

**The Chapel Island Band
By-Law No. 1999.01
Being a By-Law Respecting the Care and Control of Dogs on the
Reserve**

WHEREAS section 81, paragraph (a), (d), (e), (q) and (r) of the Indian Act, R.S.C. 1985, c. I-5, empowers 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 of 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 Chapel Island has received support from the residents of Chapel Island respecting the care and control of the dogs on the reserve;

AND WHEREAS, the Council of Chapel Island 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 Chapel Island enacts the following by-law:

Short Title

- 1. This by-law may be cited as the "The Chapel Island Dog Control by-law".**

Interpretation

- 2. In this by-law:**

- (1) "Animal Control Officer" means any police officer, or other person charged with the duty to preserve and maintain the public peace and includes any person appointed by the Band to enforce its by-laws.**
- (2) "At Large" or "Running at Large" means off the property occupied, or owned by the owner while not muzzled or under control of the owner.**
- (3) "Attack dog" means any dog trained to respond in a fierce and dangerous way to the commands of its owner.**
- (4) "Band" means the Chapel Island Band.**

- (5) **"Band Council" means the Council of the Chapel Island Band.**
- (6) **"Council" means the Council of the Chapel Island Band, as defined in the Indian Act.**
- (7) **"Dog" includes any dog of any age, male or female or neutered, or any animal that is the result of the breeding of a dog and any other animal.**
- (8) **"Dwelling" means each single unit being a fully detached home, semi-detached home, a multiple attached home, 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.**
- (9) **"Fierce and Dangerous" dogs means any dog which has:**
 - (a) **inflicted injury on a human being, or killed a human being, or animal, or damaged property without provocation;**
 - (b) **a dog that is owned or harboured and/or trained for the purpose of fighting;**
 - (c) **any dog not owned by a government or law enforcement agency used primarily to guard public or private property.**
- (10) **"Kennel" means any building, structure, compound, group of pens or cages, or property in which or where more than two dogs are kept.**
- (11) **"Medical officer of health" means the medical officer of health so appointed by Band Council Resolution or by Health Canada, Indian Health Services.**
- (12) **"Muzzle" means to secure a dog's mouth in such a fashion that it cannot bite anything.**
- (13) **"Owner" means any person who owns, possesses or harbours a dog, and is resident on the Chapel Island reserve. When the person is a minor, owner includes the person with custody of this minor.**
- (14) **"Reserve" means The Chapel Island Reserve #22.**
- (15) **In this by-law the singular includes the plural and the masculine includes the feminine.**

Authorization for Dog Control

3. The Council may authorize, by Band Council Resolution, an Animal Control Officer to provide for the administration and enforcement of this by-law and more specifically to issue written warnings, destroy fierce or dangerous dogs, and charge persons who contravene this by-law.

Registration

4. (1) On or before the first day of June in each calendar year, the owner of any dog on the reserve shall register the dog and obtain an identification card tag with the registration number and year for which it was issued stamped thereon.

(2) The application for registration and identification tag shall be filed with the Animal Control Officer and include:

- (a) the applicant's name;**
- (b) the applicant's address or lot number;**
- (c) the applicant's home telephone number;**
- (d) a description of the dog sought to be registered, including age, sex, name and breed if known;**
- (e) the number of dogs in the household; and,**
- (f) any other information deemed by an Animal Control Officer to be necessary for the proper administration of this By-Law;**

(3) The charge for registration and identification tags shall be five dollars (\$5.00) per year;

(4) The Animal Control Officer or person designated by the Council to receive registration shall issue the identification tags upon registration and payment of the annual fee.

(5) The identification tag shall be securely attached to the collar or harness of the dog and shall be worn by the dog at all times.

(6) The registration and identification tag issued by the Animal Control Officer shall be valid for one year, from June 1st of the year issued to June 1st of the consecutive year.

Records

5. (1) The Animal Control Officer shall keep a record of all registered dogs including the date of registration, the registration number and all other information provided.

(2) The Animal Control Officer shall keep a record of every dog owner who is charged with an offense or whose dog is impounded under this by-law. The record shall include the name and the description of the dog owner.

Limit on the Number of Dogs for Dwellings

6. (1) No persons on the reserve shall keep or allow to be kept more than two (2) dogs on the premises of the dwelling.

(2) An Animal Control Officer, who has reasonable grounds to believe that an owner has contravened subsection (1) shall forward a written notice to the said owner, to remove from the premises of the dwelling that number of dogs exceeding the limit of two (2) dogs, within forty-eight (48) hours of receipt of the notice.

(3) An Animal Control Officer shall seize and cause to be impounded at the nearest animal pound any animal exceeding the established limit of two (2) pursuant to the subsection (1), and the owner shall be liable to pay all impoundment costs.

Immunization of Animals

7. (1) All dogs on the reserve must be immunized in accordance with generally accepted veterinarian standards.

(2) All dogs must wear immunization tags to be issued by a certified veterinarian.

Rabid

8. (1) The owner of any such dog exposed to rabies shall, on demand from the Band Council or Animal Control Officer, surrender such dog to be held at the nearest animal pound in quarantine for a period of seven (7) days and such a dog shall not be released from such quarantine without the written permission of the medical officer of health.

(2) An owner upon demand made by the Band Council or Animal Control Officer shall immediately surrender any dog which has bitten a person or which has been exposed to rabies to be held in quarantine at the discretion of the medical officer of health.

(3) If the Animal Control Officer is of the opinion that a dog which has been seized 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, without notice of impounding, may destroy the dog as soon after seizure as he thinks fit without permitting any person to reclaim the animal and no damages or compensation may be received on account of such action.

(4) A written report of each such incidence described in this section shall be filed with the Council.

(5) Any dog found to be infected with rabies shall be destroyed by its owner or by an Animal Control Officer at the expense of the owner.

Offenses

9. (1) Any individual that trains a dog to be an attack dog within the meaning of this by-law in an area:

- (a) outside of an impoundment area which does not prevent the dog from exiting the training area; and/or
- (b) within 500 feet of a residence other than the residence of the trainer;

shall commit an offence under this by-law and is subject to the penalties prescribed herein.

(2) The owner of an unprovoked dog that attacks or chases individuals, without causing bodily harm will be notified by the Animal Control Officer and shall be required to tie the dog. Second offenses resulting from this section shall result in destroying and disposal of the dog.

(3) The owner of a dog that damages property will be notified by the Animal Control Officer and shall be required to tie the dog. Second offenses shall result in the dog being impounded by the Animal Control Officer and the owner shall pay the actual cost of impoundment before the release of the dog.

Impounding

10. (1) No owner shall permit a dog to be at large on the Reserve;

(2) An Animal Control Officer, without notice or to complaint against the owner or any such dog, may impound dogs:

- (a) Found running at large contrary to this by-law;

- (b) That are fierce and dangerous;**
- (c) That are rabid, or appear to be rabid;**
- (d) That persistently disturb the quiet of the neighbourhood by barking, howling, or otherwise; or**
- (e) For which an immunization tag has not been obtained or is not worn by the dog.**

(3) An Animal Control Officer shall make every reasonable effort to notify the registered owner of an impounded dog bearing a tag, that:

(a) the dog has been impounded, and

(b) the dog may be destroyed or otherwise disposed of unless the dog is claimed by the owner within 48 hours of being impounded.

(4) The owner of any dog that has been impounded for its third infraction within 24 months may not claim the dog and the dog shall be sold, adopted out or destroyed.

(5) If the owner appears at the pound and claims the dog within 48 hours of an Animal Control Officer first taking possession of the dog, the dog shall be discharged if:

- (a) all impounding fees for room and board are paid;**
- (b) all veterinary bills incurred are paid; and**
- (c) the owner claiming the dog is not a minor.**

(6) Any dog which is not claimed within 48 hours of an Animal Control Officer first taking possession of the dog, shall be disposed of by either selling the dog for the best price obtainable, adopting out or if the dog cannot be sold or adopted, by destroying it in a humane manner.

(7) An Animal Control Officer pursuing a dog in accordance with the by-law may pass over the property of any person, but this subsection is not to be construed so as to provide immunity against action for actual damage to the property of any person.

(8) The Animal Control Officer shall contact a pound keeper who shall keep all impounded dogs and provide them with shelter, food and water.

(9) The pound keeper shall be obliged to provide food and water for any

dog impounded for a period of 48 hours beginning at the time the dog was picked up by the Animal Control Officer.

Destruction Where Unable to Seize

11. (1) Where an Animal Control 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.

(2) No damages or compensation may be received as a result of the destruction of a dog by an Animal Control Officer pursuant to subsection (1).

(3) An Animal Control Officer may kill a dog that is running at large and is in fact in the act of pursuing, attacking, injuring, damaging, killing or destroying:

- (a) a person;**
- (b) another dog that is tethered; or**
- (c) a food cache, harness or other equipment.**

Prohibitions Within Specific Areas of the Reserve

12. (1) The Council may at any time prohibit the keeping of any dog within any area of the reserve.

(2) Notice of any prohibition made by Council pursuant to subsection (1) shall be posted in the band office and after the date of the posting of such notice, no person shall keep or have any dog within the prohibition area.

(3) No person shall establish, own or operate a kennel, establishment or facility for the boarding or treatment of dogs within the limits of the reserve, without express written authorization to that effect from the Band Council, by way of Band Council resolution.

General Prohibitions

13. (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 or,
- (c) is used by a visually impaired person as a guide dog.

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

14. No owner shall allow a female dog in heat to remain in any public place unless such a female dog is attached to a lease and is accompanied by and is under the observation and control of the owner or his agent.

15. The owner of a dog that inflicts an unprovoked bite upon a person or an animal is guilty of an offense under this by-law.

16. The owner of the dog which causes damage to any property including moveable property, lawns, flower beds, bushes or plants, or other parts of the property, is guilty of an offense under this by-law.

17. The owner of a dog shall, when the dog is on property other than the dwelling of the owner, immediately pick up and thereafter dispose of, any feces, vomit or any other waste left by the dog on the said property.

18. No owner shall allow the dog to remain unfed or without water as sufficiently long either to amount to cruelty or to cause the dog to become a nuisance.

19. No owner of a dog shall allow the dog to enter land reserved for the purpose of educating elementary and secondary students, care for preschool children, playgrounds, the community church and the band facilities intended for business purposes.

20. No owner shall allow his dog to be tied to a porch or step which prevents emergency access to the house.

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

Fierce or Dangerous Dogs:

22. (1) The owner of a fierce, dangerous or aggressive dog shall post a clearly visible sign notifying the public.

(2) A fierce or dangerous dog shall, at all times, be muzzled and shall be kept on a leash whenever it is in a public place.

(3) A fierce or dangerous dog shall be kept on a secure leash or in

restricted area that shall be constructed so as to prevent any escape by the dog and prevent the entry of children.

Penalties

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

(2) Every person who contravenes any of the provisions of this by-law for which specified penalties have been provided in Appendix I, is guilty of an offense and is liable to summary conviction to a fine according to the specified penalties set out in Appendix 1 and in default of payment to a term of imprisonment not exceeding five days.

Evidence

24. A court of law may take judicial notice of this by-law if it is certified in writing by the Chief, a Councillor or the chief administrative officer of the Chapel Island Band to be a validly enacted By-law of the Chapel Island Band.

Prosecutions

25. In addition to the summary conviction procedures set out in the Criminal Code of Canada, proceedings under this by-law may also be conducted according to the provisions of the Summary Proceedings Act, Revised Statutes of Nova Scotia, 1989, Chapter 450, any regulations enacted pursuant to that Act, and any amendments to that Act or Regulations.

Amendments

26. (1) The Chapel Island Band Council shall make such amendments as it deems necessary to these by-laws by resolution of the Band Council, to carry out effectively the intent and purpose of the by-law.

(2) Notice of any amendments made by Council pursuant to Subsection (1) shall be posted in the Band Council and after the date of the posting of such notice, the amendments shall become effective.

Enactment

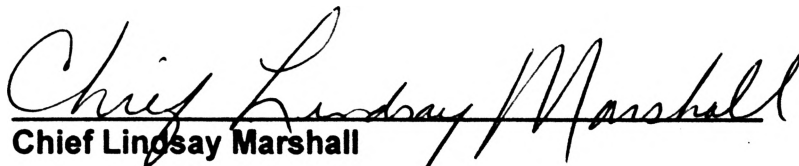
26. The Chapel Island Dog Control by-law shall be enacted and become effective on June 1, 1999.

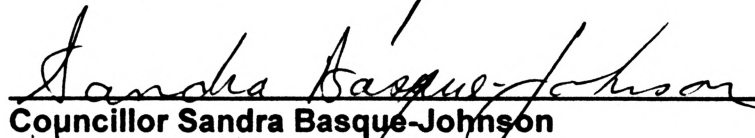
APPENDIX I

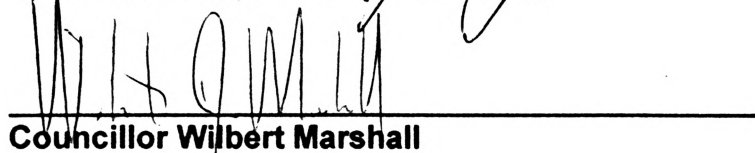
| SECTION | OFFENSE | OUT OF COURT SETTLEMENT |
|----------------|---|--------------------------------|
| 5 | Owner failing to register dog | \$78.75 |
| 6 | Keeping more than two dogs | \$78.75 |
| 12 | Owner failing to keep dog tethered or penned | \$135.00 |
| 12(3) | Owner of dog which disturbs the peace | \$107.50 |
| 14 | Owner of female dog in heat found in a public place unleashed and unaccompanied | \$135.00 |
| 15 | Owner of dog which inflicts unprovoked bite | \$307.50 |
| 16 | Owner of dog which causes damage to property | \$307.50 |
| 17 | Owner failing to pick up dog defecation | \$78.75 |

THIS BY-LAW made at a duly convened meeting of the Council of the Chapel Island Band this day of April, 1999.

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


Chief Lindsay Marshall


Councillor Sandra Basque-Johnson


Councillor Wilbert Marshall

John Mellen
Councillor John Mellen

Allister Marshall
Councillor Allister Marshall

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

The quorum of the Council is 3 members.

Number of members of the Council present at the meeting:

I, Lindsay Marshall, Chief of the Chapel Island Band, do hereby certify that a true copy of the foregoing by-laws was mailed to the minister of Indian Affairs and Northern Development at the Regional Office pursuant to subsection 82(1) of the Indian Act this 19 day of APRIL 1999.

Lindsay Marshall
Witness

04/19/99
Date