

Okanagan Indian Band
Dog Control By-law No. 2019-02
Being a By-law Respecting the Care and Control of Dogs on the Reserves of the Band.
Enacted on the ___ day of _____ 2019.

WHEREAS:

- A. Subsection 81(1), paragraph (a) of the *Indian Act* empowers the Council of a Band to pass bylaws to provide for the health of residents on the Reserve and to prevent the spreading of contagious and infectious diseases;
- B. Subsection 81(1), paragraph (d) of the *Indian Act* empowers the Council of a Band to pass bylaws to provide for the prevention of disorderly conduct and nuisances;
- C. Subsection 81(1), paragraph (e) of the *Indian Act* empowers the Council of a Band to pass bylaws to provide for the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;

THEREFORE, the Council of the Okanagan Band enacts this Okanagan Indian Band Dog Control Bylaw, No. 2019-02 as follows:

1. GENERAL

- 1.1. This by-law may be cited as the "Okanagan Indian Band Dog Control By-law No. 2019-02".
- 1.2. In this by-law
 - a. "at large" or "running at large" means off the premises of the owner and not muzzled or under the control of any person;
 - b. "band" means the Okanagan Band, a Band within the meaning of Section 2 of the *Indian Act*;
 - c. "Council" means the duly elected Council of the Band from time to time;
 - d. "dog" means any dog, male or female and includes an animal that is a cross between a dog and a wolf;
 - e. "Dog Control Officer" means a Dog Control Officer, appointed pursuant to section 2.1, or any by-law enforcement officer, including a police officer or a person employed by the Council for the purpose of enforcing the provisions of this by-law.
 - f. "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 on.
 - g. "owner" of a dog includes a person who possesses or harbours a dog, and the terms "owns" and "owned" have a corresponding meaning;

- h. “pound” means a place designated by Council resolution pursuant to section 2.2 for the holding of dogs impounded pursuant to this bylaw;
- i. “provoke” means to intentionally do some act to a dog with the knowledge that the action will or is likely to illicit a ferocious, vicious or aggressive response from the dog;
- j. “public notice” means a notice posted in the Band Office, in the Band’s Senk’I’ip Newspaper, on the Band’s website (www.okib.ca) and at such other locations and publications as directed by the Council;
- k. "Reserve" includes each and every part of Okanagan Reserve No. 1, Otter Lake Reserve No. 2, Harris Reserve No. 3, Swan Lake Reserve No. 4, Priests Valley Reserve No. 6, Duck Lake Reserve No. 7 and any other lands that may be set apart as reserves of the Band from time to time;
- l. “resolution” means a resolution approved by the Council in accordance with the procedures governing meetings of the Council from time to time;
- m. "vicious dog" includes
 - i. any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
 - ii. any dog that a Dog Control Officer, upon reasonable and probable grounds, believes to be a vicious dog;
 - iii. any dog 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;
 - iv. any dog which has bitten another animal or human without provocation.

1.3. This by-law applies to all owners of domestic animals residing on or visiting on the Reserve.

2. ADMINISTRATION

2.1. The Council may, by resolution, appoint a Dog Control Officer to provide for:

- a. the administration and enforcement of this by-law; and
- b. to receive registrations and to issue identification tags under this by-law.

2.2. The Council may, by resolution, establish a pound and/or appoint a pound keeper to provide for:

- a. the quarantine and impounding of dogs pursuant to this by-law; and
- b. to receive payment for the costs associated with capturing, quarantining or impounding dogs under this by-law.

2.3. The Council may, in the resolution appointing a Dog Control Officer or pound keeper:

- a. provide for reasonable remuneration to be paid to the Dog Control Officer or pound keeper;
 - b. limit the exercise of a Dog Control Officer's powers to one or more of the Reserves.
- 2.4. The Council shall give public notice of all Dog Control Officers, dog pounds and pound keepers immediately upon their appointment.
- 2.5. A Dog Control Officer, pound service provider or pound keeper may be an independent contractor and is not required to be an employee of the Band.
- 2.6. All complaints related to offences made under this bylaw shall be directed to the Dog Control Officer.

3. GENERAL PROHIBITIONS

- 3.1. Subject to section 6.2, every owner of a dog shall keep the dog safely tethered or penned up at all times.
- 3.2. A dog need not be tethered or penned up as provided in subsection 6.1 if the dog:
- a. is held on a leash by a person capable of restraining the dog's movements;
 - 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.
- 3.3. No owner shall allow a female dog in heat to remain in any public place unless the animal is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.
- 3.4. The owner of a dog who fails to take all necessary measures to ensure that a dog owned by them is under control or supervision or in the possession of the owner or his agent at all times while on the Reserve is guilty of an offence.
- 3.5. The owner of a dog which 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.
- 3.6. The owner of a dog shall, when the dog is on public property or private property belonging to another person, immediately pick up and thereafter lawfully dispose of, any feces, vomit, or any other waste left by the dog on the said property.
- 3.7. No owner shall allow his dog to remain unfed or without water whereby it either amounts to cruelty or causes the dog to become a nuisance.
- 3.8. No person shall punish or abuse a dog in a manner which is cruel or unnecessary.

4. PROHIBITIONS WITHIN SPECIFIC AREAS OF THE RESERVE

- 4.1. The Council may at any time prohibit the keeping of animals within any area of the Reserve.

- 4.2. Notice of any prohibition made by Council pursuant to subsection 7.1 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.
- 4.3. No person may establish, own or operate an establishment or facility for the boarding or treatment of dogs within the Reserve, without express written authorization to that effect from the Council, by way of Council resolution or a business licence.

5. VICIOUS DOGS

- 5.1. Anyone owning a vicious dog or aggressive dog must post a clearly visible sign at the entrance of their property to notify the public.
- 5.2. At all times, a vicious dog must be muzzled and kept on a leash whenever it is in a public place.
- 5.3. 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.
- 5.4. If a dog is apprehended because it has allegedly inflicted an unprovoked attack upon an animal or human person, the Dog Control Officer shall impound the dog and conduct an investigation to determine the validity of the allegation.
- 5.5. If the Dog Control Officer conducts an investigation pursuant to section 8.4 and determines that the allegations are true, then the Dog Control Officer may humanely destroy the dog after giving five (5) days notice to the owner, otherwise the Dog Control Officer shall return the dog to the owner.
- 5.6. A person or Dog 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.
- 5.7. A person or Dog Control Officer who must kill a vicious dog, pursuant to section 8.6, shall immediately report the incident to the Dog Control Officer and notify the dogs' owner.
- 5.8. No damages or compensation may be recovered as a result of killing a dog by a person or Dog Control Officer who is required to do so pursuant to section 8.6

6. IMPOUNDING AND SEIZURE

- 6.1. No owner shall permit his dog to be at large on the Reserve;
- 6.2. An animal found at large on the Reserve may be impounded for up to five (5) days and, after notifying the owner, 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.

- 6.3. A Dog Control Officer may seize a dog from any person whom he has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this bylaw.
- 6.4. Subject to section 9.7, a Dog Control Officer who has seized a dog pursuant to section 9.2 shall release the dog to its owner where:
 - a. the owner claims possession of the dog within five (5) days after the date of seizure, and;
 - b. the owner pays to the Dog Control Officer all expenses incurred in securing, caring for and feeding the dog as listed in Schedule "A" hereto attached;
 - c. the owner has obtained the necessary registration identification tag from the Dog Control Officer before the dog is released.
- 6.5. Where a dog has not been reclaimed within five (5) days after seizure, pursuant to section 9.4 and notification has been given to the owner, the Dog Control Officer may humanely destroy or dispose of the dog where a veterinary surgeon so directs and no damages or compensation may be recovered as a result of the destruction or disposal of such an animal.
- 6.6. The Dog Control Officer shall seek veterinary attention for an animal found to be diseased, whereby the owner has declined, failed or neglected to do so; in addition, any fee arising from the provision of such veterinary care shall be a charge against the owner of the animal.
- 6.7. Whereby, a dog is seized which is injured or should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals, the Dog Control Officer shall destroy the dog as soon after the seizure as the officer thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.
- 6.8. The Council shall forthwith make every reasonable effort to notify the owner of an animal which has been impounded.
- 6.9. A written report of each such incident, as described in this section, shall be filed with the Council by the Dog Control Officer.

7. ANIMAL DESTROYED IF UNABLE TO SEIZE

- 7.1. Where the Dog Control Officer, after reasonable effort, is unable to seize a dog that is running at large, contrary to the provisions of this by-law, the officer may destroy the dog.
- 7.2. No damages or compensation may be recovered as a result of the destruction of a dog by the Dog Control Officer pursuant to subsection 10.1.

8. PENALTIES

- 8.1. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than one thousand (\$1,000.00) dollars or to imprisonment for a term of not more than thirty (30) days, or to both a fine and imprisonment.
- 8.2. 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.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Band this ____ day of April, 2019.

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

being the majority of those members of the Council of the Band present at the aforesaid meeting of the Council.

The quorum of the Council is five (5) members.

I, Byron Louis, Chief 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 _____, 2014.

Witness

Chief Byron Louis