

Nuisance By-Law

By-Law No. 2003-02
of the Listuguj Mi'gmaq Government
A By-Law for the Prevention of Nuisances

WHEREAS the Council of the Listuguj Mi'gmaq Government desires to make a by-law governing the prevention of nuisances, with respect to any matter arising out of or ancillary to the exercise of powers under Section 81 of the Indian Act, and for the implementation of a penalty for a violation thereof;

AND WHEREAS the council of the Listuguj Mi'gmaq Government is empowered to make such by-law pursuant to paragraphs 81 (1) (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 Listuguj Mi'gmaq First Nation reserve to provide for the prevention of nuisances on the reserve;

NOW THEREFORE the Council of the Listuguj Mi'gmaq Government hereby makes the following by-law:

Short Title

1. This by-law may be cited as the "Nuisances By-Law".

Interpretation

2. In this by-law,

"Band" means the Listuguj Mi'gmaq Government;

"Council" means the Council of the Listuguj Mi'gmaq Government;

"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 into the air or water;
- (f) noise

that materially impairs, otherwise than by direct physical interference, the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of the community of Listuguj, but does not include any act, activity or condition to the extent it is avoidably 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 public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

"Person" includes a corporation;

"Reserve" means the reserve of the Listuguj Mi'gmaq First Nation.

Nuisance

3. (1) Every one who creates or causes a nuisance 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 under subsection (2) was reasonable in the circumstances, the officer 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 the subject of an order.

Enforcement

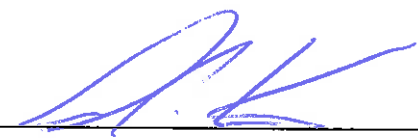
4. (1) Where a person who has been ordered to refrain from causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with an order, an officer may take such reasonable measures as are necessary to prevent or abate the nuisance.
 - (2) A person who fails or refuses to comply with an order made under subsection 3(2) or who resists or interferes with an officer acting under subsection 4(1), commits an offence.

Penalty

5. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1000.00 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 Listuguj Mi'gmaq Government this ____ day of _____ 2003.

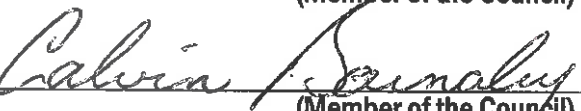
Voting in favor of the by-law are the following members of the Council:




(Chief)




(Member of the Council)




(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

(Member of the Council)



(Member of the Council)



(Member of the Council)

(Member of the Council)

(Member of the Council)



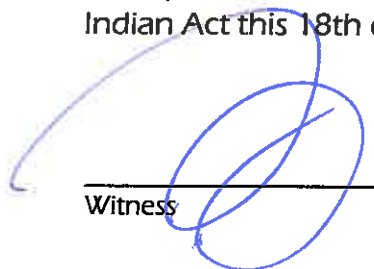
(Member of the Council)

being the majority of those members of the Council of the Listuguj Mi'gmaq Government present at the aforesaid meeting of the Council.

The quorum of the Council is _____members.

Number of members of the Council present at the meeting: _____.

I, Allison Metallic, Chief of the Listuguj Mi'gmaq First Nation, do hereby certify that a true copy of the foregoing Bylaw was mailed to the Minister of Indian Affairs and Northern Development at, Indian and Northern Affairs, 10 Wellington Street, North Tower, Hull (QC), K1A 0H4, pursuant to subsection 82(1) of the Indian Act this 18th day of August, 2003.



Witness



Chief