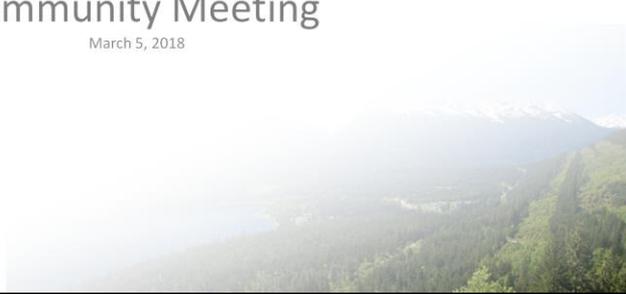




# Disorderly Conduct and Nuisances Bylaw

Community Meeting

March 5, 2018





## What is a Bylaw?

- Created by local governments
- Address issues and concerns in the community
- Lil'wat Nation can create its own bylaws that are enforceable on reserve lands only

Bylaws are rules and regulations created by local governments. These rules are made to address issues and concerns in the community.

The Lil'wat Nation can create its own bylaws under the Indian Act. These bylaws are enforceable on reserve lands only.



## Why do we need this bylaw?

- To address many issues that have been identified in the community
- To promote a safe and healthy community
- Supported by:
  - Land Management Board
  - Chiefs and Council

Many issues have been identified in the community over the years and the purpose of this bylaw is to address those issues and to promote a safe and healthy community.

This bylaw is supported by the Land Management Board and Chiefs and Council.



## Public Consultation Process

- Lil'wat Land Law requires public consultation before adopting new bylaws
- All feedback from this meeting will be presented to Council
- Council will make final decisions on any changes to this bylaw

Please fill out a feedback form!

The public consultation process is an important part of bylaw development and is required by the Lil'wat Land Law. All the feedback from this meeting will be presented to Council, and Council will make the final decisions on any changes or additions to this bylaw. We have feedback forms at the information table so please fill one out! There will also be time for questions and comments after this presentation.



# *Lil'wat Nation Disorderly Conduct and Nuisances Bylaw No. 2018-01*

## Overview

The bylaw uses a lot of legal jargon which can be complicated and confusing to read. This part of the presentation will summarize each section to provide a better understanding of the bylaw.



## 2. Definitions

### Disorderly Conduct

Any act or behaviour that disrupts order, causes public inconvenience, annoyance or alarm.

#### Examples:

- Fighting
- Making or causing unreasonable noise
- Using abusive language
- Being drunk
- Having open liquor in public area
- Littering
- Urinating in a public area

### Nuisances

Any act or activity that affects a person's health, comfort or convenience, or reduces a person's ability to use and enjoy their land.

#### Examples:

- Abandonment of cars, household appliances, or furniture
- Dumping or storage of tires, garbage or other refuse
- Noise
- Vandalism
- Trespass

The first section of the bylaw defines the terms used throughout the document. Most importantly, it defines what constitutes disorderly conduct and acts of nuisances.

The lists on these slides are not exhaustive. More examples are listed in the draft bylaw. A behaviour or action **does not** need to be listed as an example to be considered a nuisance or disorderly conduct.



## 2. Definitions

- Lil'wat Lands:
  - All Lil'wat Indian Reserves
  - Any future reserve lands

**Bylaw enforceable on reserve lands only.**



Another important definition in the bylaw document is “Lil’wat Lands.” This refers to all 10 of the reserves as well as any land that may become reserve land in the future. It is important to note that this bylaw is only enforceable on reserve lands.



## 3. Disorderly Conduct / 4. Nuisance

- Everyone who:
  - commits an act of disorderly conduct, or
  - creates or causes a nuisanceis guilty of an offence.
- A Lil'wat Nation Bylaw Enforcement Officer may order any person to:
  - stop disorderly conduct immediately
  - refrain from causing the nuisance
  - end the nuisance within a reasonable period of time

These sections provide a brief overview of what constitutes an offence and how the offence may be handled. Anyone who commits an act of disorderly conduct or creates or causes a nuisance is guilty of an offence. A Lil'wat Nation Bylaw Enforcement Officer may order any person to stop the disorderly conduct immediately, refrain from causing the nuisance, or to end the nuisance within a reasonable period of time. A reasonable period of time depends on the nature and extent of the nuisance and the methods available and time required to end the nuisance.



## 5. Enforcement

- If a person does not comply with an order:
  - they are committing an offence
  - A Lil'wat Nation Enforcement Officer may take reasonable measures to stop the disorderly conduct or prevent the nuisance
  - For each violation, an Enforcement Officer may issue an Enforcement Notice, which includes:
    - » Details of alleged offence
    - » Penalty the offender must pay
    - » Instructions on how to pay
    - » How to dispute the allegation
- Bylaw Enforcement Officer position to be created
  - Bylaw likely to be enforced on a complaint basis

If a person does not comply with an order they are committing an offence and an enforcement officer may take reasonable measure to stop the disorderly conduct or prevent the nuisance.

The enforcement officer may issue an Enforcement Notice, which is a written order to end the disorderly conduct or nuisance. It will be similar to a ticket. It will contain the details of the alleged offence, if there is a penalty, the amount of penalty the recipient must pay, instructions on how to pay this fine, and how to dispute the allegation.

The Lil'wat Nation currently does not have a bylaw enforcement officer. We are working to create this position at the same time as the adoption of this bylaw. This will involve creating policies and procedures for the officer to follow. Most communities enforce bylaws on a complaint basis; if a violation is occurring, a written complaint must be submitted to the bylaw officer who will then investigate the situation. The main role of the bylaw officer is to educate the community on the rules and regulations and try to obtain voluntary compliance. Penalties are more likely to occur with repeated offences, or offences that causes public health or safety issues.



## 6. Fees and Forms

- Council may establish, correct, revise or update any fines, fees, forms or protocol that support this bylaw
- Once established, Council will post notice in public areas
  - Will also be available to view in the Band Office

There is currently no fee schedule in place for this bylaw, which is a list of penalties for different actions. That is something to be developed at a later date, which may be done at the same time or after creating the enforcement officer position. It can be further revised or updated as needed. Once established, and then if any changes occur, notice will be posted in public areas. The fee schedule will also be available to view in the Band Office.



## 7. Notices & Charges Against Registered Holders

- If land in question is registered by two or more people, an enforcement notice only needs to be provided to one owner



If an offence occurs on a parcel of land (for example, abandonment of cars) and this land has two or more registered holders, an enforcement notice only needs to be provided to one of those owners to be valid.



## 8. Offences

- Any person who violates this bylaw is guilty of an offence and liable to penalties
- If a violation continues, each day will be a separate offence
  - For example, if a nuisance does not cease, a fine may be imposed each day it continues
- Any person guilty of an offence is liable to:
  - A fine (not exceeding \$1000)
  - Imprisonment (not exceeding 30 days)
- Penalties are dependent on the nature of the offence

This section provides a bit more detail on what can occur when an offence is committed. As previously stated, any one who violates the bylaw is guilty of an offence and liable to penalties. The penalty, if any, is dependent on the severity of the action and whether it is a first time or repeated offence.

If a violation continues, each day is considered a separate offence. For example, if a nuisance such as vandalism, occurs on three separate days, a fine could be given on each of those days.

As I mentioned a couple slides ago, we do not have a list of penalties for specific actions. However, there are rules that the fines cannot exceed \$1000 and a term of imprisonment cannot exceed 30 days. These penalties are dependent on the nature of the offence.



## 9. Immunity

- Lil'wat Nation Council, employees, and any authorized persons are exempt from this bylaw when performing the duties of their job

### **Does NOT apply if said person is guilty of:**

- Dishonesty
- Gross negligence
- Malicious or willful misconduct
- Libel or slander (making false and damaging statements about someone)

This section called immunity is about how the bylaw applies to Lil'wat Nation Council and staff. If Council, employees, or any authorized persons create a nuisance while performing the duties of their job, they are exempt from this bylaw. For example, if a Nation employee has to block traffic to repair a road, this would not be considered a nuisance. This exemption does not apply if the person is guilty of dishonesty, gross negligence, malicious or willful misconduct, or libel or slander, which is making false and damaging statements about someone.

(Libel is an untrue defamatory statement that is made in writing. Slander is an untrue defamatory statement that is spoken orally.)



## 9. Immunity

- Lil'wat Nation Council, employees and any authorized persons are not responsible for any damages that result from:
  - Failure to detect an offence
  - Failure to enforce this bylaw
- If the Lil'wat Nation has done an unlawful act under the powers of this bylaw, any action against Lil'wat must be started within 6 months
- To claim damages against Lil'wat, notice in writing must be received within 2 months from the date the damage was sustained
  - Timeline can be extended if there is a reasonable excuse

This section also states that the Lil'wat Nation Council, employees and any authorized persons are not responsible for any damages that result from the failure to detect an offence or the failure to enforce this bylaw.

The last part of this section provides a timeline for any actions against Lil'wat. If Lil'wat has unlawfully exercised its power under this bylaw, any action against Lil'wat must be started within six months. If any damages are to be claimed against Lil'wat, notice in writing must be received within two months from the date the damage was sustained. This timeline can be extended if there is a reasonable excuse, for example a family member was in the hospital.



## 10. Application of Law

- Compliance with this bylaw does not excuse a person from complying with any other applicable federal or provincial Act, regulation or law
- If any part of this bylaw is held invalid by a decision of court, the invalid section will be removed
  - It will not affect the rest of the bylaw

This last section talks about the application of the bylaw. It states that complying with this bylaw does not mean that a person does not have to comply with any other applicable federal or provincial Act, regulation or law.

In addition, if at any point in the future, a part of this bylaw is found invalid by a decision of the court, the invalid section will be removed from the bylaw. However, the rest of the bylaw will remain valid.