

OKANAGAN INDIAN BAND LIVESTOCK BYLAW

(BYLAW NO. ♦, 2018)

WHEREAS section 81 of the *Indian Act* provides that the Council of a Band may make bylaws for any or all of the following purposes:

the prevention of disorderly conduct and nuisances;

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;

with respect to any matter arising out of or ancillary to the exercise of the aforementioned powers;

the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a bylaw made under section 81.

NOW THEREFORE the Council of the Okanagan Indian Band at a duly convened meeting enacts as a bylaw the following:

1. TITLE

1.1 This bylaw may be cited as the “OKIB Livestock and Range Use Bylaw”.

2. DEFINITIONS

2.1 In this bylaw unless the context otherwise requires:

"Brand Inspector" means any inspector appointed under the *Livestock Identification Act*, RSBC 1996, c. 271, as amended;

"Cattle" includes a bull, cow, ox, heifer, yearling, steer and calf;

"Council" means the governing body of OKIB elected pursuant to the *Indian Act*;

"Director" means the person holding the position of executive director or chief administrative officer of OKIB;

"Horse" means any horse, stallion, mare, gelding, colt or filly;

"Impounded" means seized, delivered, received, or taken into the pound, or into the custody of the Poundkeeper as provided in this bylaw;

"Keep/Keeper/Keeping" means raising and/or maintaining, owning, possessing or harboring;

"Livestock" includes cattle, horse, mule, alpaca, ass, sheep, and goat;

"OKIB" means the Okanagan Indian Band, a "band" within the meaning of the *Indian Act*;

"OKIB Lands" means all reserve lands and lands owned fee simple by the Okanagan Indian Band;

"Owner" for the purposes of this bylaw, an owner must be an OKIB member in good standing and includes a person owning, possessing, harbouring or having custody, care and control of an animal or permitting an animal to remain about the person's house, premises or parcel of land and, where the owner is a minor, the person responsible for the custody of the minor;

"Parcel of Land" or **"Parcel"** means any lot, block, manufactured home pad or other area in which real property within OKIB Lands is held or into which real property within OKIB Lands is subdivided and the improvements affixed to it;

"Pound" means any building, enclosure or place designated as an animal pound or used by the Poundkeeper for the keeping of animals impounded under this bylaw;

"Poundkeeper" means the person appointed by the Director to be the Bylaw Enforcement Officer, or the authorized agent of any corporation, society, governmental body or other organization with whom OKIB has an agreement to act as Poundkeeper, including their assistants for the keeping of animals impounded under this bylaw

"Range" means OKIB Lands designated as a range in accordance with this bylaw;

"Range Season" means April 15 to November 15 of each year;

"Run or Running At Large" when used with reference to any animal means being elsewhere than on the premises of a person owning or having the custody, care or control of such animal and not being under the direct charge and effective control of a responsible and competent person.

3. KEEPING OF LIVESTOCK

- 3.1 Livestock, except Band member livestock located within the boundaries of a Range during Range Season, must be kept enclosed within a building, secure fenced parcel of land, corral or pen sufficient to retain them.
- 3.2 Any animal out of a secure area when range season is closed will be deemed as 'at-large'.
- 3.3 While Range Season is typically April 15 to November 15, OKIB has the right to change those dates based on environmental factors and the health of the range lands. OKIB will clearly communicate the Range dates to membership should the need arise to change the dates.

4. IMPOUNDING OF LIVESTOCK

- 4.1 The Director may appoint a person to be the Poundkeeper to carry out the duties of the Poundkeeper under this bylaw.
- 4.2 A person who has animals trespassing on their property must promptly notify the Poundkeeper, who may either direct the person to return the livestock to its owner, if known, or impound the livestock in accordance with this bylaw.
- 4.3 The Poundkeeper is authorized to seize and impound any livestock found running at large or trespassing in or upon any parcel of land, premises, or public place, in any enclosures or gardens, or any enclosed land within OKIB Lands.
- 4.4 The Executive Director may establish a schedule of fees in relation to this bylaw, in respect of seizure, boarding, haulage and destruction of animals. A schedule of fees shall be publicly available on the website and in the OKIB offices.
- 4.5 The Poundkeeper will make every effort to treat the animals in his/her care to the animal welfare standards laid out by the SPCA.
- 4.6 The SPCA must always act under the direction of the Poundkeeper/Bylaw enforcement officer and is not authorized to interact with any animals on reserve without consent of the officer.
- 4.7 The Poundkeeper may request the attendance of a veterinarian, to any impounded animal who, if in the opinion of the Poundkeeper, is suffering from any injury, disease or sickness, or from any other cause. The Poundkeeper is entitled to demand and receive from the owner, if known, the amount equivalent to the veterinary charges for professional services and attendance call administered to the animal, or such expenditure is to be realized from OKIB for animals whose owner cannot be located. The Poundkeeper may permit the suffering animal to be humanely destroyed.

5. NOTICE OF IMPOUNDING

- 5.1 If the owner of any impounded animal is known to the Poundkeeper, the Poundkeeper will immediately notify the owner by e-mail, telephone or text.
- 5.2 In case the owner is not known, or the owner or an appointed representative, so notified does not, within three (3) days of impoundment or notification, as the case may be, appear at the Pound and reclaim the impounded animal by payment of the applicable fees, the Poundkeeper may publish a Notice of Sale.
- 5.3 The Notice of Sale must be posted at the pound and in a public area of the OKIB administration buildings, and circulated on social media.
- 5.4 The Notice of Sale must be posted for at least six (6) clear days before the day of sale named thereon. More than one (1) animal may be included in each notice and the wording of the notice amended accordingly to merit the circumstances.

6. SALE OF IMPOUNDED LIVESTOCK

- 6.1 Every owner of an impounded animal must immediately upon being notified or becoming aware of the impoundment, reclaim the animal in accordance with the provisions of this bylaw.
- 6.2 Where any impounded animal has not been claimed in accordance with the provisions of this bylaw, the Poundkeeper may take whatever action is necessary to sell such animal by public auction on the day named in the Notice of Sale.
- 6.3 Where at any public auction held pursuant to this bylaw, no bid is received for the impounded animal to be sold or where a bid received is less than the outstanding fees due under this bylaw, the Poundkeeper may, at his discretion, sell it at private sale, and if in the opinion of the Poundkeeper, it is impossible to dispose of such animal for valuable consideration, the Poundkeeper may cause such animal to be humanely destroyed or otherwise disposed of.

7. ESTABLISHMENT OF RANGES

- 7.1 The Range lands referred to in this Bylaw are limited to the following: Blacktown range, Whiteman's range, Goose Lake range, Madeline Lake range (formerly Glenemma range), Beau Park ranch, Six mile flats and Irish Creek range. A map of the various ranges is included in Appenix 1.
- 7.2 Council may, by resolution passed at a duly convened meeting, alter the boundaries or description of a Range.

8. RANGE USE PERMITS

- 8.1 By March 31st of every year, owners **must** obtain a Range Use Permit from the Bylaw Enforcement Officer (also known as the Poundkeeper in this Bylaw). The permit will outline the type and number of animals that are to be put out onto a specific range.
- 8.2 As part of the permitting process, each owner must agree to a code of conduct for range use. Failure to sign the code of conduct will result in no permit being issued.
- 8.3 As part of the code of conduct, there will be a prohibition on stud horses older than 2 years of age being on the range. If the Poundkeeper suspects a stud horse to be older than 2 years of age, the onus is on the owner to accurately confirm the date of birth of the animal.
- 8.4 If owners put their animals on the range without a valid permit, their animals will be deemed to be in trespass and the Poundkeeper will have the authority to remove them.
- 8.5 The permits will be given on a first-come first-serve basis for each Range until those Ranges reach the stocking rates established by the Bylaw Enforcement Officer in consultation with local knowledge and scientists.

- 8.6 Once a Range becomes full, owners will be asked to put their animals in another suitable Range.
- 8.7 No game ranching of any kind will be permitted on any parcel of land within all OKIB reserve boundaries and no permits will be granted for such activity.

9. FEES AND FORMS

- 9.1 Council may, by resolution passed at a duly convened meeting, establish, correct, revise or update the terms of any applicable fee schedules, forms, protocols or other related documentation which complement and support this bylaw, and will post notice of same in a public area of the OKIB administration building and make a copy of same available for viewing free of charge at the administrative offices of OKIB and available for distribution at a nominal charge.

10. IMMUNITY

- 10.1 No action for damages lies or may be instituted against present or past Council, the Poundkeeper, or members, employees, servants or agents of either OKIB or Council:
- (a) for anything said or done or omitted to be said or done by that person in the actual or required performance of the person's duty or the exercise of their authority; or
 - (b) for any alleged neglect or default in the actual or required performance of the person's duty or the exercise of their authority.
- 10.2 Section 10.1 does not provide a defence if:
- (a) Council, Poundkeeper, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - (b) the cause of action is libel or slander.
- 10.3 OKIB, present or past Council, or members, employees, servants or agents of any of OKIB or Council is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this bylaw or any other OKIB Law, or from the neglect or failure, for any reason or in any manner, to enforce this bylaw or any other OKIB Law.

BE IT KNOWN that this bylaw entitled, "◆" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. ◆ by the Council of the Okanagan Indian Band at a duly convened meeting of Council held on the ◆ day of ◆, 2018.

Voting in favour of this bylaw are the following members of Council:

Chief Byron Louis

Councillor Cindy Brewer

Councillor Valerie Chiba

Councillor Timothy Isaac

Councillor Garrett Lawrence

Councillor Allan Louis

Councillor Dean Louis

Councillor Sheldon Louis

Councillor Shawna Whitney

Councillor Dan Wilson

Councillor Leland Wilson

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

The Quorum of Council is five (5) members.

Number of members of Council present at the meeting: _____