

**CAMPBELL RIVER INDIAN BAND
BY-LAW NO. 1996-8**

COPY

A BY-LAW RELATING TO NUISANCE AND DISTURBANCES AND TO THE CARE, MAINTENANCE AND REGULATION OF PROPERTY WITHIN CERTAIN PORTIONS OF CAMPBELL RIVER INDIAN RESERVE NO. 11 ZONED FOR COMMERCIAL PURPOSES.

WHEREAS:

A. The Council("Band Council")of the Campbell River Indian Band has by virtue of Section 81.1(d) of the *Indian Act* the power to make by-laws relating to nuisance and disturbances, by virtue of Section 81.1(g) and 81.1(h)of the *Indian Act*, the power to make by-laws relating to the care, maintenance and regulation of property and by virtue of Section 81.1(I) of the *Indian Act*, the power to make by-laws relating to the control of noxious weeds.

B. The Band Council wishes to develop a shopping centre, residential condominiums, office facilities and other commercial developments on the following lands within Campbell River Indian Reserve No. 11:

Lot 132
Campbell River Indian Reserve No. 11
Sayward District
CLSR Plan 77828

Lot 134
Campbell River Indian Reserve No. 11
Sayward District
CLSR Plan 77343

Lot 136
Campbell River Indian Reserve No. 11
Sayward District
CLSR Plan 78317

("Reserve Commercial Lands")and on adjacent non-reserve lands, the registered owner of which is Discovery Harbour Holdings Ltd.,a corporation whose shares are owned entirely by members of the Band.

C. The Band Council wishes to ensure, to the extent possible, that municipal services will be available within the Reserve Commercial Lands to the level and standard that such services are available within non-reserve lands adjacent to the Reserve Commercial Lands.

NOW THEREFORE, the Band Council enacts as follows:

1. This By-law may be cited for all purposes as the **"Prevention of Public Nuisance ByLaw No. 19968"**.
2. In this ByLaw, unless the context otherwise requires:

"Authorized Person:

includes the following:

- (i) A member of the Royal Canadian Mounted Police;
- (ii) A By-law Enforcement Officer;
- (iii) A Building Inspector of the District;
- (iv) Any other Peace Officer.

"Band"

means the Campbell River Indian Band.

"Band Council"

means the Council of the Band.

"boulevard"

means the area between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property line.

"District"

means the District of Campbell River

"graffiti"

means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign for which a permit has been issued by the Band Council.

"intersection"

means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of the two highways which join one another at or approximately at right angles, or the area within which vehicles travelling on different highways joining at any other angle may come in conflict; and, for the purpose of this definition "Highway" does not include a lane or way less than five metres in width separating the rear property lines of parcels of land fronting on Highways running more or less parallel to and on each side of the lane or way.

"noxious weeds"

includes the plant *Lythrum salicaria* (Purple Loosestrife) as well as weeds designated as noxious pursuant to the *Weed Control Act* of the Province of British Columbia.

"person"	includes any corporation, partnership or party and the personal or other legal representatives of a person, to whom the context can apply according to the law and also includes an owner, the agent of an owner, or the occupier of, or the holder of a purchaser's interest in an Agreement for Sale, of any real or personal property within the Reserve Commercial Lands.
"real property"	means land, with or without improvements so affixed to the land as to make them in fact and law a part of it and including land the subject of a leasehold interest.
"Reserve Commercial Lands"	means land within Campbell River under Reserve No. 11 described as follows: Lot 132, 134 and 138 Campbell River Indian Reserve No. 11 Sayward District CSLR Plan 77828, and Lot 136 Campbell River Indian Reserve No. 11 Sayward District CSLR Plan 78317
"roadworthy"	means, when applied to motor vehicles, capable of normal physical operation.
"rubbish"	includes dirt, gravel, bark mulch or refuse and all discarded, broken or useless items and, without restricting the generality of the foregoing, includes oldpaper or wood products no longer in use or motor vehicles that are no longer roadworthy or parts thereof, and: the storage of building materials on a site where construction is not taking place. (ii) the storage or accumulation of motor vehicles that are not roadworthy or parts thereof. (iii) the storage, cleaning, repairing or servicing of motor vehicles, hauling or construction equipment except where the same is carried out entirely within a building.
"sidewalk"	means the area between the curb lines or lateral lines of a roadway and the adjacent property lines improved for use of pedestrians.

3. RUBBISH AND LITTER CONTROL/GRAFFITI

- (a) No person shall cause or permit stagnant water, rubbish, or any noxious, offensive, or unwholesome matter or substance to collect, accumulate on or around his real property.
- (b) No person shall deposit or throw bottles, broken glass, or other rubbish, in any open place within the Reserve Commercial Lands.
- (c) No person shall place graffiti on walls, fences or elsewhere on or adjacent to a public place in the Reserve Commercial Lands.

4. UNSIGHTLY PREMISES

- (a) No owner or occupier of real property shall allow such property to become or to remain unsightly by the accumulation thereon of any filth, discarded materials, rubbish or graffiti on any kind.
- (b) An owner or occupier of real property shall forthwith, upon receipt of notice given pursuant to this By-Law, remove all accumulation of filth, discarded materials, rubbish or graffiti.
- (c) It shall be good and sufficient defence to any prosecution commenced for violations of paragraph 4(a) hereof, for an owner or occupier of any commercial real property to prove that the storage of materials or the accumulation and storage of unroadworthy motor vehicles or parts thereof, is an essential part of a legally licensed business carried on at that real property.

5. OFFENSIVE GROWTH

An owner or occupier of real property shall forthwith, upon receipt of notice given pursuant to this By-Law, clear such property of noxious weeds.

6 NOISE/NUISANCE

- (a) No person shall, between the hours of 10 o'clock in the afternoon and 7 o'clock of the following morning, make, cause or allow or permit to be made or caused, any noise or sounds in or on a highway or elsewhere in the Reserve Commercial Lands which - disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of one or more persons in the vicinity provided, however, that this paragraph shall not apply to:

- (i) any act of repair or maintenance being carried out by employees or contractors of the Band, the District, the Ministry of Highways or any public utility;
 - (ii) any duly Authorized Person operating an emergency vehicle;
 - (iii) any person functioning within the limits imposed by a permit issued by the Chief or such other person as he may designate, said permit to be in a form approved by the Band Council from time to time;
 - (iv) snow clearing.
 - (b) No person shall play or operate any radio, stereophonic equipment or other instrument or apparatus for the production or amplification of sound either in or on private premises or any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
7. No person shall create a nuisance to any person who contends their interest in property is affected, including the surrounding residents and general public, by reason of unsightliness, odour emission, dust, noise, smoke, or electrical interference.
8. It shall be good and sufficient defence to any prosecution commenced for a violation of paragraph 6(a) and paragraph 7 hereof for an owner or occupier of any commercial establishment, including shopping malls, with areas provided for the parking of the general public with a total capacity in excess of 50 parking spaces to establish that:
- (a) the noise or sounds complained of were made in the course of snow clearing or dust clearing operations in the parking areas;
 - (b) that the snow clearing or dust cleaning operations were commenced as soon as practicable after the close of business for the day;
 - (c) that the snow clearing or dust cleaning was conducted in such manner as to minimize the disturbance of the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of neighbouring residential properties.

SIDEWALK CLEANLINESS

Every owner or occupier of real property within the Reserve Commercial Lands shall keep any sidewalk adjoining such real property in a proper state of cleanliness, and shall not place rubbish from the sidewalk onto any highway in or adjacent to the Reserve Commercial Lands.

10. ROOF SNOW REMOVAL

An owner or occupier of real property shall remove snow, ice and rubbish from any roof or other part of any structure thereon adjacent to any portion of any highway if the snow, ice or rubbish constitutes a hazard to persons or property.

11. FENCES

- (a) In any zone, where an owner or occupier of real property adjacent to a highway has erected a fence adjacent to that highway, the owner or occupier shall not allow that fence to fall into a state of disrepair.
- (b) An owner or occupier of real property whose fence erected adjacent to a highway has fallen into a state of disrepair shall repair it forthwith upon receipt of notice given pursuant to this By-law.
- (c) In every zone where the keeping of livestock is permitted, every owner or occupier of real property abutting upon any highway shall forthwith, upon receipt of notice given pursuant to this By-law, erect fences along the boundary of that property abutting on the highway for the purposes of preventing his livestock from straying upon said highway.

12. BOULEVARD/SIDEWALK

- (a) No person shall willfully damage:
 - (i) any boulevard, trees, shrubs, plants, bushes or hedge adjacent to any highway;
 - (ii) anything erected or maintained adjacent to a highway for the purpose of lighting the highway;
 - (iii) any fence erected or maintained adjacent to any highway. Owners or occupiers of real property should maintain boulevards to the following standards:

- (b) keep free of noxious weeds,
- (c) keep grass trimmed;
- (d) keep shrubs and trees from overhanging pedestrian walkways so as not to interfere with pedestrian and vehicular traffic.

13. VISION CLEARANCE

No person who owns or occupies real property located at any intersection, shall place or permit to be placed or grow any tree, shrub, plant, fence or other structure with horizontal dimension exceeding .46 metres (1.5 feet) within the triangular area formed by two intersecting lot lines and the line joining the points on such lot lines 2.4 metres (7.87 feet) from the point of intersection, between an elevation such that an eye 1 to 2.4 metres (3.28 feet to 7.87 feet) above the surface elevation of one road, cannot see an object 1 to 2.4 metres (3.28 feet to 7.87 feet) above the surface of the other road.

14. STREET SIGNS

No person shall remove, deface or damage any street name sign or any other sign or marker erected upon any highway by or at the direction of the Band Council.

15. HAZARDOUS TREES AND SHRUBS

- (a) If in the opinion of the Band Council, any trees, hedges, bushes or shrubs growing or standing on any real property are:
 - (i) a hazard to the safety of persons;
 - (ii) likely to damage public property; or
 - (iii) serious inconveniencing the public,

The Band Council may order such trees, hedges, bushes or shrubs to be trimmed, removed or cut down at the expense of the owners or occupiers of real property on which they grow or stand.

- (b) Before proceeding to exercise the powers conferred by subsection (a), the Band Council shall give notice requiring the owner or occupier of the lands to remove, cut down, or trim the trees, shrubs, hedges or bushes designated in the notice within five days from the date thereof.

- (c) If the Band Council is unable to serve the owner or occupier of real property with the notice under subsection (b), the Band Council may apply to the Supreme Court or Federal for an order to serve the notice by substituted service.
- (d) If the person given notice does not take the required action within the time period referred to in subsection (b), the Band Council by its employees or others, may enter the real property and effect that action at the expense of the person given notice.
- (e) If the person referred to in subsection (d) does not pay the costs of the action under that subsection on or before December 31 in the year in which the costs were incurred, the costs shall be added to and form a charge against the interest in the real property of that person.

16. HOUSE NUMBERING

All owners and occupiers of buildings shall display in conspicuous place on the property on which the building is located, the street number assigned by the Band Council to such building so that the same is readable from the highway.

17. ANIMALS

- (a) No person shall keep or harbor any animal or bird which disturbs or tends to disturb the peace, quiet, rest, enjoyment, comfort or convenience of the neighbourhood by its repeated making of noise.
- (b) No person other than the owner thereof shall feed pigeons on or about private property and no person shall keep pigeons so that the pigeons congregate in such numbers so as to constitute a nuisance or disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.

18. DEMOLITION SITES

On any real property where the demolition of any building or structure has taken place:

- (a) all debris and material whether to be discarded or retained shall be removed forthwith;
- (b) any basement or other excavation shall be filled in or covered over to lot grade level forthwith;

upon receipt of notice served pursuant to this By-law.

RIGHT OF ENTRY

An Authorized Person may at all reasonable times enter upon any property in the Reserve Commercial Lands in order to ascertain whether the regulations contained within this By-law are being obeyed.

20. NOTICES

Any notice to be given pursuant to this By-law may be given by an Authorized Person and shall be sufficiently delivered if personally served upon a person apparently aged 16 years or more and apparently occupying the real property affected by such notice, or if sent to the owner of the real property by double registered mail to his address appearing upon the last revised assessment roll. All notices hereunder shall be in the form of a letter or shall be in such other forms as the Band Council may from time to time approve by resolution.

21. FAILURE TO COMPLY

If, after receipt of a notice hereunder excluding notification with regard to snow and ice, the work required to be performed by such notice remains either wholly or partially incomplete, the Band Council may, by its workmen or by any other means it deems fit, enter upon the real property affected by such notice and perform or complete such work at the expense of the owner of such real property. The costs incurred by the Band Council in any exercise of its powers hereunder shall, if not paid by the 31st day of December in the year in which they were incurred, be added to and form a charge against the interest in the real property.

22. PENALTIES

Except as otherwise provided in this By-law, any person who violates any provision of this By-Law or who suffers or permits any act or thing to be done in contravention of the By-Law, or who refuses, or omits or neglects to fulfill, observe, carry-out or perform any duty or obligation imposed by this By-Law shall be liable on summary conviction to a fine not exceeding \$1,000 and not less than the amount set out with respect to each section in Schedule "A" attached to and forming part of this By-Law. For each day that a violation is permitted to exist, it shall constitute a separate offence.

23. This By-Law may be amended by Band Council Resolution.

24. This By-Law is hereby enacted by the Band Council at a duly convened meeting of the Band Council this 10 day of September, 1996.

Voting in favor of the ByLaw are the following members of the Band Council:

J. Anderson

Robert Pollard

Steven Bolento

Song Sade

being the majority of those members of the Band Council present at the aforesaid meeting of the Council.

I, JOHN PATRICK HENDERSON, Chief of the Campbell River Indian Band, do hereby certify that a true copy of the foregoing By-Law was forwarded to the Minister of Indian and Northern Affairs pursuant to subsection 82.(1) of the *Indian Act*, the 10 day of September, 1996.

J. Henderson
John Patrick Henderson

SCHEDULE "A"

Offence	Section	Fine
Accumulation of unwholesome matter	3(a)	100.00
Deposit rubbish	3(b)	100.00
Graffiti on walls/fences	3(c)	100.00
Unsightly property	4(a)	100.00
Noise which disturbs	6(a)	100.00
Radio/stereophonic equipment/instrument/apparatus which disturbs	6(b)	100.00
Rubbish on sidewalk/highway	9	100.00
Snow/ice/rubbish not removed from roof/structure	10	100.00
Fence in disrepair	11(a)	50.00
No fence to contain livestock	11(c)	150.00
Damage boulevard/tree/shrub	12(a)(i)	100.00
Damage to lighting adjacent to highway	12(a)(ii)	100.00
Damage to fence adjacent to highway	12(a)(iii)	100.00
Noxious weeds on boulevard	13(a)	50.00
Grass not trimmed on boulevard	13(b)	50.00
Shrubs/trees overhanging pedestrian walkways	13(c)	50.00
No vision clearance at intersection	14	150.00
Sign vandalized	15	100.00
No Street numbers as required	17	50.00
Animal/bird noise which disturbs	I8(a)	100.00

.reed pigeons	18(b)	50.00
Debris/material not removed after demolition	19(a)	200.00
Basement/excavation not covered after demolition	19(b)	200.00