

ANIMAL CONTROL BY-LAW

** This is a sample by-law only, to be used as a guide when drafting a by-law that takes into consideration local conditions or concerns. It is recommended that a draft of a by-law be submitted to a By-Law Advisor for comment and review to avoid it potentially being disallowed pursuant to section 82(2) of the Indian Act. Any submission of a by-law based on this sample by-law does not ensure that the by-law will be allowed to come into force. Neither the Minister of Indian and Northern Affairs nor the Department of Indian Affairs and Northern Development guarantee the present and future validity or enforceability of a by-law that is based on this sample by-law. These are ultimately issues for enforcement agencies and the courts to decide.*

**By-Law Number _____
An Animal Control By-Law**

- or -

→NOTE: *if repealing an existing by-law, include the title below instead:*

**By-law Number _____
To Repeal and Replace By-law Number _____
As an Animal Control By-Law
Enacted on the [day] of [month] in [year]**

THE COUNCIL of the _____ Indian Band (“the Council”) is of the opinion that the uncontrolled ownership, breeding and running at large of animals may be detrimental to the health of the residents on the reserve as well as a nuisance to these residents.

PARAGRAPHS 81(1)(a), (d), (e), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5 (the “Act”), provide that a council of a band may make by-laws to provide for the health of residents on the reserve, the prevention of nuisances, the protection against trespass by animals, the establishment of animal shelters, the appointment of Animal Control Officers, the regulation of their duties and the provision for fees and charges for their services, in addition to 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;

→NOTE: *if repealing an existing by-law, include this recital:*

THE _____ Indian Band Council enacted By-Law Number _____ on the [day] of [month] in [year], and wishes to repeal it and replace it with this by-law;

THE COUNCIL makes the following by-law:

Short Title

1. This by-law may be cited as the _____ Indian Band Animal Control By-Law.

Short Title

Definitions

2. In this by-law:

"aggressive behaviour" means snarling, growling or pursuing another animal or person.

"animal" means any member of the animal kingdom, other than a human. This includes furbearing animals, household pets (domestic and companion animals), poultry and wild animals.

"Animal Control Officer" means any by-law enforcement officer, including a police officer or a person employed by the Band Council for the purpose of enforcing the provisions of this by-law, including appointments pursuant to section 4 of this by-law.

"animal register" means the register kept by the Animal Control Officer for the purpose of the registration of all animals on reserve.

"Animal Shelter" means any facility designed by the Council as an animal pound.

"Band" means the _____ Band, as defined under section 2 of the *Indian Act*.

"bite" means a wound to the skin causing it to puncture or break.

"cat" means a household pet of the feline species and includes a kitten.

"companion animal" means an animal kept as a pet or as a guide animal.

"Council" means the Council of the _____ Band, as defined in the *Indian Act*.

"dog" means any member of the canine species and includes a puppy.

"domestic animal" means a cat or dog.

"dwelling" means each single unit home being a fully or semi-detached building, a multiple unit dwelling, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried out.

"Medical Officer of Health" means the Medical Officer of Health for the Band and so appointed by Band Council Resolution.

"microchip" means an approved 'Canadian Standard' encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to owner information, including the name and address of the owner, which is stored in a central database.

“*muzzle*” means a humane fastening or covering device of adequate strength placed over the mouth of an animal to prevent it from biting. The words “muzzled” and “muzzling” have similar meanings.

“*owner*” of an animal includes a person who possesses or harbours an animal, and the terms “owns” and “owned” have a corresponding meaning.

“*running at large*” means off the premises of the owner and not muzzled or under the control of any person.

“*reasonable notice*” is defined as not less than five (5) days notice, excluding the day of impoundment, statutory holidays and days when the animal shelter is closed.

“*reserve*” means the _____ Indian Reserve No. ____.

“*tether*” means a rope or chain or similar restraining device that prevents an animal from moving away from a localized area and the words “tethered” and “tethering” have a similar meaning.

“*vicious dog*” includes:

- (a) any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
- (b) any dog that an animal control officer, upon reasonable and probable grounds, believes to be a vicious dog;
- (c) any dog 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
- (d) any dog which has bitten or attacked another animal or human without provocation.

“*without provocation*” means in the absence of teasing, tormenting, abusing or assaulting actions upon the dog, or its owner, either in the past or the present, by the person or domestic animal, who sustained the bite or attack.

Application

3. This by-law applies to all owners of animals residing or visiting on the _____ Reserve No. _____.

PART II – ADMINISTRATION

Animal Control Officer

4. (1) The Council may 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 registrations and to issue identification tags under this by-law.
- (2) The Council may, in the Band Council Resolution, provide for reasonable remuneration to be paid to the Animal Control Officer.

Registration and Identification of Animals

5. (1) Every person keeping one or more animal(s) on reserve must register and have an identification tag placed around the neck of each animal.
- (2) The application for registration and an identification tag must be filed with the Animal Control Officer and must include:
 - (a) the applicant's name;
 - (b) the applicant's address or lot number;
 - (c) a description of the animal sought to be registered, including the age, sex and name of breed, if known;
 - (d) the number of animals in the household;
 - (e) a record that the animal is immunized against rabies, noting the date of such immunization, the name of the person immunizing the animal, including the manufacturer's name of the vaccine and its batch number; and
 - (f) any other information the Animal Control Officer deems necessary for the proper administration of this by-law.
6. The owner of an animal four (4) months of age or older shall, within thirty (30) days of acquiring it, apply to register and identify it.
7. The charge for registration and identification tags is \$_____ dollars per year.
8. The Animal Control Officer must issue the licence tag upon registration and payment of the annual fee and, if necessary, proof that the animal has been immunized against rabies.
9. The licence tag must be securely attached to the collar or harness of the animal at all times.
10. The registration and identification tag will be valid for one full year from the date of issuance.
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11. No person shall use a tag upon an animal other than the animal for which it was issued.

Responsibility to Care for Animals

12. Every person who keeps an animal on reserve must ensure that such animal is provided with:
 - (a) A clean and sanitary environment free from an accumulation of fecal matter;
 - (b) Adequate and appropriate care, food, water, shelter, and opportunity for physical activity;
 - (c) Veterinary care as may be required; and
 - (d) An environment that meets the physical and behavioural needs of the species.

Tethers

13. (1) No person shall keep an animal tethered on a rope, chain or similar restraining device unless:
 - (a) The tether is of appropriate length for the species tethered;
 - (b) The animal has unrestricted movement within the range of such tether;
and
 - (c) The animal cannot injure itself as a result of the tethering.
 - (2) Despite clause (a) of subsection (1), in the case of dogs the tether shall be a minimum of three (3) meters in length provided that the tether does not permit the dog to go beyond the limits of the person's property.
 - (3) Despite subsection (1), no person shall keep an animal tethered where a choke collar, a choke chain or a pronged collar forms part of the tether.
14. An animal need not be tethered or penned up if it:
 - (a) is held on a leash by a person capable of restraining the animal's movement;
 - (b) is being used by a person for the purpose of hunting;
 - (c) is being used by a person to work in a lawful manner with sheep or cattle; or
 - (d) is used by a visually impaired person as a guide dog.
 15. (1) No owner of a female animal who is in heat will allow her to remain in a public place unless the animal is attached to a leash and accompanied by and is under the observation and control of her owner or owner's agent.

- (2) The owner of an animal who fails to take all necessary measures to ensure that such an animal is under the control, supervision or is in the possession of the owner at all times while on the reserve is guilty of an offence.
- (3) The owner of an animal that causes damage to any property, including moveable property, lawns, flower gardens, flower beds, bushes or plants, or other parts of property, is guilty of an offence.
- (4) The owner of an 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 said property.

Keeping Animals Under Sanitary and Humane Conditions

16. Every person who keeps an animal on the reserve shall ensure that such animal is not kept under conditions where an accumulation of fecal matter, odour, insect infestations or rodent attractants disturb or are likely to disturb the enjoyment, comfort, convenience of any person or may endanger the health of any person or animal.
17. No owner shall allow their animal to remain unfed or without water whereby it either amounts to cruelty or causes the animal to become a nuisance.
18. No person shall punish or abuse an animal in a manner that is either cruel or unnecessary.
19. No person shall keep, own, or harbour any animal on reserve which makes or causes noises that disturb or is likely to disturb the quiet, rest, enjoyment, or comfort of:
 - (a) Any person in any dwelling, apartment, store or place of business; or
 - (b) Any person in the vicinity or neighbourhood.

Immunizations of Animals and Rabies

20. All animals on the reserve must be immunized in accordance with generally accepted veterinary standards.
21. The owner of any animal exposed to rabies shall, on demand by the 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 Medical Officer of Health.
22. Upon demand of the Council, the owner of any animal shall forthwith surrender to the Animal Control Officer any animal which has bitten any person or which has been

Animal Control Officer any animal which has bitten any person or which has been

exposed to rabies to be held in quarantine at the discretion of the Medical Officer of Health.

23. Any animal found to be infected with rabies shall be destroyed by its owner or by the Animal Control Officer at the owner's expense.

Limitation on Number of Domestic Animals Per Dwelling

24. (1) No more than three (3) domestic animals shall be kept, harboured or possessed in any dwelling;
- (2) The provisions of clause (1) shall not apply to dog or cat litters, whereby the puppies or kittens are under four (4) months of age.
25. Any person who owns more than the permitted number of domestic animals when the by-law comes into force shall be permitted to keep them until they have died or are otherwise disposed of, provided that such animals are registered with the animal register within ninety (90) days that the By-law comes into force.

GENERAL PROHIBITIONS

Restricted Areas

26. (1) The Council may at any time prohibit the keeping of animals within any area of the reserve.
- (2) Notice of any prohibition made by Council pursuant to subsection (1) shall be posted in the band office and after the date of the posting of such notice, no person shall keep or have an animal within the prohibited area.
- (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 to that effect from the Council, by way of Band Council Resolution.

Running at Large

27. For the purposes of this by-law, a dog shall be deemed to be running at large if found in any place other than the premises of the owner of the dog and not under the control of any person.
28. No owner shall permit their dog to run at large on the reserve.

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29. Every owner of a dog shall ensure that the dog is kept on a leash and under the control of some person when the dog is on reserve unless:
- (a) The land is the premises of the owner of the dog; or
 - (b) The land is owned by a person who has given prior consent to the dog being off the leash.
30. No owner of a dog shall control a dog by means of a leash that:
- (a) Is not held by the person in their hand; or
 - (b) Is not securely affixed to some immovable structure from which the dog cannot escape.

IMPOUNDMENT

31. An animal found running at large on the reserve may be impounded for not less than five (5) days, exclusive of the day of impoundment, statutory holidays, or days when the animal shelter is not open, during which time an owner shall be entitled to redeem their animal, providing the owner pays such licence and animal shelter fees as provided by this By-law, and takes such other action as the Animal Control Officer or Council may direct.

Minimum Notice Requirement

32. The owner of an animal must be provided with not less than five (5) days notice, exclusive of the day of impoundment, statutory holidays, or days when the pound is not open, that their animal has been impounded and will be destroyed if not claimed by its owner.
33. After providing reasonable notice to the owner of the animal, the animal may then be humanely destroyed or otherwise disposed of, unless in the meantime such animal has been claimed by its owner and the costs incurred for impounding the animal have been paid.
34. (1) An Animal Control Officer may seize an animal from any person whom he has reasonable cause to believe is violating or is about to violate any of the provisions of this by-law.
- (2) If an animal is apprehended because it has inflicted an unprovoked attack upon an animal or human person, the Animal Control Officer shall impound the animal for such period of time as specified by a veterinarian.
- (3) Subject to subsection (7), an Animal Control Officer who has seized an animal pursuant to subsection (1) shall release the animal to its owner where:
- (3) Subject to subsection (7), an Animal Control Officer who has seized an animal pursuant to subsection (1) shall release the animal to its owner where:

- (a) the owner claims possession of the animal within five (5) days after the date of seizure;
 - (b) the owner pays the Animal Control Officer all expenses incurred in securing, caring for and feeding the animal; and
 - (c) the owner has obtained the necessary registration identification tag from the Animal Control Officer before the animal is released.
- (4) Where an animal has not been reclaimed within five (5) days after seizure and notification has been given to the owner, the animal may be humanely destroyed or disposed of by a veterinary surgeon and no damages or compensation may be recovered as a result of the destruction or disposal of such an animal.
- (5) The Animal Control Officer shall seek veterinary attention for an animal found to be diseased where the owner has declined, failed or neglected to do so.
- (6) Any fee arising from the provision of such veterinary care, as referred to in subsection (5), shall be charged to the owner of the animal.
- (7) Where an animal that is seized is injured and should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals, the Animal Control Officer shall destroy the animal as soon after the seizure as the Animal Control Officer thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.
- (8) The Council shall forthwith make every reasonable effort to notify the owner of an animal which has been impounded.
- (9) A written report of each such incident, as described in this section, shall be filed with the Council by the Animal Control Officer.
35. (1) Where the Animal Control Officer, after reasonable effort, is unable to seize an animal that is running at large contrary to the provisions of this by-law, the Animal Control Officer may destroy the animal.
- (2) No damages or compensation may be recovered as a result of the destruction of an animal by the Animal Control Officer pursuant to subsection (1).

Vicious Dogs

36. (1) Where the Council or an Animal Control Officer has reason to believe that a dog has bitten a person or domestic animal and it is the first bite on record, the Animal Control Officer shall serve the owner with either a written warning or a Notice to Muzzle Order and a written warning of possible prosecution.

Control Officer shall serve the owner with either a written warning or a Notice to Muzzle Order and a written warning of possible prosecution.

- (2) Where the first bite has occurred on public property, or where the bite is a second or subsequent bite on reserve, an Animal Control Officer shall serve the dog owner with a Notice to Muzzle, which shall require that:
 - (a) while it is on the property of the owner that it shall either be tethered or confined in a fenced-in area in a way that prevents the dog from escaping or being accidentally or intentionally released;
 - (b) whenever it is off the property of the owner, that the dog shall be muzzled and leashed, and shall only be under the control of a person sixteen (16) years of age or older when off its property; and
 - (c) within fourteen (14) days of having been served with a Notice to Muzzle, the dog owner shall have such dog identified with microchip identification, and the owner shall promptly provide the animal register with the microchip identification information.
 - (3) An owner who has been served with a Notice to Muzzle shall be entitled to a Hearing before an Animal Control Tribunal pursuant to the provision of the *Statutory Powers Procedures Act*, where such Notice to Muzzle may be confirmed or exempted.
37. Anyone owning a vicious or aggressive dog must post a clearly visible sign notifying the public.
38. At all times, a vicious dog must be muzzled and kept on a leash whenever it is in a public place.
39. On private property, a vicious dog shall be kept on a secure leash or in a restricted area which shall be constructed so as to prevent any escape by the dog and to prevent the entry of children.
40.
 - (1) A person or Animal Control Officer may kill, if necessary, a vicious dog which is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:
 - (a) A person;
 - (b) Another dog that is tethered;
 - (c) A food cache, harness or other equipment; or
 - (d) Domestic livestock.
 - (2) A person or Animal Control Officer who must kill a vicious dog, pursuant to subsection (1), shall immediately report the incident to the Council or Animal Control Officer and notify the dog's owner.

Control Officer and notify the dog's owner.

- (3) No damages or compensation may be recovered as a result of killing a dog by a person or Animal Control Officer who is required to do so pursuant to subsection (1).

Penalty

41. A person who commits an offence under this by-law is liable on summary conviction to a fine of not more than [specify an amount not exceeding \$1,000] or to imprisonment for a term of [specify a length of term not exceeding 30 days], or to both.

Severance

42. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

Effective Date

43. Pursuant to section 82(2) of the *Act*, this by-law comes into force forty (40) days after a copy of it is mailed to the Minister, unless it is disallowed by the Minister within that period. The Minister may also declare this by-law to be in force at any time before the expiration of the forty (40) day period.

→**NOTE:** *if repealing an existing by-law, include this paragraph:*

Repeal

44. By-Law Number _____ enacted on the [day] of [month] in [year], and being a By-Law to _____, is now repealed.

THIS BY-LAW IS made at a duly convened meeting of the Council of the _____ Indian Band this [day] of [month] in [year].

Voting in favour of the by-law are the following members of the _____ Indian Band 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)

These being the majority of those members of the _____ Indian Band Council present at the above dated meeting of the _____ Indian Band Council.

The quorum of the _____ Indian Band Council is _____ members.

The number of members of the _____ Indian Band Council present at the above dated meeting was _____.

I, (Chief/Councillor of the _____ Indian Band), promise that a true copy of this by-law will be mailed to the Minister of Indian Affairs and Northern Development at the _____ office within four days pursuant to subsection 82(1) of the *Act*.

(Chief/Councillor of the _____ Indian Band)

(Witness) (Chief/Councillor)