

LOWER NICOLA INDIAN BAND

ANIMAL CONTROL BY-LAW

WHEREAS section 81, paragraphs (a), (d), (e), (q) and (r), of the Indian Act confirms the power of the council of a Band of Indians to pass by-laws to provide for the health of residents of the reserve, the prevention of nuisances, the protection against and prevention of trespass by domestic animals, matters arising out of or ancillary to the exercise of powers under this section, and. the imposition of a penalty for the violation of any such by-law;

AND WHEREAS the Council of the Lower Nicola Indian Band is of the opinion the uncontrollable ownership, breeding, and running at large of animals may be detrimental to the health of residents on the reserve, and a nuisance to such residents;

THEREFORE, the Council of the Lower Nicola Indian Band enacts a by-law as follows;

SHORT TITLE

1. This By-law may be cited as "By-law Number 10".

DEFINITIONS

2. In this By-law;

"animal" means a dog, a cat or any domestic animal;

"animal control officer" means an animal control officer appointed pursuant to section (3), or any by-law enforcement officer and a person employed by the Lower Nicola Band Council for the purpose of enforcing the provisions of this by-law;

"animal register" means the register kept by the Animal Control Officer for the purpose of the registration of all dogs and other animals on the reserve;

"band council" means the Council of the Lower Nicola Indian Band, as defined in the Indian Act;

"bite" means an attack by an animal that results in the victim's skin being broken through;

"cat" means any cat, male or female;

"community health representative" means the officer of health so appointed by band council resolution;

"guard dog" means any non-villainous dog kept for the purposes of property protection;

"dog" means any dog, male or female and includes an animal that is cross between a dog and a wolf;

"dwelling" means each single unit being a fully detached home, semi-detached home, apartment or any other building used or intended to be used for human habitation and in which normal domestic functions are carried on;

"muzzle" means to secure a dog's mouth in such a fashion that it cannot bite anything;

"owner of an animal" includes a person who possesses or harbors an animal, "Owns" and "owned" have a corresponding meaning;

"reserve" means any reserve of the Lower Nicola Indian Band, as that term is defined under the Indian Act, as amended, and includes the following;

Nicola Mameet Indian Reserve Number 1, Joeyaska Indian Reserve Number 2, Hamilton Creek Indian Reserve Number 7, Pipseul Indian Reserve Number 3, Logan's Indian Reserve Number 6, Zoht Indian Reserves Numbers 4, 5 and 14, and Speous Indian Reserve Number 8 of the Band.

"running at large" or "at large" means off the premises of the owner and not muzzled nor under the control of any person;

"villainous dog" includes any dog over the age three (3) months;

- (1) that demonstrates any ferocious, vicious, or aggressive behavior;
- (ii) that an animal control officer, upon reasonable and probable grounds, believes to be a villainous dog;
- (iii) which has been the cause of a prosecution under this by-law within the previous six months where a conviction against anybody had been entered concerning that specific dog; or
- (iv) which has bitten another animal or human without provocation.

"wild animal" means any animal that is neither human nor domestic .

3. ANIMAL CONTROL OFFICER AND ENFORCEMENT

- (1) The band council will appoint by band council resolution an animal control officer to provide for the administration and enforcement of this by-law and more specifically to receive registration and to issue identification tags under this by-law.
- (2) The band council may, through its administrative process, provide for reasonable remuneration to be paid to the animal control officer.
- (3) Any peace officer may enforce this by-law

4. REGISTRATION AND IDENTIFICATION OF DOGS

- (1) Every person keeping one or more dogs over four (4) months of age on the reserve shall register and have an identification tag placed around the neck of each dog.

- (2) The application for the registration of an identification tag shall be filed with the animal control officer, or their delegate, and will include the following information:
 - (a) the applicant's name;
 - (b) the applicant's address or lot number;
 - (c) a description of the dog or other animal sought to be registered, including age, sex,
 - (d) name and breed if known;
 - (e) the number of animals in the dwelling;
 - (f) a record that the dog is immunized in accordance with generally accepted veterinary standards.
- (3) The charge for registration and identification tags shall be set by a resolution of the Council and may be amended from time to time.
- (4) The animal control officer, or their delegate, shall issue the licensed tag upon registration and payment of the annual fee and where, in the case of a dog, proof of immunization as indicated in section 4.2(e) of this by-law.
- (5) The license tag shall be securely attached to the collar or harness of the dog at all times.
- (6) The registration and identification tag issued by the animal control will be valid for a year from the date of issuance of the identification tag.

5. IMMUNIZATION OF ANIMALS

- (1) All dogs residing on the reserve must be immunized against rabies and other diseases that are communicable to humans or diseases that are likely to cause aggressive behavior in dogs, in accordance with generally accepted veterinary standards.
- (2) All other animals residing on the reserve must be vaccinated in accordance with generally accepted veterinary standard.

6. RABIES

- (1) The Band Council, in the event of known rabies cases, may request that all animals be vaccinated for rabies.
- (2) Subject to subsection 12.(2) the owner of an animal exposed to rabies shall, on demand by the Band Council, surrender such animal to the animal control officer to be held in quarantine for a period of fourteen (14) days and such animal shall not be released from such quarantine without the written permission of the community health representative.
- (3) An owner, upon demand made by either the Band Council or the animal control officer, must surrender any animal that has bitten any person or which been exposed to rabies, to be held in quarantine at the discretion of the community health representative.
- (4) Any animal found to be infected with rabies shall be humanely destroyed by its owner or by the animal control officer immediately, at the expense of the owner.

- (5) Any animal destroyed pursuant to subsection (4) shall be disposed of according to the instructions of the community health representative.

7. LIMIT ON NUMBER OF ANIMALS PER DWELLING

- (1) No more than four (4) animals consisting of dogs and cats or other similar sized domestic animals, with a maximum of two dogs (2), shall be kept, harboured or possessed in any dwelling.
- (2) The provisions of subsection 7.(1) shall not apply to litters, where the pups or kittens are under the age of four (4) months.
- (3) Where there are, at the time of the enactment of this By-law, more animals than the prescribed limit in subsection 7.(1), no further animals may be acquired until three (3) animals or less remain in the dwelling.
- (4) Ranchers and hunters may apply for an exemption from section 7. by submitting a written application to the Band Council.

8. GENERAL PROHIBITIONS

- (1) Any animal which inflicts a bite upon a person shall be seized and impounded immediately and then destroyed after 14 days unless the owner has obtained written relief from the Chief and Council of the band or the courts.
- (2) The owner of an animal which causes damage to any property, other than the animal owner's property, including moveable property, lawns, flower beds, bushes, or plants, or other parts of property, is guilty of an offense.
- (3) The owner of a female animal in heat that allows the animal to be at large, unless such animal is attached to a leash and accompanied by and is under the observation of an adult is guilty of an offense.
- (4) No owner shall allow an animal to remain unfed or without water as sufficiently long either to amount to cruelty or to cause the animal to become a nuisance.
- (5) No person shall punish or abuse an animal in a manner or to an extent that is cruel or unnecessary.
- (6) The owner or guardian of any animal shall, when the animal is on public property or private property belonging to another person, immediately pick up and thereafter dispose of any feces, vomit, or any other waste left by the animal on the said property.
- (7) No owner shall permit an animal to disturb the peace of the residents of the reserve.

9. PROHIBITIONS WITHIN SPECIFIC AREAS OF THE RESERVE

- (1) The Band council may at any time establish reasonable restrictions on the keeping of animals within:
 - (a) the area surrounding a hospital or health center;
 - (b) the area surrounding a school;
 - (c) the area around the band administrative center;
 - (d) the area around the recreation centers;
 - (e) the area around a daycare; or
 - (f) any other area that the band council deems necessary,
- (2) Notice of any restriction made by the band council pursuant to subsection (1) shall be posted in the band office and any other publicly accessible, band owned, properties and after the date of the posting of such notice, no person shall keep or have an animal within the specified area unless they adhere to the restrictions.
- (3) No person may establish, own or operate an establishment or facility for the boarding or treatment of animals within the limits of the reserve, without express written authorization, (as evidenced by a band council resolution), from the band council.

10. VILLAINOUS DOGS

- (1) On private property, a villainous dog shall be kept either on a secure leash or in a restricted area constructed so as to both prevent any escape by the dog and prevent any entry or access by children.
- (2) A villainous dog need not be tethered or penned up as provided in subsection (1) if the dog:
 - (a) is held on a leash by a person capable of restraining the dog's movement; or
 - (b) is being used by a person for the purpose of hunting; or
 - (c) is being used by a person to work in a lawful manner with cattle or sheep;
 - or
 - (d) is used by a visually impaired person as a guide dog.
- (3) Anyone owning a villainous dog must post a clearly visible sign on the premises notifying the public of the presence of that dog.
- (4) A villainous dog must, at all times, be muzzled and, subject to 10.2, be kept on a leash whenever it is off the owner's premises.
- (5) No owner of a villainous dog shall permit such a dog belonging to him or her to be at large on the reserve.
- (6) A villainous dog found at large on the reserves may be impounded for not less than five days and may thereafter be humanely destroyed or otherwise disposed of unless in the meantime such animal has been claimed by its owner and the costs incurred for the impounding of the animal have been paid.

11. GUARD DOGS

- (4) Any person may keep a guard dog without restricting its movement so long as the dog does not show any signs of being villainous when it is off the owner or guardian's property.
- (5) Any person who keeps a guard dog must post a clearly visible sign on the premises notifying the public of the presence of that dog.

12. IMPOUNDING AND SEIZURE

- (1) An animal control officer may seize an animal from any person, when he or she has reasonable grounds to believe that the animal is violating or has violated or is about to violate any of the provisions of this by-law.
- (2) When an animal is apprehended because it has inflicted an unprovoked bite upon an animal or human person, the animal control officer shall impound the animal for such period of time to be specified by a veterinary surgeon for the purpose of testing for rabies or other diseases.
- (3) Subject to 6.2, 8.1, 12.2 and 12.6, an animal control officer who has seized an animal pursuant to subsection (1) shall restore possession of the animal to its owner where:
 - (a) the owner claims possession of the animal within five (5) days after the date of the seizure; and
 - (b) the owner pays to the animal control officer all expenses incurred in securing, sheltering, caring for and feeding the animal; and
 - (c) where the animal seized is a dog and the owner has failed to produce an identification tag for that dog, he or she shall obtain a registration an identification tag from the animal control officer before he or she will obtain the release of the dog.
- (4) Where the animal has not been reclaimed within five (5) days after seizure pursuant to subsection (3), the animal control officer may:
 - (a) humanely destroy the animal.
 - (b) dispose of the animal which can include transferring the animal for a fee to a person other than the owner.
- (5) If the animal is found to be diseased or injured, the animal control officer may seek veterinary attention for it where the owner has declined, failed, or neglected to do so. Any fee arising from the provision of such veterinary care shall be a charge against the owner of the animal.
- (6) Where an animal is seized under this by-law that, in the opinion of the animal control officer, is injured or for humane reasons or for reasons of health or safety to persons or other animals, should be destroyed without delay, the animal control officer shall humanely destroy the dog as soon after seizure as he or she thinks fit without permitting any person to reclaim the animal and no damages or compensation may be recovered on account of such action.

- (7) When an animal has been impounded, the animal control officer or where prudent, the Band Council, shall forthwith make every reasonable effort to notify the owner of such impoundment.
- (8) A written report of each incident as provided for in this section shall be filed with the Band Council,

13. DESTRUCTION WHERE UNABLE TO SEIZE

- (1) Where the animal control officer, after reasonable effort, is unable to seize a villainous dog that is running at large contrary to the provisions of this by-law, he may humanely destroy the dog.
- (2) No damage or compensation may be recovered as a result of the destruction of a dog by the animal control officer pursuant to subsection (1).

14. PROTECTION FROM ANIMALS

- (1) Any person may humanely kill an animal, by legal means that is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying.
 - (a) a person; or
 - (b) a dog that is tethered; or
 - (c) domestic livestock or
 - (d) other domestic animals (cats, rabbits, etc.).
- (2) No damage or compensation may be recovered as a result of the killing of an animal by any person pursuant to subsection (1).

15. WILD ANIMALS

- (1) When, on reasonable grounds, the animal control officer believes that a wild animal has entered onto the reserve and could pose a threat to the life or property of any person on the reserve, the animal control officer may:
 - (a) take immediate steps to have the wild animal removed from the reserve; or
 - (b) destroy the animal when the animal control officer has reasonable grounds to believe that it is necessary.;

16. DISPOSAL

- (1) Any animal destroyed pursuant to this by-law shall be disposed of in accordance with the instructions of the community health representative at the expense of the owner.
- (2) Any animal that dies of any cause other than a result of this by-law shall be disposed of by the owner in accordance with the instructions of the community health representative.

17. PENALTY

- (1) Anyone who contravenes any part of sections 4,5, 6,7, 8, 9, 10, 11 and 16 of this by-law

is guilty of an offense and is liable on summary conviction to a fine of not more than one thousand dollars (\$1000.00) or to imprisonment for a term not exceeding thirty (30) days, or both and court costs.

THIS BY-LAW IS HEREBY ENACTED at a duly convened meeting of the Lower Nicola Indian Band Chief and Council this _____ day of _____, twenty hundred and _____.

This resolution is supported by the undersigned and passed this ___ day of _____, 2014.

Quorum of Council: 5

Aaron Sam, Chief

Clarence Basil, Jr., Councilor

Arthur Dick, Councilor

Harold A. Joe, Councilor

Nicholas Peterson, Councilor

Clyde Sam, Councilor

Robert Sterling, Jr., Councilor

Molly Toodlican, Councilor

DECLARATION

I, Aaron Sam, Chief of the Lower Nicola Indian Band, do hereby certify that an original of this by-law was sent to the Minister of Indian Affairs pursuant to section 82.1 of the Indian Act on the ___ day of _____, 20____.

Aaron Sam, Chief

Witness