

BY-LAW NO. 2010.01
of the Soda Creek Indian Band.
Being a By-law Respecting the Care and
Control of Animals on the Reserve.

WHEREAS section 81, paragraph (a), (d), (e), (q) and (r), of the *Indian Act* empower the Council of an Indian Band to pass by-laws to provide for the health of residents on the reserve, the prevention of nuisances, the protection against and the prevention of trespass by domestic animals, 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;

AND WHEREAS the Council of the Soda Creek Indian Band 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 to such residents;

THEREFORE, the Council of the Soda Creek Indian Band enacts this Animal Control Bylaw, Number 2010.01, as follows:

SHORT TITLE

1. This by-law may be cited as the "**Soda Creek Indian Band Animal Control Bylaw**".

INTERPRETATION

2. In this by-law:

"**Animal**" means a domesticated dog, cat, horse, cow, pig, sheep, goat, goose, duck, or pet of any species;

"**Animal Control Officer**" means an Animal Control Officer appointed pursuant to section 4, or any Peace Officer or other person appointed by the Animal Control Officer for the purpose of enforcing the provisions of this by-law.

"**At Large**" means off the premises of the Owner and not under observation and control;

"**Cow**" includes any cattle, whether male or female.

"Dog" means any dog, whether male or female and includes an animal that is a cross between a dog and a wolf;

"Horse" includes a horse, donkey or mule, or combination, whether male or female.

"Livestock" includes horses, cows, pigs, sheep, geese and ducks, but does not include dogs, cats or household pets.

"Owner" is a person who possesses, harbours, keeps or is responsible for the harbouring or keeping of an Animal.

"Peace Officer" includes A Police officer or other person employed for the preservation and maintenance of the public peace.

"Soda Creek Indian Band Reserve" includes Soda Creek IR#1 and Deep Creek IR#2.

"Vicious Dog" means a Dog that:

- (a) demonstrates ferocious, vicious or aggressive behaviour;
- (b) has bitten or attacked, without provocation, a person or another Animal; or
- (c) repeatedly chases Livestock or deer.

APPLICATION

3. This by-law applies to Animals found on Soda Creek Indian Band Reserves and the Owners of those Animals.

ANIMAL CONTROL OFFICER

4. Band Council may appoint, by band council resolution, an Animal Control Officer to provide for the administration and enforcement of this by-law.
5. Band Council may, by band council resolution, provide for reasonable remuneration to be paid to Animal Control Officers.

RESPONSIBILITY OF OWNERS GENERALLY

6. The Owner of an Animal is liable for damage or nuisance caused by it.
7. The Owner of an Animal is responsible for its health, well-being and

actions.

8. The Owner of an Animal is responsible for compliance with this by-law.
9. No Owner of an Animal shall neglect it or allow it to remain without food, water or necessary nutrients, including but not limited to salt, where such amounts to cruelty or causes the Animal to cause damage or become a nuisance.
10. No Owner or other person shall punish or abuse an Animal in a manner which is cruel or unnecessary.
11. No Owner of an Animal shall permit it to be At Large.

REGISTRATION AND IDENTIFICATION OF DOGS

12. A Dog Owner shall register his or her Dog with the Animal Control Officer within 3 months after this Bylaw comes into effect, or when the Dog becomes 6 months old, whichever is later.
13. When a Dog is registered, the Animal Control Officer will provide the Dog Owner with a dog tag.
14. The Owner shall ensure that the dog tag is securely attached to the collar or harness of the Dog and worn by the Dog at all times.

REGISTRATION AND IDENTIFICATION OF LIVESTOCK

15. An Owner shall register his or her Livestock with the Animal Control Officer within 3 months after this Bylaw comes into effect, or within 10 days after the birth of Livestock, whichever is later.
16. The Owner shall ensure that a tag, brand or mark, sufficient in the opinion of the Animal Control Officer to identify the Livestock, is borne by the Livestock at all times.

CONTROL OF DOGS

17. A Dog Owner shall keep his or her Dog safely tethered, penned or under observation and control at all times.
18. For the purposes of section 17, a Dog is considered to be under observation and control when it is:
 - (a) held on a secure leash by a person capable of restraining the Dog's movements;

- (b) being used by a person in the act of lawful hunting;
- (c) being used by a person to work in a lawful manner with Livestock; or
- (d) being used by a visually impaired person as a guide dog.

19. No owner shall allow a female Dog in heat to remain in any public place unless the animal is attached to a secure leash and under observation and control at all times.

CONTROL OF LIVESTOCK

20. An Owner of Livestock shall keep his or her Livestock safely contained within fences, tethered, penned or under the care and control of a person capable of restraining the Livestock's movements.

VICIOUS DOGS

21. The Owner of a Vicious Dog shall keep it on a secure leash or in a secure area on the Owner's premises.

22. For the purpose of section 21, a secure area is an area with fencing and other security measures to ensure that the Vicious Dog cannot escape and that other Dogs and children cannot enter without the knowledge and consent of the Owner.

23. The Owner of a Vicious Dog shall post and keep posted a clearly visible sign at the entrances to the Owner's premises notifying the public of the Vicious Dog.

24. The Owner of a Vicious Dog shall keep it muzzled and on a secure leash when it is not on the Owner's premises.

ANIMALS EXPOSED TO RABIES

25. The Owner of any Animal that has been exposed to rabies shall, on demand of an Animal Control Officer, forthwith surrender such Animal to the Animal Control Officer to be held in quarantine at the discretion of the Animal Control Officer.

26. 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.

REASONABLE FORCE

27. Any person, including the Animal Control Officer, may take reasonable measures, including reasonable force, to stop an Animal in the act of:
- (a) pursuing or attacking a person or another Animal; or
 - (b) damaging property.
28. Reasonable force under section 28 may include killing the Animal if the Animal Control Officer or other person taking the measure reasonably believes that it is necessary to stop the Animal from causing death or bodily harm.
29. Any person who kills an animal under section 29 shall immediately notify the Animal Control Officer of his or her actions.
30. The Animal Control Officer shall forthwith notify Band Council and the Owner of any Animal killed under section 29.
31. No damages or compensation may be recovered as a result of killing an animal by an Animal Control Officer or other person who does so in accordance with section 29.

SEIZURE AND IMPOUNDMENT

32. The Animal Control Officer or his authorized agent may seize and impound any Animal that:
- (a) is found At Large;
 - (b) has attacked, without provocation, a person or another Animal;
 - (c) has been neglected or abused;
 - (d) has rabies; or
 - (e) has a communicable disease that is not, in the reasonable opinion of the Animal Control Officer, being adequately controlled or treated.
33. The Animal Control Officer shall, as soon as practicable after seizing an Animal, take reasonable steps to identify and notify the Owner and shall notify the Band Council of the seizure.

34. While an Animal is impounded, the Animal Control Officer may authorize any reasonable veterinary treatment for the Animal, including, where necessary, euthanasia.
35. The costs of the seizure, impoundment and veterinary treatment of the Animal are the responsibility of the Owner.

OFFENCES

36. A person who contravenes this by-law commits an offence.

37. An Owner who:

- (a) allows his or her animal to cause damage or create a nuisance;
- (b) fails to register a Dog or Livestock in accordance with this bylaw;
- (c) fails to ensure that his or her Dog or Livestock bears a tag or other identification in accordance with this bylaw;
- (d) neglects an Animal or allows it to remain without food, water or necessary nutrients, including but not limited to salt, where such amounts to cruelty or causes the Animal to cause damage or become a nuisance;
- (e) permits an Animal to be At Large;
- (f) fails to keep his or her Dog safely tethered, penned or under observation and control at all times;
- (g) allows a female Dog in heat to remain in any public place unless the animal is attached to a secure leash and under observation and control at all times;
- (h) fails to keep his or her Livestock safely contained within fences, tethered, penned or under the care and control of a person capable of restraining the Livestock's movements;
- (i) fails to post and keep posted a clearly visible sign at the perimeter and entrances to the Owner's premises notifying the public of the presence of the Vicious Dog;

is liable on a first offence to a written warning from the Animal Control Officer, and on a second offence to a fine of \$50, and on a subsequent offence to a fine of up to \$500.

38. An Owner who:

- (a) fails to keep a Vicious Dog on a secure leash or in a secure area on the Owner's premises; or
- (b) fails to keep a Vicious Dog muzzled and on a secure leash when it is not on the Owner's property,

and any person who:

(c) punishes or abuses an Animal in a manner which is cruel or unnecessary,
is liable on a first offence to a fine of up to \$500, and on a subsequent offence to a fine of up to \$1000.

39. The penalties described in sections 39 and 40 are in addition to any charges resulting from the seizure, impoundment and veterinary treatment of the Animal.

RELEASE OF IMPOUNDED ANIMAL

40. At any time within 5 days after receiving notice of the seizure and impoundment of an Animal, the Owner may apply to the Animal Control Officer for its return.
41. The Animal Control Officer shall, upon application, release the Animal to its owner upon:
- a. receipt of payment in full of any fines imposed under section 39 or 40 and any costs under section 37, or a satisfactory written agreement to do so;
 - b. receipt of written assurance from the Owner that the circumstances which led to the offence have been or will be corrected in a timely manner;
 - c. the Owner registering the Animal as required by this by-law; and
 - d. it being safe, under all of the circumstances, to release the Animal to the Owner's care.
42. If the Owner does not apply within 5 days after receiving notice of the seizure of the Animal for its release, or if the Owner cannot be identified after reasonable efforts to do so, the Animal Control Officer may humanely destroy or dispose of the animal and recover the costs of the destruction or disposal from the Owner.
43. If the Owner applies for release of the Animal but the Animal Control Officer decides not to release the Animal, the Animal Control Officer shall forthwith provided the Owner and Band Council with the decision and his or her reasons for it in writing.
44. The Animal Control Officer may refuse to release an Animal under this section if:
- a. the Owner has not paid the fines in full or executed a satisfactory written agreement to do so;

- b. the Owner has not provided the Animal Control Officer with written assurance that the circumstances which led to an offence under this bylaw have been or will be corrected in a timely manner; or
- c. the Animal is required by this by-law to be registered, and the Owner has not registered it.

APPEAL OF ANIMAL CONTROL OFFICER DECISION

- 45.** The Owner may appeal a fine imposed under section 39 or 40, or the decision of the Animal Control Officer under section 45 to Band Council in writing within 5 days of receipt of notice of the penalty or the Animal Control Officer's decision, as the case may be.
- 46.** If the Owner does not appeal a fine in a timely manner or if Band Council denies the appeal, the fine shall be payable forthwith.
- 47.** If the Owner does not appeal a decision of the Animal Control Officer under section 45 in a timely manner or if Band Council denies the appeal, the decision stands and the Animal Control Officer may humanely destroy or dispose of the animal and recover the costs of the destruction or disposal from the Owner.
- 48.** 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.
- 49.** This by-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Soda Creek Indian Band this 20th day of April, 2010.

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

B Sellars.
(Member of the Council)

[Signature]
(Member of the Council)

Majorie Sellars
(Member of the Council)

W.J. Phillips
(Member 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 **three** members.

Number of members of the Council present at the meeting: **4**.

I, *BEV SELLARS* Chief of the Soda Creek Indian 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 office (as the case may be) pursuant to subsection 82(1) of the *Indian Act*, this 20th day of April, 2010.

W.J. Phillips
(Witness)

B Sellars
(Chief)