

Affairs Canada

Indian & Inuit Affairs

Chronological No. 15

File Reference

BAND COUNCIL RESOLUTION

NOTE: The words "From our Band Funds" "Capital" or "Revenue", which ever is the case, must appear in all resolutions requesting expenditures from Band Funds.

THE COUNCIL OF THE

AGENCY Nanaimo First Nation

Vancouver Island

PROVINCE British Columbia

PLACE Nanaimo

Current Capital Balance	\$ _____
Committed	\$ _____
Current Revenue Balance	4 622 157 11\$ 10 43
Committed	\$ _____

DATE 24 June AD 19 97
Day Month Year

DO HEREBY RESOLVE

The Nanaimo Band By-law No. 97.06

BEING A BY-LAW RESPECTING THE CONTROL OF DOGS ON THE RESERVE

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 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 Council of the Nanaimo Band is of the opinion that the uncontrolled ownership, breeding, and running at large of dogs may be detrimental to the health of the residents on the reserve, and a nuisance to such residents;

THEREFORE, the Council of the Nanaimo Band of Indians enacts a by-law as follows:

Short Title:

1. This by-law may be cited as the "Nanaimo Reserve Dog Control By-law."

Interpretation

2. In this by-law: "**council**" means the Council of the Band. "**dog**" means any dog, male or female, more than four months old and includes an animal that is a cross between a dog and a wolf; "**muzzle**" means to secure a dog's mouth in such a fashion that it cannot bite anything; "**officer**" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person, including a Band by-law officer, appointed by the Council for the purpose of maintaining law and order on the reserve pursuant to By-law No. 97.06 Relating to Law and Order; "**owner**" of a dog includes a person who possesses or harbors a dog, 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 the control of any person; "reserve" means the Nanaimo Indian Reserve(s) No. 1,2,3, and 4.

3.1 Subject to subsection (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(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; or (c) is being used by a person to work in a lawful manner with sheep or cattle. (d) is being used by a visually impaired person as a guide dog.

3.3 No owner shall allow his dog to remain unfed or unwatered as sufficiently long either to amount to cruelty or to cause the dog to become a nuisance.

3.4 No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.

3.5 No owner shall permit a dog to bark, yelp, growl, or otherwise annoy or disturb the peace or residents of the reserve

3.6 No owner shall permit a female dog in heat to be off the owner's premises.

3.7 (a) The Council may at any time prohibit the keeping of dogs within any area of the reserve. (b) Notice of any prohibition made by Council pursuant to par.(a) shall be posted in the Band office and after the date of the posting of such notice, no person shall keep or have a dog within the prohibited area.

Seizure

4.1 An officer may seize a dog from any person whom the officer has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this by-law.

4.2 Subject to subsection (4), an 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 five(5) days after the date of seizure, and; (b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog,

4.3 Where a dog has not been reclaimed within five(5) days after seizure pursuant to subsection(2), the officer may destroy or dispose of the dog as he sees fit and no damages or compensation may be recovered as a result of the destruction or disposal of a dog by the officer.

4.4 Where, in the opinion of the officer, a dog seized under this section is injured, diseased, or should be destroyed without delay for humane reasons or for reasons of health or safety, the officer shall destroy the dog as soon after seizure as he thinks fit and no damages or compensation may be recovered as a result of the destruction of the dog by the officer.

Destruction where unable to seize

5.1 Where an officer, after reasonable effort, is unable to seize a dog that is running at large contrary to the provisions of this by-law, he may destroy the dog.

5.2 No damages or compensation may be recovered as a result of the destruction of a dog by an officer pursuant to subsection(1).

Protection from dogs

6.1 Any person may kill a dog that is running at large and is in the act of pursuing, attaching, injuring, damaging, killing or destroying: (a) a person, (b) another dog that is tethered; or (c) a good cache, harness or other equipment.

6.2 No damages or compensation may be recovered as a result of the killing of a dog by any person pursuant to subsection (1).

Penalty

7.1 Every person who contravenes any of the provisions of this by-law is guilty of an offense and is liable on summary conviction to a fine of not more than five hundred dollars (\$500) or to imprisonment for a term not exceeding thirty (30) days, or both.

Repeal

8.1 Bylaw number 1995.01 enacted on the 1st day of August, 1995, and being a By-law to regulate the control of dogs on the reserve, be and is hereby repealed.

THIS BY-LAW IS HEREBY enacted by the Council of the Nanaimo Band at a duly convened meeting of the Council dated on the 17th day of June, 1997.

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

S. Good

Councillor Sandra Good

Irene M

Councillor Irene Seward

A. Johnny

A/Chief/Councillor James Johnny

James Seward

Councillor James Seward

Councillor Jeff Thomas

Councillor Brian White

Hannah White

Councillor Hannah White

Margaret White

Councillor Margaret White

Councillor Marina White

Bill L. Wyse

Councillor Bill L. Wyse

Councillor Wesley Wyse

being the majority of those members of Council of the Nanaimo Band present at the aforesaid meeting of the Council. The quorum of the Council is 5 members.

I, James Johnny Acting 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 District/Regional/Hull offices (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 17th day of June, 1997.

Witnessed by: *Rowena Arlene Wyse*
Rowena Arlene Wyse

A. Johnny
(Acting Chief/Councillor) James Johnny