

THE TOBIQUE BAND COUNCIL

BY-LAW No. _____

BEING A BY-LAW RESPECTING THE CARE AND CONTROL OF ANIMALS ON THE
RESERVE

ENACTED ON THE 17th DAY OF September 2013

WHEREAS Section 81, paragraph (a), (d), (e), (q) and (r) of the Indian Act empower the Council of a Band of Indians to pass by-laws to provide for the health of all residents on 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 Community and the Tobique Band 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, and a nuisance of such residents;

THEREFORE, the Tobique Band Council enacts a by-law as follows:

Short title

1. This by-law may be cited as the "Tobique Band Council Animal Control By-Law."

Interpretation

2. In this by-law

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

"animal control officer" means an animal control officer appointed pursuant to Section 3, or any by-law enforcement officer and includes an officer of the RCMP (Royal Canadian Mounted Police) and a person

designated by the Tobique Band Council for the purpose of enforcing the provisions of this by-law;

“animal register” means the register kept by a designate from the Health department for the purpose of the registration of all dogs on the reserve;

“band” means the Tobique Band;

“council” means the council of the Tobique Band, as defined in the Indian Act;

“dog” means any dog, male or female more than 8 months old, and includes an animal that is cross between a dog and a wolf;

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

“medical officer of health” means the medical officer so appointed by band council resolution;

“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, and “owns” and “owned” have a corresponding meaning;

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

“reserve” means the Tobique Indian Reserve;

“vicious dog” include:

- i. Any dog that demonstrates any ferocious, vicious, or aggressive behavior;

- ii. Any dog that an animal control officer, upon reasonable and probable grounds, believes to be a vicious dog;
- iii. Any dog which has been the cause of prosecution under this by-law within the previous six (6) 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.

Animal Control Officer

- 3. (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 Dogs

- 4. (1) Every person keeping one or more dogs in the reserve shall register and have an identification tag placed around the neck of each dog.
- (2) The application for registration and identification tag shall be filed with the Tobique Band animal control officer and include:
 - (a) the applicant's name;
 - (b) the applicant's address or lot number;
 - (c) a description of the dog sought to be registered, including sex, age, name and breed if known;
 - (d) the number of animals in the household;

(e) a record that the dog is immunized against rabies, noting the date of such immunization, the name of the person immunizing the dog including the maker's name of the vaccine and its batch number;

(f) any other information deemed by the animal control officer to be necessary for the proper administration of the by-law.

(3) The Council may determine appropriate charges for the registration and issuance of identification tags.

(4) The animal control officer shall issue the identification tag upon registration of any dog and payment of any applicable fee and, if necessary, proof that the animal has been immunized against rabies.

(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 officer will be valid for a year from the date of issuance of the identification tag.

Immunization of Animals

5. All animals in the reserve must be immunized in accordance with generally accepted veterinary standards.
6. The owner of any animal exposed to rabies shall, on demand by the band council, surrender such animal to the band council to be held by the animal control officer in quarantine for a period of 14 days and such animal shall not be released from such quarantine without the written permission of a certified veterinarian. All costs will be the responsibility of the owner.
7. Upon demand of the band 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 exposed to rabies to be held in quarantine at the discretion of a certified veterinarian. All costs will be the responsibility of the owner.

8. Any animal found to be infected with rabies shall be destroyed by the animal control officer at the expense of the owner.

Limitation on Animals Per Dwelling

9. (1) There is no set limitation on how many domestic animals shall be kept, harbored or possessed in any dwelling, provided that:
 - (a) The owner does not breach any of the provisions of this by-law;
and
 - (b) The owner has the appropriate housing space; and
 - (c) The owner provides adequate care to all animals kept, harbored or possessed in any dwelling.
- (2) Notwithstanding subsection 16(1), the Council may limit the number of animals per dwelling to ensure the health and safety of the community.

General Prohibitions

10. (1) Subject to subsection (2), every owner of a dog shall keep the dog safely tethered or penned up at all times.
- (2) A 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 movements;
 - b) is being used by a person for the purpose of hunting;
 - c) is used by a visually impaired person as a guide dog.
- (3) No owner of a dog shall permit such dog to cause damage to another person or another person's property or otherwise create a nuisance or

disturbance by barking, howling, yelping, growling or otherwise annoy or disturb the peace of residents on the reserve.

11. No owner shall allow a female animal in heat to remain in any public place unless such a female animal is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.
12. The owner of an animal who fails to take all necessary measures to ensure that such dog does not enter upon property without being under the control or in the possession of the owner, is guilty of an offence.
13. 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.
14. No owner shall allow his dog to remain unfed or without water as sufficiently long either to amount to cruelty or to cause the dog to become a nuisance.
15. No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.

Prohibitions Within Specific Areas of the Reserve

17. (1) The Council may at any time prohibit the keeping of animals within any area of the reserve.
 - (2) Notice of any prohibitions made by Council pursuant to paragraph (a) 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 Band Council, by way of band council resolution.

Vicious Dogs

18. Anyone owning a vicious dog or aggressive dog must post a clearly visible sign notifying the public.
19. A vicious dog must, at all times, must be kept on a leash and be muzzled whenever it is in a public place.
20. On private property, a vicious dog shall be kept on a secure leash or in a restricted area that shall be constructed so as to prevent any escape by the dog and prevent the entry by children.

Impounding and Seizure

21. (1) No owner shall permit a dog belonging to him to be at large in the Tobique Reserve.
 - (2) An animal found at large in the Tobique Reserve may be impounded for a maximum of two (2) 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 by the owner.
22. (1) An animal 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 the by-law.
 - (2) If an animal is apprehended because it has inflicted an unprovoked bite upon an animal or human person, the animal control officer shall destroy the animal as per the protocol from SPCA.
 - (3) Subject to subsection (6), an animal control officer who has seized a dog pursuant to subsection (1) shall restore possession of the dog to its owner where:
 - a) the owner claims possession of the dog within two (2) days after the date of seizure, and;

b) the owner pays to the animal control officer all expenses incurred in securing, caring for and feeding the dog as listed in Schedule "A" hereto attached;

c) where the owner has failed to purchase an identification tag, he obtains the registration identification tag from the animal control office before he obtains the release of his dog.

(4) If an animal is found to be diseased, the animal control officer shall follow the guidelines/protocols from the SPCA, where the owner has declined, failed or neglected to do so; any fees arising from the provision of such shall be a charge against the owner of the animal.

(5) Where a dog has not been reclaimed within two (2) days after seizure pursuant to subsection (3), the animal control officer may humanely destroy or dispose of the dog; no damages or compensation may be recovered as a result of the destruction or disposal of a dog by the animal control officer. The destruction or disposal fees must be paid by the owner of the dog.

(6) Where, in the opinion of the animal control officer, a dog seized under this section is injured or 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 dog as soon after seizure as he thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.

(7) When an animal has been impounded, the Band Council or designate, shall forthwith make every reasonable effort to notify the owner of such animal.

(8) A written report of each such incident as described in this section shall be filed with the Band Council or designate.

Penalty

23. 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 one hundred dollars (\$100.00) or to imprisonment for a term not exceeding five (5) days, or both.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Tobique Band this 17th day of September, 20 13.

Voting in favor of the by-law are the following members of the Council.

Chief Birch Ku



(Member of the Council)



(Member of the Council)



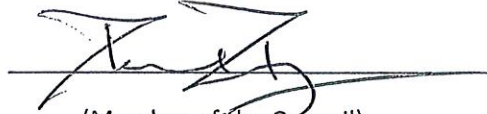
(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

Being the majority of those members of the Council of the Tobique 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: _____

Schedule "A"

REGISTRATION FEES

Paid by the Owner.

IMPOUNDMENT AND SEIZURE FEES

Amounts to be established in accordance with the contract holder- SPCA.

Schedule "B"

Penalty Amendment: On the third offence of the same dog, the dog shall become property of the Tobique First Nation.

L.P.
L.P.
B.P.
~~W.P.~~
W.P.

Amendments to Tobique First Nations Animal Control Bylaw

24. Any dog found in violation of this bylaw for the third consecutive time, shall become the property of the Animal Control Officer and/or Agency approved by Council to enforce the Animal Control Bylaw. This section overrides any other section of the bylaw that may be in conflict.

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Schedule 2

Penalty Amendment: On the third offence of the same dog, the dog shall become property of the Tobique First Nation.