

CERTIFICATION

**Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto,
I certify that the attached copy of the Tk'emlups Indian Band By-law
Providing for the Control of Graffiti within the Tk'emlups te Secwepemc No.
2010-01 dated April 11, 2010 is a true copy of the said by-law.**

Kathy Hankin

**Kathy Hankin, A/Associate Director
Lands and Trust Services,
a Superintendent as defined in
Section 2(1) Indian Act RSC 1985**



**A By-Law Providing for the Control of Graffiti
Within the Tk'emlúps te Secwépemc**

**By-law Number 2010-01
Approved by Chief and Council on March 2nd, 2010**

**A By-law Providing for the Control of Graffiti
Within the Tk'emlúps te Secwépemc**

Tk'emlúps te Secwépemc
By-law No. 2010-01

WHEREAS section 35 of the Constitution Act, 1982 recognizes and affirms the existing aboriginal (self-government) and treaty rights of the aboriginal peoples of Canada;

WHEREAS, Paragraphs 81(1) (c), (d), (h) (p.1), (q) and (r) of the Indian Act empowers the Council of the Tk'emlúps te Secwépemc to enact by-laws respecting the regulation of, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and to impose a penalty for the violation of a by-law made under section 81;

AND WHEREAS, the Council of the Tk'emlúps te Secwépemc is of the opinion that this By-law is necessary to prohibit and impose requirements in relation to the protection and enhancement of the well-being of the community, specifically in relation to graffiti to:

- a. preserve and enhance the character of the Tk'emlúps te Secwépemc business community's aesthetic environment;
- b. promote a well-maintained and attractive community; and,
- c. prevent and to promote public responsibilities by requiring that the business owners and occupiers remove graffiti.

NOW THEREFORE, the Council of the Tk'emlúps te Secwépemc enacts as a by-law thereof as follows:

Short Title

1. This by-law may be cited as the "Tk'emlúps te Secwépemc Graffiti By-law".
2. **Definitions and interpretations**

2.1 In this by-law,

"**Graffiti**" means any drawing, mural, printing or writing which is scribbled, scratched, sprayed, painted, or similarly placed directly on any surface by means of permanent paint, ink or other substance or by chisel, hammer, stone or other device, but does not include:

- a. signs, notices, and traffic control devices authorized by any provincial or federal legislation,
- b. murals or other forms of expressions pre-approved by the Chief Executive Officer in accordance with the Tk'emlúps te Secwépemc Guidelines as set out Appendix A.

"**Officer**" means any police officer, a By-law Enforcement Officer of any other person appointed by the Tk'emlúps te Secwépemc Administration for the purpose of maintaining law and order on the reserve;

"Property" means a business building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures including customer service boxes and courier drop boxes, out-buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant business property;

"Public place" means every park, bridge, courtyard, square, walkway, building, parkade and any other area or structure open to public use and includes every right-of-way reserved for use by a railway;

"Reserve" means the tract of land, the legal title of which is for the use and benefit of the Tk'emlúps te Secwépemc;

"Tk'emlúps te Secwépemc" means for the purposes of this By-law is aka the Kamloops Indian Band.

3. General Prohibitions

- 3.1 No business property owner or occupier shall place graffiti on a building, structure, wall, fence, or any other surface that is visible from a public place.
- 3.2 No business property owner or occupier shall permit graffiti to be placed on a building, structure, wall, fence, or other surface located on that real property, if such graffiti is visible from a public place.
- 3.3 Every business property owner or occupier must cover or remove from that real property any graffiti present on a building, structure, wall, fence or any other surface that is visible from a public place.

4. Inspection and Enforcement

- 4.1 The Tk'emlúps te Secwépemc may give written notice by its Bylaw Officer, to a business property owner or occupier stating that the Tk'emlúps te Secwépemc will take the action at the expense of the business property owner or occupier if that person does not comply with Section 3.1 within 14 days of the service of the notice.
- 4.2 Where a business property owner or occupier fails to comply with the notice issued by the Council under Section 4.1, the Tk'emlúps te Secwépemc by its Bylaw Officer, or its designate, at reasonable times and in a reasonable manner, may enter on the real property and, at the cost of the business property owner or occupier, effect such work as is deemed necessary and appropriate by the Tk'emlúps te Secwépemc by its Bylaw Officer, or its designate, to take the action required by the notice.
- 4.3 If the Tk'emlúps te Secwépemc takes action under s. 4.2 and the costs of the action are not paid on or before December 31st in the year in which they were incurred:
 - a. they may be recovered from the business property owner or occupier, as a debt; or;
 - b. they may be collected in the same manner on which the action was taken, and the purposes of this subsection, the costs are considered to be taxes in arrears.

4.4 Inspectors and/or its designate (ie. the Graffiti Task Force) are authorized to enter at all reasonable times and in a reasonable manner on business real to determine whether the requirements of this by-law are being observed.

5. Penalty

5.1 Every business property owner or occupier who violates any of the provisions of this by-law, or permits any act or anything to be done in contravention of this by-law, or who fails to do any act or thing required by this by-law, shall be deemed to have committed an offence against and is guilty of an offence against this by-law and shall be liable to:

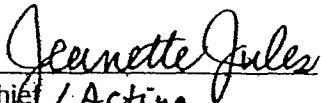
- a. a fine of up to \$1,000 or to imprisonment for a term of 30 days, or to both a fine and imprisonment, or;
- b. restorative justice circle sentencing procedure.

5.2 Any penalty imposed pursuant to this by-law shall be in addition to any cost recovery under section 4.3.

5.3 This By-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the Indian Act.


This by-law is hereby made at a duly convened meeting of the Council of the Tk'emlúps te Secwépemc this day of March 2nd, 2010.

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



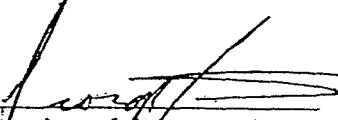
Chief / Acting

Member of the Council



Member of the Council

Member of the Council



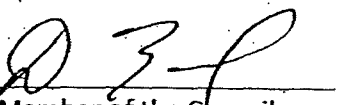
Member of the Council

Member of the Council



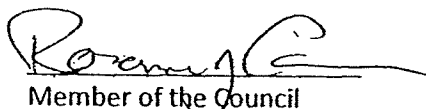
Member of the Council

Member of the Council



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 Tk'emlúps te Secwépemc Council.

The quorum of the Council is 4 members.

Number of members of the Council present at the meeting: 5.

I, Chief/Councillor 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 By-law Registrar office of the department pursuant to subsection 82(1) of the Indian Act, this 2nd day of March, 2010.


(Chief/Councillor) (Witness)



Appendix A

Guidelines for Pre-approved Murals or other forms of art expression.

- 1) Acceptable murals or forms of art expression must be:
 - a. well thought out sketched designs produced by an artist or professional prior to the actual work being carried out;
 - b. tasteful and not promote vulgarity, inappropriate language or hate; and,
 - c. displays of appropriate expressions of artwork or material or subject matter;and must be pre-approved by the Chief Executive Officer.