or should be destroyed without delay for humane reasons or for reasons of health or safety to persons or other Animals, the Animal Control Officer shall destroy the Animal as soon after the seizure as the officer thinks fit without permitting any person to reclaim the Animal and no damages or compensation may be recovered on account of such action.
- 10.9 The Animal Control Officer shall forthwith make every reasonable effort to notify the Owner of an Animal which has been impounded.
- 10.10 A written report of each such incident, as described in this section, shall be filed with the Council by the Animal Control Officer.

11 Animal Destroyed if Unable to Seize

- 11.1 Where the Animal Control Officer, after reasonable effort, is unable to seize an Animal that is Running At Large, contrary to the provisions of this By-Law, the officer may destroy the Animal.
- 11.2 No damages or compensation may be recovered as a result of the destruction of an Animal by the Animal Control Officer.

12 Protection From Vicious Dogs

- 12.1 A person or Animal Control Officer may kill, if necessary, a Vicious Dog which is Running At Large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:
- (a) A person;
 - (b) Another Dog; or
 - (c) Any other Animal.
- 12.2 A person or Animal Control Officer, who must kill a Vicious Dog, shall immediately report the incident to the Council or Animal Control Officer and notify the Dog's Owner.

12.3 No damages or compensation may be recovered as a result of killing a Dog by a person or Animal Control Officer who is required to do so pursuant to section 12.1.

13 Penalty

13.1 Every person who contravenes any of the provisions of this By-Law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.


13.2 Without restricting the generality of section 13.1, the following fine amounts are established for use as voluntary payment options:

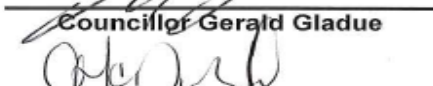
- (a) \$250.00 for failure to register an Animal contrary to section 4.1;
- (b) \$100.00 for failure to produce registration contrary to section 4.5;
- (c) \$500.00 for failure to keep an Animal under appropriate control or supervision contrary to section 7.4;
- (d) \$250.00 for allowing an Animal to cause damage contrary to section 7.5;
- (e) \$100.00 for failure to properly dispose of Animal waste contrary to section 7.6;
- (f) \$1,000.00 for causing cruelty to an Animal or causing unnecessary pain and suffering to an Animal contrary to sections 7.7 or 7.8;
- (g) \$500.00 for allowing Animal to be at large contrary to section 10.1 which fine shall be increased to \$1,000.00 if that Animal causes injury to a human or another Animal while at large; and
- (h) \$100.00 per offence for any other contraventions of this By-law not specifically referenced herein.

14 Coming into Force

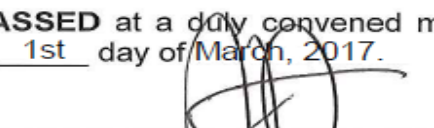
14.1 This By-Law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

APPROVED AND PASSED at a duly convened meeting of the Council of the Fort McKay First Nation this 1st day of March, 2017.





Councillor Gerald Gladue


Councillor Crystal McDonald



Chief Jim Boucher



Councillor Peggy Lacorde


Councillor Raymond Powder

A COPY OF THE PROPOSED LAWS may be obtained from: Communications Department, Fort McKay.

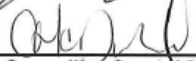
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Dated: March 1st, 2017

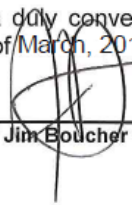
APPROVED AND PASSED at a duly convened meeting of the Council of the Fort McKay First Nation this 1st day of March, 2017.



Councillor Gerald Gladue



Councillor Crystal McDonald



Chief Jim Boulcher



Councillor Peggy Lacorde



Councillor Raymond Powder

Fort McKay First Nation

PO BOX 5360, Fort McMurray, AB, T9H 3G4, 780-828-4220

NOTICE OF TRESPASS LAW

WHEREAS the Aboriginal and Treaty rights of the Fort McKay First Nation government were recognized and affirmed in Treaty No. 8 entered into between Her Majesty the Queen and Fort McKay First Nation and confirmed by section 35 of the Constitution Act, 1982; and

WHEREAS the Trespass Law is an exercise of Aboriginal and Treaty rights and nothing in this Law may be construed as to abrogate or derogate from any Aboriginal and Treaty rights of Fort McKay First Nation; and

WHEREAS the Indian Act, R.S.C. 1985, c.1-5 further provides in sections 81(c), (p), (p.1), and (p.2) that Council may make laws: respecting rights of residency; for the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes; and, generally, for the peace, order and good governance of Fort McKay First Nation; and

WHEREAS the Council has determined that it is desirable and necessary to establish laws regulating access to Fort McKay First Nation Lands and Premises;

NOW THEREFORE THE COUNCIL OF FORT MCKAY FIRST NATION ENACT AS FOLLOWS:

**Part 1
Interpretation**

1 Short Title

1.1 This Law may be cited as the Trespass Law.

2 Definitions

2.1 In this Law:

- (a) "Access" means to enter upon land including buildings or structures on the land;
- (b) "Council" means the Chief and Council elected to public office pursuant to the Election Code of Fort McKay First Nation as amended or replaced from time to time;
- (c) "First Nation" means the body of persons comprising the Fort McKay First Nation recognized by Her Majesty the Queen in right of Canada as a band as defined in the Indian Act, R.S.C. 1985, c. 1-5, as amended and any successor to the First Nation;
- (d) "First Nation Lands and Premises" means the lands set apart by Her Majesty the Queen in right of Canada as reserves for the use and benefit of the First Nation and includes all lands deemed to be reserves pursuant to the Indian Act, R.S.C. 1985, c. 1-5, as amended and includes all public buildings or structures on the lands such as the Administration Offices of the First Nation;
- (e) "Just Cause" means engaging or threatening to engage in conduct which constitutes a danger or a potential danger to property or persons; or which threatens the health, safety, security, or the peace, order, and good governance of the First Nation or any person lawfully on First Nation Lands and Premises;
- (f) "Member" means a person admitted to membership or citizenship with the First Nation pursuant to the Fort McKay First Nation Membership Code as amended or replaced from time to time;

- (g) "Non-Member Rights Holder" means a person who has been granted a right to Occupy or Access First Nation Lands and Premises pursuant to a valid and enforceable instrument granting an interest in or right of access to First Nation Lands and Premises;
- (h) "Occupy" means to take possession of land for the purposes of establishing a residence or a business;
- (i) "Resident Member" means a Member who has been granted a right to Occupy:
 - (i) a housing unit pursuant to the laws or policies governing housing allocations from time to time, including the Residential Premises Act of Fort McKay First Nation and any other applicable laws as amended or replaced from time to time; or
 - (ii) a business premise pursuant to the laws or policies governing business premises on First Nation Lands and Premises as amended or replaced from time to time.

Part 2 Trespass, Access, and Occupancy

3 Trespass

- 3.1 Any person who Occupies, Accesses, attempts to Occupy or Access, or otherwise enters or remains on First Nation Lands and Premises other than in accordance with this Law is guilty of the offence of trespass.

4 Occupying First Nation Lands and Premises

- 4.1 Subject to the terms of any laws or the instrument granting a right to Occupy First Nation Lands and Premises and section 7 of this Law, the following persons have a right to Occupy and Access First Nation Lands and Premises:
 - (a) Resident Members;
 - (b) minor or dependent children of Resident Members; and
 - (c) Non-Member Rights Holders.

5 Access to First Nation Lands and Premises

- 5.1 Subject to section 7, the following persons may Access First Nation Lands and Premises:
 - (a) Members other than Resident Members;
 - (b) Non-Member spouses;
 - (c) Non-Member adult children of Members;
 - (d) Authorized agents of a Non-Member Rights Holders;
 - (e) invitees of a Member or Non-Member Rights Holder;
 - (f) persons granted Access by the Council;
 - (g) a person authorized by the Council to perform a public function, to establish, operate, or administer a public service or operate a public installation, or to conduct a technical survey;

- (h) persons who are part of an emergency service including fire suppression or ambulance services; or
- (i) a member of the public who has been invited onto First Nation Lands and Premises by the Council for a short term social or business purpose.

6 Removal of Persons from First Nation Lands and Premises

- 6.1 Any person who is not a Member or a Non-Member Rights Holder must leave the First Nation Lands and Premises immediately upon being directed to do so by the Council or any person authorized by the Council to enforce this Law including members of the local law enforcement detachment having jurisdiction on the First Nation Lands and Premises.
- 6.2 Any other person who Occupies or Accesses First Nation Lands and Premises (including Members, Resident Members and Non-Member Rights Holders) may be ordered to leave or vacate First Nation Lands and Premises in accordance with:
 - (a) the law or instrument which granted the person the right to Occupy or Access First Nation Lands and Premises; or
 - (b) by a resolution of the Council in accordance with section 7 of this Law.
- 6.3 No person may Access or Occupy First Nation Lands and Premises if an order has been made barring or banishing the person from entering on First Nation Lands and Premises in accordance with section 7 of this Law.

7 Banishment or Barring Entry to First Nation Lands and Premises

- 7.1 A person may be made the subject of an order banishing or barring the person from entering on, Accessing, or Occupying First Nation Lands and Premises if there is Just Cause for the order.
- 7.2 If the Council has reasonable grounds to believe that there is Just Cause to seek an order under this section, then it shall appoint an investigator, by Band Council Resolution, who shall conduct an investigation into the matter and report back to Council on their findings.
- 7.3 The investigator:
 - (a) Shall be licensed under the *Security Services and Investigators Act*, SA 2008, c. S-4.7 as amended or replaced from time to time; and
 - (b) Shall be a member of the Alberta Association of Private Investigators or a similar organization that requires the investigator to comply with a Code of Ethics reflecting best practices in the industry.
- 7.4 The investigator shall gather material and evidence related to the issue of Just Cause and shall provide a report to the Council outlining and summarizing the evidence.
- 7.5 If the investigation report merits proceeding further, which shall be determined in the sole discretion of the Council, then the investigation report shall be referred to an arbitrator appointed by Band Council Resolution who shall review the report and determine whether there is Just Cause for an order banishing or barring a person from First Nation Lands and Premises.
- 7.6 The arbitrator shall be:
 - (a) A lawyer qualified to practice law in the Province of Alberta; or

- (b) A Chartered Arbitrator whose designation has been awarded by the ADR Institute of Canada or its Alberta affiliate.

7.7 The arbitrator has the following powers:

- (a) To make findings of fact and legal conclusions respecting the existence of Just Cause for an order banishing or barring a person from entering on, Accessing, or Occupying First Nation Lands and Premises;
- (b) To determine the procedure to be followed having regard for the right to fairness and natural justice to the person affected by the proceedings;
- (c) To determine the nature and scope of disclosure to a person affected by the proceedings including giving proper consideration to the safety and security of persons who have provided information, materials, or evidence to the investigator and without limiting the generality of the foregoing may require that the names and identities of informants be kept confidential and not subject to disclosure;
- (d) To determine questions of law arising in the course of the proceedings;
- (e) To rule on any objections made in the course of proceedings before the arbitrator;
- (f) To order production of documents which are material and relevant to the proceedings;
- (g) To determine the relevance and weight to be given to evidence and, for greater certainty, the arbitrator is not bound by rules of evidence;
- (h) To determine whether or not to hold a hearing and the time, date, and place of such hearing;
- (i) To determine whether a hearing is public or private and who can attend or be present at a hearing; and
- (j) To do such further or other things as may be reasonably necessary to make a determination as to the existence of Just Cause for an order under this section.

7.8 Upon review of the investigation report and upon hearing any evidence which the affected person has put before the arbitrator, the arbitrator shall determine whether or not Just Cause is established for an order under this section. The determination of Just Cause shall be on the civil standard, being a balance of probabilities.

7.9 The arbitrator shall provide written reasons for his or her conclusion and shall deliver those reasons to the Council.

7.10 The arbitrator's decision shall be enforceable as a judgment of the Court and the First Nation is entitled to apply for a judgment of the Alberta Court of Queen's Bench to enforce the arbitrator's award in accordance with the *Arbitration Act*, RSA 2000, c. A43 as amended or replaced from time to time and the First Nation shall be further entitled to injunctive relief to enforce the arbitration award.

7.11 The Council may, in lieu of an investigation or a hearing before an arbitrator, establish conditions to which the person must abide to maintain the ability to Access or Occupy First Nation Lands and Premises.

Part 3 Enforcement

8 Forcible Removal

8.1 Upon the request of Council, members of the local law enforcement detachment with jurisdiction on the First Nation Lands and Premises, including the Royal Canadian Mounted Police, shall be authorized to remove a person in respect of whom section 6 applies or in respect of whom an order has been made under section 7 from the First Nation Lands and Premises and to apprehend without warrant, arrest and detain the person according to this and any other applicable law.

9 Injunctive Relief

9.1 In addition to any other remedy available to the First Nation, the First Nation shall be entitled to apply to the Court of Queen's Bench of Alberta for an order in the nature of an injunction requiring a person to leave First Nation Lands and Premises and for any other relief that may be just in the circumstances.

10 Penalties

10.1 A person who is guilty of trespass is liable to fine of up to \$1,000.00 or to a term of imprisonment not to exceed 30 days, or both, in respect of each act of trespass.

11 Other Remedies Preserved

11.1 Nothing in this Law shall be deemed to limit any other remedies available to the First Nation, including remedies in the civil courts.

**Part 4
General**

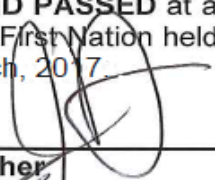
12 Coming into Force

12.1 This Law is in force and effective as of the date it has been approved and passed by the Council.

13 Regulations

13.1 The Council may, by resolution, enact regulations respecting any matter necessary to carry out the intent of this Law.

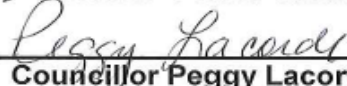
APPROVED AND PASSED at a duly convened meeting of the Chief and Council of Fort McKay First Nation held at Fort McKay in the Province of Alberta this 1st day of March, 2017.



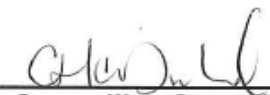
Chief Jim Boucher



Councillor Gerald Gladue



Councillor Peggy Lacorde



Councillor Crystal McDonald



Councillor Raymond Powder

A COPY OF THE PROPOSED LAWS may be obtained from: Communications Department, Fort McKay.

CONTACT INFORMATION: For further information or questions regarding the Proposed Laws, this Notice or the making of written representations to Council, please contact Communications Department at Fort McKay First Nation, by telephone at 780-828-4220 or by email at communications@fortmckay.com.

Dated: March 1st, 2017