

UPPER NICOLA BAND

ANIMAL CONTROL BY-LAW

WHEREAS section 81, paragraph (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 Upper Nicola Band is of the opinion of 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 Upper Nicola 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 Upper Nicola Band Council for the purpose of enforcing the provisions of this By-Law;

"animal cruelty" acts of violence or neglect perpetrated against animals;

"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 Upper Nicola 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-dangerous 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 harbours an animal;

“owners” and “owned” have a corresponding meaning;

“reserve” means any reserve of the Upper Nicola Band, as that term is defined under section 2 of the Indian Act;

“running at large” or “at large” means off the premises of the owner and not muzzled nor under the immediate control of a responsible person;

“wild animal” means any animal that is neither human nor domestic;

“dangerous dog” includes any dog over the age of six (6) months;

- i. a Dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- ii. a Dog that, while running At Large, has attacked, bitten, killed or caused injury to a domestic Animal
- iii. a Dog that, while running At Large, has aggressively pursued or harassed a person, or
- iv. a Dog that, while running At Large, has aggressively pursued or harassed a domestic Animal;
- v. That an animal control officer, upon reasonable and probable grounds, believes to be a dangerous dog;

- vi. Which has been the cause of a prosecution under this By-Law within the previous six (6) months where a conviction against anybody had been entered concerning that specific dog; or

3. ANIMAL CONTROL OFFICER AND ENFORCEMENT

- a. The Band Council will hire a part time or full time Animal Control Officer as needed, to provide for the administration and enforcement of this By-Law and more specifically to receive registration and to issue identification
- b. The Band Council may, through its administrative process, provide for reasonable remuneration to be paid to the animal control officer;
- c. Any peace officer may enforce this By-Law;
- d. Every Bylaw Enforcement Officer is authorized to enter at all reasonable times upon any land in the community for the purpose of ascertaining whether the requirements of this Bylaw are being observed

4. REGISTRATION AND IDENTIFICATION OF ANIMALS

- a. Every person keeping one (1) or more animals over six (6) months of age on the reserve shall register and have an identification tag;
- b. The application for the registration of an identification tag shall be filed with the animal control officer, or their delegate;
- c. The charge for registration and identification tags shall be set by a resolution of the Council and may be amended from time to time;
- d. The animal control officer, or their delegate, shall issue the licensed tag upon registration and payment of the annual fee;
- e. The license tag shall be securely attached to the collar or harness of the animal at all times;
- f. The registration and identification tag issued by the animal control officer will be valid for one (1) year, and must be renewed annually on or before the first day of January;

- g. Where an Owner of a licensed animal has a change of address within the Community, the Owner must promptly notify the Animal control officer of his/her new address

5. IMMUNIZATION OF ANIMALS

- a. 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 behaviour in dogs, in accordance with generally accepted veterinary standards;
- b. All other animals residing on the reserve must be vaccinated in accordance with generally accepted veterinary standards;

6. RABIES

- a. The Band Council, in the event of known rabies cases, may request that all animals be vaccinated for rabies;
- b. 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 has been exposed to rabies, to be held in quarantine at the discretion of the community health representative;
- c. 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;

7. LIMIT ON NUMBER OF ANIMALS PER DWELLING

- a. No more than four (4) animals consisting of dogs and cats or other similar sized domestic animals, with a maximum of two (2) dogs, shall be kept, harboured or possessed in any dwelling;
- b. The provisions of subsection 7(a) shall not apply to litters, where the pups or kittens are under the age of six (6) months;
- c. Ranchers and hunters may apply for an exemption from section 7 by submitting a written application to the Band Council;

8. GENERAL PROHIBITIONS

- a. Any animal which inflicts a bite upon a person shall be seized and impounded immediately and then humanely destroyed after fourteen (14) days unless the owner has obtained written relief from the Chief and Council of the band or the courts;
- b. 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;
- c. No animal shall be subject to animal cruelty
- d. 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;
- e. No owner shall permit an animal to disturb the peace of the residents of the reserve;

9. PROHIBITIONS WITHIN SPECIFIC AREAS OF TH RESERVE

- a. The Band Council may at any time establish reasonable restrictions on the keeping of animals within the reserve boundaries;
- b. Notice of any restriction made by the Band Council pursuant to subsection 9 (a) 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;
- c. 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. DANGEROUS DOGS

- a. On private property, a dangerous 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;
- b. Anyone owning a dangerous dog must post a clearly visible sign on the premises notifying the public of the presence of that dog;
- c. A dangerous dog must, at all times, be muzzled and, be kept on a leash whenever it is off the owner's premises;
- d. No owner of a dangerous dog shall permit such a dog belonging to him or her to be at large on the reserve;
- e. A dangerous dog found at large on the reserves may be impounded for not less than five (5) days and may thereafter be humanely destroyed or otherwise removed, 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

- a. Any person may keep a guard dog without restricting its movement so long as the dog does not show any signs of being dangerous when it is off the owner or guardian's property;
- b. 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

- a. 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;
- b. 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;
- c. Where the animal has not been reclaimed within five (5) days after seizure pursuant to subsection (3), the animal control officer may:
 - i. Humanely destroy the animal;
 - ii. Removing the animal which can include transferring the animal for a fee to a person other than the owner;
- d. 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;
- e. 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 animal as soon as possible 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;
- f. When an animal has been impounded, the animal control officer or where prudent, the Administration, shall forth with make every reasonable effort to notify the owner of such impoundment;
- g. 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

- a. Where the animal control officer, after reasonable effort, is unable to seize a dangerous dog that is running at large contrary to the provisions of this By-Law, may humanely remove the animal;
- b. No damage or compensation may be recovered as a result of the destruction of a dangerous dog by the animal control officer;

14. WILD ANIMALS

- a. 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:
- b. Take immediate steps to have the wild animal removed from the reserve; or
- c. Destroy the animal when the animal control officer has reasonable grounds to believe that it is necessary;

15. Removal

- a. Any animal destroyed pursuant to this By-Law shall be removed in accordance with the instructions of the community health representative at the expense of the owner;
- b. Any animal that dies of any cause other than a result of this By-Law shall be removed by the owner in accordance with the instructions of the community health representative;

16. PENALTY

- a. 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 two thousand dollars (\$2000.00)

THIS BY-LAW IS HEREBY ENACTED at a duly convened meeting of the Upper Nicola Indian Band Chief and Council this _____ of _____, 20____.

Chief Daniel Manuel

Councillor Brian Holmes

Councillor Cindy Tom Lindley

Councillor Dennis MacDonald

Councillor George Saddleman

Councillor Wallace Michel

Being the majority of those members of the council of the Upper Nicola Indian Band present at the aforesaid meeting of the Council.

The quorum of the Council is five (5) members;
Number of members of the Council present at the meeting: _____.

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 _____ office of the department pursuant to subsection 82(1) of the Indian Act, this ____ day of _____, 20____.