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Mar. 19/12
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Sudbury Business Center
40-290 Elm St.,
SUDBURY, ON P3B 4A2

Your file - Votre référence

February 16, 2012

Our file - Notre référence

Chief and Council
Beausoleil First Nation
General Delivery
CEDAR POINT, ON LOK 1C0

4216-141(L)
cidms#477811

Attn: Band Manager

RE: BY-LAW NO. 19-1-DISPOSAL OF GARBAGE-VARIOUS SUBDIVISIONS

Pursuant to the letter your First Nation has received from our headquarters office on February 10/12 advising that the above numbered By-Law comes into effect on March 12, 2012.

Accordingly, we return herewith the original By-Law for your safekeeping along with four Certified True Copies of the by-law. Please provide a certified copy of your By-Law to your local law enforcement agency, judge or magistrate and copy of the letter from Headquarters of February 10/12 which provides assurances that the by-law has been properly enacted according to the statutory requirements of the Indian Act. The remaining Certified copies can be distributed upon request in future.

Kindly note only a court of competent jurisdiction has the power to rule on a by-law's validity.

Yours truly,

G. Restoule
Manager
Registration, Revenues
& Band Governance
Governance, Individual Affairs
& Government Relations
Sudbury & Brantford Business Centers

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FEB 20 2012

Encls.

Cc - B. Froman - BBC

Canada



FEB 10 2012

Votre référence - Your file

Notre référence - Our file
E4216/141

Gail Restoule
Manager, LTS
Ontario Region

**BY-LAW NO.19-1, BY-LAW FOR THE DISPOSAL OF GARBAGE ON
THE LIGHTHOUSE SUBDIVISION; PLAN NO.4106 AND BIG SAND
BAY SUBDIVISION; PLAN NO.51869 AND RODNEY MONAGUE
SUBDIVISION; PLAN NO.75081 AND JOANNE SANDY SUBDIVISION;
PLAN NO.76822**

Please note that the First Nation Council was notified directly by Headquarters on February 10, 2012. Please retain two (2) certified true copies of the original by-law enclosed for your records and return to the First Nation Band Council the original by-law along with certified true copies made pursuant to s.86 of the *Indian Act*. Thank you.

Sincerely,

Marie-Eve Martel
Manager, By-law Advisory Services Unit
Band Governance Directorate

106860

FEB 14 2012



FEB 10 2012

Votre référence - Your file

Notre référence - Our file

E4216/141

Chief and Council
Beausoleil First Nation
General Delivery
CEDAR POINT ON L0K 1C0

**BY-LAW NO.19-1, BY-LAW FOR THE DISPOSAL OF GARBAGE ON
THE LIGHTHOUSE SUBDIVISION; PLAN NO.4106 AND BIG SAND
BAY SUBDIVISION; PLAN NO.51869 AND RODNEY MONAGUE
SUBDIVISION; PLAN NO.75081 AND JOANNE SANDY SUBDIVISION;
PLAN NO.76822**

Dear Chief and Council:

I am pleased to inform you that the above-captioned by-law will come into force on March 12, 2012. Upon having reviewed the by-law, it has been determined that we do not have any comments to provide.

Please retain at least one copy of your original by-law for your records and provide your local law enforcement agency, judge or magistrate with a copy of this by-law. In order to provide assurance to these agencies that this by-law has been properly enacted according to the statutory requirements (in particular section 85.1 of the *Indian Act*), it may be useful to provide them with a copy of this letter stating the coming into force date, along with certified true copies of the by-law. The original by-law submitted to our office will be sent to you shortly through the Aboriginal Affairs and Northern Development Canada regional office in order to produce certified true copies, as described in section 86 of the *Indian Act*.

Please note that only a court of competent jurisdiction has the power to rule on a by-law's validity. In addition any by-law submitted to our office must first be considered in its entirety before coming into force.

.../2

Finally, by-laws made under the *Indian Act* are subject to the *Statutory Instruments Act*. As such, no person may be convicted of an offence for contravening an unpublished by-law unless the Band Council proves that the by-law is exempted from publication in the Canada Gazette and that reasonable steps were taken to bring the by-law to the attention of persons who may be affected by it. An individual has the right to inspect and obtain copies of by-laws.

If you wish to discuss this matter or require further information, please contact me at (819) 994-6735 or Jacques Boutin, By-Law Advisor responsible for this file, at (819) 994-7474.

Sincerely,



Marie-Eve Martel
Manager, By-law Advisory Services Unit
Band Governance Directorate

c.c.: Gail Restoule, Manager, LTS (Sudbury Business Centre)
Ontario Region

BY-LAW NO. 19-1
Of the Beausoleil First Nation Band
By-law for the Disposal of Garbage
On the Lighthouse Subdivision, Plan No. 4106
And Big Sand Bay Subdivision, Plan No. 51869
And Rodney Monague Subdivision, Plan No. 75081
And Joanne Sandy Subdivision, Plan No. 76822

WHEREAS the Council of the Beausoleil First Nation Band repeals By-Law #19, of the Beausoleil First Nation Band, By-law for the Disposal of Garbage on the Lighthouse Subdivision, Plan No. 4106, and Big Sand Bay Subdivision, Plan No. 51869, and Rodney Monague Subdivision, which was enacted on the 16th day of August, 1994;

WHEREAS The Council of the Beausoleil First Nation Band repeals By-Law #19 for the Disposal of Garbage on the Lighthouse Subdivision, Plan No. 4106, and Big Sand Bay Subdivision, Plan No. 51869, and Rodney Monague Subdivision effective the 31st day of January, 2012;

AND WHEREAS the Council of the Beausoleil First Nation Band desires to make a By-law for the collection and disposal of garbage on the Christian Island Indian Reserve No. 30; with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and the imposition of a penalty for the violation thereof;

AND WHEREAS the Council of the Beausoleil First Nation Band is empowered to make such by-law pursuant to paragraphs 81(1)(a), (d), (q) and (r) of the Indian Act;

AND WHEREAS it is considered necessary to provide for such regulation on the Reserve for the health and safety of the inhabitants, the prevention of diseases and nuisances and for the overall appearance of the Reserve;

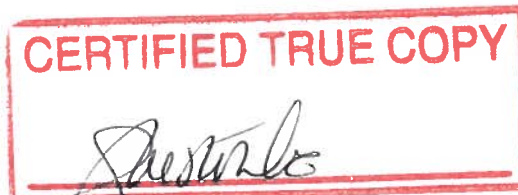
NOW THEREFORE the Council of the Beausoleil First Nation Band hereby makes the following by-law:

Short Title

1. This By-Law may be cited at the "Beausoleil First Nation Garbage Collection and Disposal By-Law".

Interpretation

2. In this By-Law,



Gail Helen Restoule, a Commissioner, etc., Province of Ontario,
for the Government of Canada, Department of Indian Affairs
and Northern Development. Expires October 28, 2012.

“approved enclosure” means a type of enclosure designed for the storage of containers between collection times that prevents access to the garbage by domestic animals and wildlife and the design and construction of which has been approved by the Waste Management Manager;

“collection” means the removal from premises to a disposal location whether such removal is effected by the Waste Management Manager or a contractor under public or private contract, or an owner;

“container” means a type of garbage container listed in Schedule I that has been designated by the Waste Management Manager of the reserve as being acceptable for use in the Reserve or at specific locations on the Reserve;

“Council” means the Council of the Beausoleil First Nation Band;

“garbage” means any kind of waste including,

- (a) Bulky wastes, being large items of refuse including appliances, furniture, vehicle parts under 35 kg, large containers and tree cuttings not exceeding 1 m in length or 10 cm in diameter, in bundles not exceeding 35 kg,
- (b) Construction and demolition wastes, being waste building materials and rubble resulting from construction, repair, remodeling or demolition activities,
- (c) Liquid waste, being waste materials or substances that have sufficient moisture or other liquid contents to be free flowing but that are not suitable for disposal through a sewer system,
- (d) Rubbish, being
 - (i) Combustibles, consisting of burnable materials such as paper, rags, cartons, boxes, wood excelsior, bedding, rubber, leather and plastics, and
 - (ii) Non-combustibles, consisting of materials that are not burnable such as metal objects and containers, ceramics, metal foils and glass,
- (e) Solid wastes, being the useless, unwanted or discarded solid waste materials resulting from normal human activities including semi-liquid or wet wastes with insufficient liquid content to be free flowing,
- (f) Special wastes, being
 - (i) Hazardous wastes, consisting of any waste that may present a hazard to persons, flora, fauna or public lands, including wastes of a pathological, an explosive, a highly flammable, a radioactive or a toxic nature,
 - (ii) Sanitary wastes, consisting of any putrescible waste that is capable of producing conditions that may present a hazard to health,
 - (iii) Natural waste, consisting of any tree stumps, soil, sand and stone, and
 - (iv) Other special wastes, consisting of materials so classified by the Waste Management Manager,
- (g) Trade wastes, being petroleum products, scrap metal, machinery and vehicles and parts thereof, and

- (h) Yard rubbish, being pruning, grass clippings, weeds, leaves, and general garden wastes, other than solid wastes;

“owner” means any person who has possession of leased land or a building on the Lighthouse Subdivision and Big Sand Bay Subdivision and Rod Monague Subdivision and Michael and Joanne Sandy Subdivision;

“Reserve” means the reserve of the Beausoleil First Nation Band and includes the Band’s Reserves No. 30 and No. 30A;

“street” means that portion of any thoroughfare, road, lane, avenue, parkway, viaduct, alley, square, bridge, causeway, trestle way or any other place, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage of parking of motor vehicles but does not include sidewalks, ditches, or rights-of-way adjacent to a roadway;

“Waste Management Manager” means the Waste Management Manager of the Reserve duly appointed by the Council under this by-law to enforce and carry out the provisions of this by-law;

Schedules

3. The following Schedules form part of the by-law:

Schedule I – Types of Garbage Containers

Schedule II – Collection Service Fees

Waste Management Manager

4. (1) The Council may, by resolution, appoint one or more Waste Management Managers, who shall be responsible for the administration of this by-law.
- (2) The Council may, in the resolution, provide for reasonable remuneration to be paid to a Waste Management Manager.

Powers and Duties of the Waste Management Manager

5. (1) A Waste Management Manager shall
- (a) Answer such questions as relate to the administration of this by-law; and
 - (b) Perform such other duties as may be assigned by the Council from time to time.
- (2) A Waste Management Manager may order

- (a) A person who contravenes this by-law or any other applicable by-law to comply the by-law within a specified time period;
 - (b) The termination of any activity or part thereof, if the activity is proceeding in contravention of this by-law or any other applicable by-law;
 - (c) The termination of any activity or part thereof, where there are unsafe or unsanitary conditions present;
 - (d) The correction of any unsafe or unsanitary condition;
 - (e) The removal of any garbage or part thereof disposed of in contravention of this by-law or other applicable by-law; and
 - (f) The termination of any disposal if any unsafe or unsanitary condition exists.
- (3) The Waste Management Manager may direct that sufficient evidence or proof be submitted at the expense of the owner to determine whether any method of disposal or container meets the requirements of this by-law.
- (4) When due notice to correct unsafe conditions or activities has not been complied with, the Waste Management Manager may correct such condition(s) at the expense of the owner.

Collection of Garbage

6. (1) The Council may provide for the collection of garbage by a garbage collector in the areas of the subdivisions and at such times as it deems advisable.
- (2) Every owner for whose premises a collection service is provided shall pay for such disposal in accordance with the provisions of Schedule II and at such times as the Council of the Waste Management Manager may designate.

Duties of an Owner

7. Every owner shall
- (a) Provide and maintain in a serviceable and sanitary condition a sufficient number of containers to hold all garbage accumulated on him premises at any time;
 - (b) Subject to paragraphs (h), (i) and (k), ensure that all garbage is placed, and remains, in containers that are of a type set out in column I of an item of Schedule I and that meet the specifications set out in column II of that item;
 - (c) Drain and wrap all wet garbage before placing it in a container;
 - (d) Ensure that containers are set for collection at such places and such times and in such manner as the Waste Management Manager may designate;
 - (e) Remove all containers from their designated location on any street within such period as may be specified by the Waste Management Manager;

- (f) Ensure that all rigid metal containers and disposal plastic bag type containers are securely closed when set out for collection;
- (g) Store garbage between collection times in approved enclosures except when the Waste Management Manager allows the use of steel refuse containers without an enclosure;
- (h) Securely tie in bundles any combustible rubbish set out for collection in accordance with any instructions of the Waste Management Manager;
- (i) Prepare yard rubbish for collection in accordance with any instructions of the Waste Management Manager;
- (j) Extinguish all ashes or coals before setting them out for collection;
- (k) Ensure that bulky waste are not set out for collection except at such times as may be determined by the Waste Management Manager;
- (l) Ensure that liquid waste, trade waste, special waste, and construction and demolition waste are not set out for collection except at such time as may be determined by the Waste Management Manager; and
- (m) Keep the street, sidewalk and boulevard abutting, in front of, flanking and at the rear of the owner's premises, free of garbage.

Escape of Garbage from Vehicles

- 8. (1) No person shall convey or cause to be conveyed any garbage in a vehicle that is not properly constructed and covered so as to prevent the contents thereof from escaping.
- (2) In the event of an escape of garbage from any vehicle the owner of the vehicle shall be responsible for the immediate clean-up.

Yard Rubbish

- 9. (1) Subject to subsection (2), no person shall deposit any yard rubbish on a sidewalk or a street.
- (2) Where the Waste Management Manager has made an arrangement for the collection of yard rubbish on a sidewalk or a street on a day specified by the Waste Management Manager, a person may deposit yard rubbish on that sidewalk or street on that day if the yard rubbish does not impede pedestrian or vehicular traffic.

Disposal of Garbage

- 10. No person shall discard or dispose of or deposit garbage anywhere on the reserve except in such places and at such times and under such conditions as the Waste Management Manager may authorize.

Garbage on Premises

11. No owner shall accumulate or allow to accumulate any garbage on his premises.
12. No person shall undertake disposal of any garbage or authorize or allow disposal of any garbage on the Reserve.

Offences

13. (1) A person who
 - (a) Fails or refuses to comply with any provision of this by-law;
 - (b) Submits false or misleading information to a Waste Management Manager; or
 - (c) Interferes with or obstructs a Waste Management Manager acting in the administration or enforcement of this by-law;
 - (d) Commits an offence
- (2) Where an act or omission in contravention of this by-law continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

Penalty

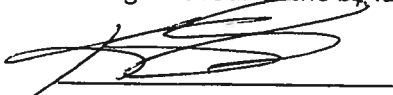
14. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding 30 days, or to both.

Further Remedied Available

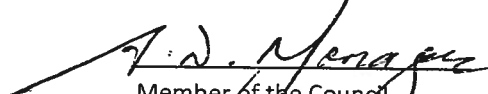
15. (1) Where this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.
- (2) Where this by-law is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by court action at the instance of the Council.

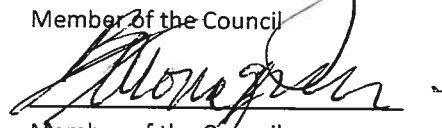
THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of Beausoleil First Nation Band the 31st day of January, 2012.

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

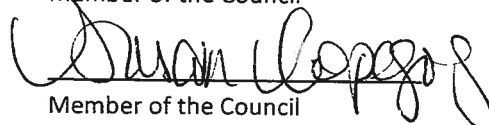

Member of the Council


Member of the Council


Member of the Council


Member of the Council

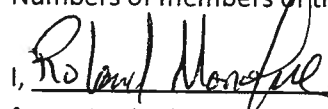

Member of the Council

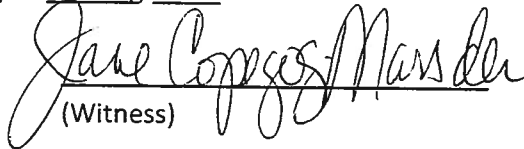

Member of the Council

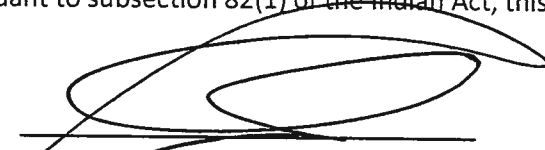
Being the majority of those members of the Council of the Beausoleil First Nation Band present at the aforesaid of the Council.

The quorum of the Council is 4 members.

Numbers of members of the Council present at the meeting: ____.

I,  (Chief/Councilor) of the Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull Office (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 31st day of January, 2012.


(Witness)


(Chief/Councilor)

SCHEDULE I

Column I	Column II
Type of Garbage Container	Specifications
1. Rigid metal or plastic	70 cm maximum height; 45 mm maximum diameter; 1501 maximum capacity; 35 kg maximum weight when full; tight fitting, waterproof cover; two carrying handles permanently affixed to the sides.
2. Steel refuse containers	well fitting and easily operated covers; painted outside; proper brackets for disposal vehicle attachment; free from cracks or major dents; proper base stands or wheels; of a size approved by the Waste Management Manager.
3. Disposal Plastic Bag (may be used only for containing waste when plastic bags containing waste are stored inside of an approved Enclosure)	close fitting, waterproof, thickness of 3/1000 inches (.0762 mm); maximum height of 100 cm; maximum weight when full, 25 kg; free from holes, tears or other damage.

SCHEDULE II

An owner shall pay the following for a collection service provided for under the authority of this by-law and Service Agreement between Beausoleil First Nation and the Christian Island Cottagers Association:

\$600.00 per year commencing April 1, 2009, 2010, 2011
Consumer Price Index (CPI) Increase in the years of 2012, 2013

A late payment charge will be applied should a [service fee] payment remain unpaid for five working days from the date of which payment is due. Interest will also be applied at a rate equal to prime plus (2.0) percent on any payment that is thirty or more days in arrears.