

## **CALDWELL FIRST NATION TRESPASS BY-LAW**

### **BY-LAW NO. 002-2020**

#### **OF THE CALDWELL FIRST NATION**

WHEREAS the Council has the inherent authority to make laws regarding the removal and punishment of persons trespassing on the Reserve, the residence of First Nation members, and the use of the Reserve, pursuant to section 81(1)(p), (p.1), (q) and (r) of the *Indian Act*;

AND WHEREAS the Council of Caldwell First Nation has deemed it expedient and necessary for the peace, safety and good governance of its members and of its lands, to establish a law to provide for the removal and punishment of persons trespassing on the Reserve;

AND WHEREAS pursuant to section 30 of the *Indian Act*, anyone who trespasses on the Reserve is guilty of an offence and is liable to a fine or imprisonment, or both;

AND WHEREAS section 81 of the *Indian Act* makes violation of a law punishable by a fine or imprisonment, or both;

NOW THEREFORE, it is hereby enacted pursuant to section 81(1) of the *Indian Act*:

#### ***Short Title***

This law may be cited as the *Caldwell First Nation Trespassing Law*.

#### ***Interpretation***

In this law:

“Council” means the First Nation Council.

“First Nation” means Caldwell First Nation, as represented by its duly elected Chief and Council;

“First Nation Council” means the Chief and Council of the Caldwell First Nation;

“First Nation Council Resolution” or “BCR” means a resolution of a quorum of the First Nation Council, passed at a duly convened First Nation Council meeting.

“Officer” or “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 Council for the purpose of maintaining law and order on the Reserve;

“Reserve” means the reserve of the Caldwell First Nation set apart for the use and benefit of Caldwell First Nation and its First Nation Members as further set out in Schedule “A”;

### **Prohibited Activities**

1. No person or business may make any use of the Reserve for any of the following uses:
  - a. in a manner prohibited by Law # 002-2020, the Caldwell First Nation Zoning Law.
  - b. when entrance is prohibited by this or any other law or resolution of Caldwell First Nation;
  - c. hunting, fishing, trapping, or otherwise harvesting for sustenance or commercial purposes without permission of the First Nation Council;
  - d. threatening the peace, health or safety of First Nation members or other people lawfully on Reserve, including: impeding the ability of Council to govern; impeding the ability of the Council or First Nations' employees or agents to effectively function;
  - e. failing to leave the Reserve immediately after he or she is directed to do so by the Council or its designate; or
  - f. engaging in any other activity that is prohibited by law of Canada or Ontario on the Reserve.
2. Council may by First Nation Council Resolution prohibit any other use or access to the Reserve and give notice of same.

### ***Limited Permissions***

3. Council may by First Nation Council Resolution permit a person or to engage in activities on the Reserve or to enter and occupy the Reserve or part of it, and may limit such activity or entry and occupation to certain hours, days or place such other limitations as it deems advisable, and may provide notice of such permission.
4. Where a First Nation Council Resolution states that one or more particular activities are permitted to be done by one or more persons, all other activities for any other purpose are prohibited.

### ***Notice***

5. The First Nation Council may authorize a police officer, a Councillor, an administrator, an employee or an agent of Caldwell First Nation or a police officer to deliver any notice provided for under this law.
6. A notice under this Act may be given,
  - (a) orally or in writing; or

(b) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies.

7. A sign naming an activity or showing a graphic representation of an activity is sufficient for the purpose of giving notice under section 6.
8. A notice or permission under this Act may be given in respect of any part of the Reserve.
9. The Council may rescind or vary any notice or permission under this law by First Nation Council Resolution.

### ***Enforcement***

10. A police officer or a person authorized by the First Nation Council is authorized to enforce this law and to use such measures as may be necessary to remove from the Reserve any person who they believe on reasonable and probable grounds is in contravention of this law.
11. A police officer or a person authorized by the First Nation Council may arrest without warrant any person he or she believes on reasonable and probable grounds to be in contravention of this law.
12. A person who has contravened this law may be subject of a First Nation Council Resolution prohibiting them from future entry on the Reserve or part thereof.
13. The provincial court of the province of Ontario has jurisdiction to hear any prosecution of the violation of this law.

### ***Offence***




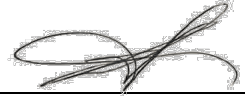
14. A person who fails or refuses to comply with this law or with any notice delivered under this law commits an offence.
15. A person who removes a sign that is a notice posted under this law commits an offence.
16. A person who commits an offence is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty (30) days, or to both.

### ***Date of Coming into Force***

17. This law comes into effect on the day that the lands described in Schedule "A" are set aside for the use and benefit of the Caldwell First Nation.

**THIS LAW IS HEREBY** made at a duly convened meeting of the Council of the Caldwell First Nation this 18<sup>th</sup> day of November, 2020.

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

 _____ Councillor Robyn Perkins	Chief _____  _____ Councillor James Peters
 _____ Councillor Stan Scott	 _____ Councillor Steve Simpson

being the majority of those members of the Council of the Caldwell First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.

Number of members of the Council present at the meeting: 4.