

**THE BLOOD TRIBE**

**BYLAW NO. 03-2015**

**KAINAI/BLOOD TRIBE TRESPASS BYLAW**

**Being a Bylaw of the Blood Tribe to provide for the removal and punishment of persons trespassing on the Blood Indian Reserve Nos. 148 and 148A or for frequenting the Reserve for prohibited purposes pursuant to subsection 81(1)(p) of the *Indian Act***

## KAINAI/BLOOD TRIBE TRESPASS BYLAW

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Being a Bylaw of the Blood Tribe to provide for the removal and punishment of persons trespassing on the Blood Indian Reserve Nos. 148 and 148A or for frequenting the Reserve for prohibited purposes pursuant to subsection 81(1)(p) of the *Indian Act*

**WHEREAS** the Blood Reserve 148 & 148A has been set apart for the use and benefit of Blood Tribe members; and the exclusive use of the Blood Reserve for Blood Tribe members is an inherent right and is an aboriginal and treaty right that is recognized and affirmed pursuant to subsection 35(1) of the *Constitution Act, 1982*;

**AND WHEREAS** *Kainayssini* affirms the authority of the Blood Tribe to establish a system for the governance of the Blood Tribe;

**AND WHEREAS** the Blood Tribe Council has the inherent right to govern the Blood Tribe and also exercises the powers of a "council of a band" under the *Indian Act*, including the power to make bylaws pursuant to section 81(1)(p) of that Act;

**AND WHEREAS** the Blood Tribe has a land regime based on custom and traditional land use and occupation; and any use or occupation of land on the Blood Reserve by a person that has not been approved of by Blood Tribe Council is deemed to be a trespass;

**AND WHEREAS** any person, other than Blood Tribe members, who enter onto the Blood Reserve without the express authority of the Blood Tribe, is a trespasser and any implied or express invitation to him or her is revoked until he or she obtains the necessary authorization.

**NOW THEREFORE** the Blood Tribe Council enacts the *Kainai/Blood Tribe Trespass Bylaw*.

### PART 1 – INTRODUCTORY MATTERS

#### Title

1. This bylaw may be cited as the *Kainai/Blood Tribe Trespass Bylaw*.

#### Interpretation

2. In this bylaw unless the context otherwise requires:

"Blood Tribe" means the Blood Indian Band, which is a band as defined by the *Indian Act*.

"Blood Tribe Member" means a person who is a member of the Blood Tribe as provided for by the *Blood Tribe/Kainai Membership Code, 2000*.

"Council" means the Chief and Councillors of the Blood Tribe duly elected from time to time in accordance with the *Kainaiwa/Blood Tribe Election By-Law and Regulations, 1995*.

"hawking and peddling" means and includes going from place to place on the Reserve to buy, sell or otherwise deal in wares or merchandise or services, or offering or exposing for sale on the Reserve to any person by means of samples, patterns, cuts, blueprints, pictures, merchandise to be afterwards delivered or shipped onto the Reserve;.

"Officer" means any police officer, peace officer 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 Blood Indian Reserve Nos. 148 and 148A, and any future additions to the reserve lands of the Blood Tribe.

"trespass" means any act that constitutes trespass under the common law, and includes entering or remaining on the Reserve without lawful justification or engaging in a prohibited activity on the Reserve

### **Application**

3. This bylaw applies on the Reserve.

### **Compliance with Other Laws**

4. Where any Federal or Provincial Act or regulation or any Blood Tribe law applies to any matter covered by this bylaw, compliance with this bylaw will not relieve the person from also complying with the provisions of any other applicable Act, regulation or bylaw.

## **PART 2 - TRESPASS**

5. No person shall trespass on the Reserve.
6. Any person found on the Reserve who is not a Blood Tribe member is presumed to not have the consent of Council to be on Reserve lands and is trespassing, until proven otherwise.

### **Prohibited Purposes**

7. A person, other than a person referred to in Section 8, who conducts any of the following on the Reserve;

- (a) Hunting, fishing or trapping;
- (b) Hawking or peddling of wares or merchandise;
- (c) Loitering;
- (d) Soliciting;
- (e) Photographing, interviewing or conducting research or surveys;
- (f) Distributing written materials;
- (g) Camping;
- (h) Operating an all-terrain vehicle (ATV) or snowmobile or other motorized or non-motorized vehicle on the Reserve;
- (i) Dumping refuse or waste; and
- (j) Any other activity that is prohibited by federal or provincial law or by the Blood Tribe;

shall be deemed to be frequenting the Reserve for a prohibited purpose and to be trespassing on the Reserve.

8. Section 7 does not apply to the following persons who have a right of access to the Reserve:
- (a) Blood Tribe members who are conducting lawful activities in an authorized manner or location;
  - (b) A person who has entered onto the Reserve who is carrying Council's written authorization and is conducting himself or herself in accordance with Council's written authorization;
  - (c) A person who has a permit with the consent of Council;
  - (d) A person travelling on a public highway on or through the Reserve;
  - (e) A person participating in public activities on the Reserve that are authorized by Council; and
  - (f) An Officer in the course of his or her duty.

#### **Notice**

9. A person has notice not to trespass or engage in a specific activity when he or she has been given notice by Council or by an Officer.

10. Notice under this Part may be given:
  - (a) Orally,
  - (b) In writing,
  - (c) Through a band council resolution,
  - (d) By means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to an ordinary point of access to the Reserve or to a specific location on the Reserve, or
  - (e) By means of a marking system set out in section 12.
11. A sign naming an activity or showing a graphic representation of an activity with an oblique line drawn through the representation is sufficient for the purpose of giving notice that the activity is prohibited.
12. Markings made and posted in accordance with this section are sufficient for the purpose of giving notice:
  - (a) Red markings made and posted in accordance with subsections (c) and (d) are sufficient for the purpose of giving notice that attendance at a specific activity are prohibited for any person other than a Blood Tribe member or invited guest.
  - (b) Yellow markings made and posted in accordance with subsections (c) and (d) are sufficient for the purpose of giving notice that entry is prohibited except for the purpose of certain activities and shall be deemed to be notice of the activities permitted.
  - (c) Markings under this section shall be at least a size that a circle ten centimeters in diameter can be fit within it.
  - (d) Markings under this section shall be placed so that they are clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises or land to which it applies.

### **PART 3 – ENFORCEMENT**

13. An Officer may order any person who is trespassing to leave the Reserve immediately and may order any person who engages in prohibited activity to cease immediately.
14. A person who fails or refuses to obey an order made under section 13 commits an offence and any Officer may take such reasonable measures as may be necessary to remove the person from the Reserve including apprehending the

person and forthwith taking the person before the nearest judge of the Provincial Court or justice of the peace to be dealt with according to law.

#### **PART 4 – OFFENCE AND PENALTY**

15. Any person who trespasses on the Reserve commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty (30) days, or to both a fine and imprisonment.
16. An Officer may lay a separate charge for each day an offence under this bylaw is ongoing or for each separate offence.
17. In addition to all other penalties provided herein, any person causing damage or loss to any Blood Tribe property as a result of an offence under this bylaw will be responsible for the cost of repairing or replacing such damage or loss.
18. Nothing in this Bylaw authorizes any judge of the Provincial Court or justice of the peace to hear and determine a case of trespass in which the title to Reserve land, or to any interest in Reserve land, is called into question or affected, but every such case shall be dealt with according to law in the same manner as if this Act had not been passed.

#### **PART 5 - GENERAL MATTERS**

##### **Delegation**

19. The Council may delegate any of its powers, duties or functions under this bylaw to a Blood Tribe Administration Department, employee or any other person, except its power to make regulations under this bylaw.
20. When a delegation is made under Section 19, a reference in this bylaw or the regulations to the Council with respect to the delegated powers, duties or functions is to be read as if it were a reference to the delegated person or body.

##### **Regulations**

21. The Council, by band council resolution, may make regulations for the proper administration of this bylaw.

##### **Civil Liability Unaffected**

22. Nothing in this bylaw affects the civil liability of a person who contravenes any provision of this bylaw or the regulations and the question of liability for damages.

**Severability**

23. Should a court determine that a provision of this bylaw is invalid for any reason, the provision shall be severed from the bylaw and the validity of the rest of the bylaw shall not be affected.

**Coming Into Force**

24. This bylaw comes into force 10 days after the bylaw has been published on the Blood Tribe Council website.

**THIS BYLAW IS HEREBY** made at a duly convened meeting of the Blood Tribe Council this 2<sup>nd</sup> day of November, 2015.

**Blood Tribe Council:**

  
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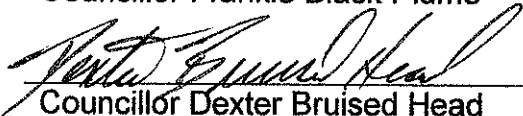
Chief Charles Weasel Head

  
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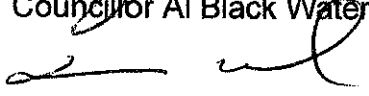
Councillor Frankie Black Plume

  
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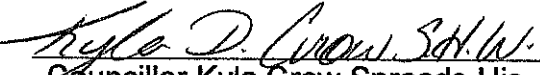
Councillor Al Black Water

  
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Councillor Dexter Bruised Head

  
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Councillor Mike Bruised Head

  
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Councillor Kyla Crow Spreads His Wings

  
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Councillor Myron Eagle Speaker

  
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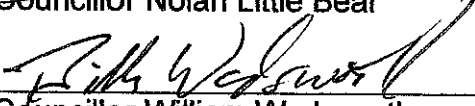
Councillor Dorothy First Rider

  
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Councillor Nolan Little Bear

  
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Councillor Lance Tail Feathers

  
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Councillor William Wadsworth

  
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Councillor Marcel Weasel Head

  
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Councillor Franklyn White Quills

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

The quorum of the Blood Tribe Council is seven (7) members.

Number of members of the Blood Tribe Council present at the meeting is 12.