

# LOWER NICOLA INDIAN BAND COUNCIL RESOLUTION

181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7  
TEL.: 250-378-5157 FAX: 250-378-6188

## WHEREAS:

- A. The Lower Nicola Indian Band manages its lands, including the right to reside on its lands, pursuant to its inherent right of self-government, as well as pursuant to the *Lower Nicola Indian Band Land Code* passed pursuant to the *Framework Agreement on First Nation Land Management Act* (S.C. 2022, c.19, s.121) (the "Land Code");
- B. The persons listed at section 24.1 of the Land Code, including "invitees" of member interest holders, have a default right to reside (a "Residence Right") on Lower Nicola Indian Band lands (the "Lands");
- C. Notwithstanding the default Residence Rights of such persons, section 24.1 of the Land Code further allows the Chief and Council (the "Council") to alter or revoke such rights by band council resolution;
- D. Section 24.4 of the Land Code provides that any person who resides or remains on the Lands without a Residence Right is guilty of an offence, and may be evicted, removed or made subject to other consequences;
- E. On April 2, 2024, the Council enacted the *Lower Nicola Indian Band Trespass Law* (the "Trespass Law") to set out additional trespass offences on the Lands and to set out a procedure for the Council to remove a specific Residence Right by way of a Prohibition Order made by band council resolution;
- F. Under section 7.1 of the Trespass Law, the Council may, by band council resolution, issue a Prohibition Order to revoke a person's Residence Right, if the person is invited to reside on the Lands under section 24.1 and the Council has reasonable grounds to believe that the person poses a serious threat or may cause serious harm to the Lower Nicola Indian Band community or land;
- G. James Purdie, who is not a member of Lower Nicola Indian Band, has resided initially in a travel trailer on Lot 326, Nicola Mameet Indian Reserve No. 1 of the Lands approximately between January to July 2023, then in motorhome during October 2023, and most recently since at least April 6, 2024, in a motorhome, and possibly earlier;
- H. On September 20, 2022, Council passed a band council resolution which reads: "The Lower Nicola Indian Band Council hereby prohibits RV's to be utilized as dwellings, residences, or cabins on LNIB Lands including CP Lands and Custom Family Lands unless they receive prior written authorization by the Lands Manager" (the "RV Prohibition Order");
- I. James Purdie never sought or received prior written authorization from the Lands Manager to reside on Lot 326, Nicola Mameet Indian Reserve No. 1 in his travel trailer or motorhome;
- J. On July 4, 2023, Council passed a band council resolution stating that Council is of the view that James Purdie does not fall within the scope of persons who have a Residence Right under section 24.1 of the Land Code and hence he is guilty of an offence under section 24.4 of the Land Code and, in the alternative, if James Purdie does have a Residence Right by virtue of his being an "invitee" of a member interest holder, then Council is of the view that it is in the best interest of the Lower Nicola Indian Band to revoke that Residence Right and Council resolved to revoke any residence right that James Purdie may have pursuant to section 24.1 of the Land Code (the "Revocation Resolution");
- K. On July 27, 2023, Lower Nicola Indian Band staff attempted to served James Purdie with notice of the Revocation Resolution however, James Purdie vacated the Lands sometime before July 27, 2023;

- L. Council is still of the view that James Purdie does not have a Residence Right under Land Code or, in the alternative, if James Purdie has a Residence Right by virtue of being invited to reside on or access the Lands under section 24.1, then Council has removed any such right by way of the Revocation Resolution;
- M. Council is of the opinion that James Purdie's past and present behavior and activities on the Lands pose a threat to the Lower Nicola Indian Band community and land and is of the view that it is in the best interest of the Lower Nicola Indian Band to issue a Prohibition Order to remove any remaining right James Purdie may have on the Lands, for greater certainty;
- N. On April 30, 2024, the Council issued the Prohibition Order with Resolution #04-30-2024-04;
- O. James Purdie was delivered notice of the Prohibition Order for residence on LNIB Land on May 2, 2024, both in-person and by email;
- P. The deadline for James Purdie to apply for a review of the Prohibition Order pursuant to section 8.1 of the Trespass Law expired on May 14<sup>th</sup>, 2024, and no application was received; and
- Q. The Council wishes to make a final determination regarding the Prohibition Order pursuant to section 8.3 of the Trespass Law, despite not receiving an application for the review of the Prohibition Order or written submission from James Purdie.

**NOW THEREFORE BE IT RESOLVED THAT:**

The Chief and Council has reconsidered the Prohibition Order at this duly convened meeting and now affirms the Prohibition Order and confirms that:

1. James Purdie's past and present behavior and activities on Lower Nicola Indian Band lands pose a threat to Lower Nicola Indian Band community and land;
2. James Purdie is guilty of an offence under section 24.4 of the Land Code and section 9.2 of the Trespass Law;
3. the Lower Nicola Indian Band will take steps to prosecute such offence; and
4. notice of the Prohibition Order will be provided to James Purdie as soon as practicable, in accordance with the Trespass Law;

This resolution is supported by the undersigned and passed this 21<sup>st</sup> day of May 2024.

**Quorum of Council: 5**



Stuart Jackson, k<sup>w</sup>úk<sup>w</sup>pi?



William Bose, Councilor



Arthur Dick, Councilor



Robin Humphrey, Councilor



Connie Joe, Councilor

William Sandy, Councilor



Lucinda Seward, Councilor



Lesley Manuel, Councilor