

BAND COUNCIL RESOLUTION

File Reference:

Note: The words "From our Band Funds" "Capital" or Revenue" whichever is the case, must appear on all resolutions requesting expenditures from Band Funds.
Nota: Les Mots "des bands oe notre bande" "capital" ou "selon le cas covert paratre dans toutes les résou portart sur des dépenses a même les fonas des bandes.

The Council of the SAINT MARY'S BAND Le Conseil de la bande indienne	Current Capital Balance Solde de capital \$
Agency District ATLANTIC	Committed Engagé \$
Province NEW BRUNSWICK	Current Revenue Balance Solde de revenue \$
Place Nom de l'endrot	Committed Engagé
Date October 9 September 9, 2004	

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, law and order on the reserve, the prevention of nuisances, the protection against the 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 St. Mary's Indian 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;

NOW THEREFORE pursuant to the consent of a majority of the Councillors of the First Nation present at a meeting of the Council duly convened, the Council of the St. Mary's First Nation does hereby endorse, authorize, approve and make a **By-law To Provide For The Uncontrolled Ownership, Breeding and Running at Large of Dogs on the St. Mary's First Nation** pursuant to, and in accordance with, powers of the Council expressed in section 81(1) of the *Indian Act, R.S.C. 1985, c. I-5*, as amended, a copy of the said By-law being attached hereto and marked "A."

A quorum for this Band
Pour cette bande le quorum est
consists of 7
fixé à
Council Members
Membres du Conseil

Chief Condues Paul
Chief
Barbara Beoun
(Councillor - Conseiller)
D. Munkin
(Councillor - Conseiller)
A. L. L.
(Councillor - Conseiller)
Diana Brooks
(Councillor - Conseiller)
Peggy Beaton
(Councillor - Conseiller)
C. L. L.
(Councillor - Conseiller)
M. L. L.
(Councillor - Conseiller)
Martin Beaton
(Councillor - Conseiller)
Lisa Howe
(Councillor - Conseiller)

FOR DEPARTMENT USE ONLY - RÉSERVÉ AU MINISTÈRE

1. Band Fund Code Code du compte de bande	2. Computer Balances A. Capital Revenue \$ B. \$	3. Expenditure-Dépenses Capital Revenue	4. Authority (Indian Act Section)	5. Source of Funds <input type="checkbox"/> <input type="checkbox"/>
6. Recommended - Recommendable Date Recommending Officer Recommande par	Approved - Approuvable Date Approving Officer - Approuvé par			

St. Mary's Indian Band
By-law No. _____
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, law and order on the reserve, the prevention of nuisances, the protection against the 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 St. Mary's First Nation is of the opinion that the uncontrolled ownership, 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 St. Mary's First Nation enacts a by-law as follows:

Short Title

1. This by-law may be cited as the "St. Mary's First Nation Dog Control By-law".

Interpretation

2. In this by-law:
 - (a) "Band" means the St. Mary's Indian Band;
 - (b) "Council" means the Council of the Band;
 - (c) "dog" means any dog, male or female, more than four months old and includes an animal that is a cross between a dog and wolf;
 - (d) "muzzle" means to secure a dog's mouth in such a fashion that is cannot bite anything;
 - (e) "officer" means any Band Constable as appointed by the Council and any peace officer as defined under the Criminal

Code of Canada, R.S.C. 1985, c. C-46., or any duly appointed Dog Registration Officer;

- (f) "owner" of a dog includes a person who possesses or harbours a dog, and "owns" and "owned" have a corresponding meaning;
 - (g) "public, non-residential area" includes public parks, recreational areas and areas set aside by the Council for the general use of the Band Membership other than those common areas in and around Band Administration Buildings or immediately adjacent to Band School facilities;
 - (h) "at large" or "running at large" means off the premises of the owner and not muzzled or under the control of any person;
 - (i) "reserve" means the St. Mary's Indian Reserve;
3. (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 in presence of its owner and is in a public, non-residential area that is not designed as an area where the keeping of dogs is prohibited pursuant to section 7 of this By-law.
- (3) No owner shall allow his dog to remain unfed or neglected, sufficiently long, either to amount to cruelty or to cause the dog to become a nuisance.
- (4) No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.
- (5) No owner shall permit a dog to excessively bark, yelp, growl or otherwise annoy or disturb the peace or residents of the reserve.

- (6) Notwithstanding any other provision of this By-law, no owner shall permit a female dog in heat to be off the owner's premises.
- (7)
 - (a) The Council may in at the first instance, or at any time by amendment to this By-law, prohibit the keeping of dogs within any designated area of the reserve. Designated areas shall be identified in Schedule "A", which shall form part of this By-law.
 - (b) Notice of any designation and prohibition made by Council pursuant to paragraph (a), shall be posted in the public place and after the date to the posting of such notice, no person shall keep or have a dog within the designated area.

Seizure

- 4.
 - (1) An officer may seize a dog from any person whom the officer has reasonable grounds to believe is violating or has violated any of the provisions of this By-law.
 - (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.
 - (3) Where a dog has not been reclaimed within five (5) days after seizure pursuant to subsection (2), the officer may, after reasonable attempts to contact the owner, dispose of the dog as he sees fit and no damages or compensation may be recovered as a result of the disposal of a dog by the officer.
 - (4) Where, in the opinion of the officer, a dog seized under this section is injured, diseased, dangerous 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 a 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.
- (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, attacking, injuring, damaging, killing or destroying:
 - (a) a person; or
 - (b) another dog that is tethered;
- (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. 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 five hundred dollars (\$500.00) or to imprisonment for a term not exceeding thirty (30) days, or both.

Be it known that this By-law is hereby enacted by the Council of the St. Mary's Indian Band at a duly convened meeting of the Council dated on the 4th day of October, 2004.

THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of the St. Mary's First Nation or Band this 4th day of October 2004.

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

Lisa K. Howe
Councilor Lisa K. Howe

Bradley J. Paul
Councilor Bradley J. Paul

Hubert L. Paul Jr.
Councilor Hubert L. Paul

Annette M. Paul
Councilor Annette M. Paul

Percy J. T. Sacobie
Councilor Percy J. T. Sacobie

Gina L. Brooks
Councilor Gina L. Brooks

Leonard R. Brooks
Councilor Leonard R. Brooks

Martin J. Bear Sr.
Councilor Martin J. Bear Sr.

Peggy A. Brooks
Councilor Peggy A. Brooks

Barbara B. Brown
Councilor Barbara B. Brown

Walter J. Brooks
Councilor Walter J. Brooks

Howard A. Paul
Councilor Howard A. Paul

Representing a majority of those members of the Council of the St. Mary's First Nation or Band present at the aforesaid meeting of the Council.

A quorum of the Council is 7 members. The number of members of the Council present at the meeting was 13.

I, Candice Paul Chief of the St. Mary's First Nation or 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 Atlantic Regional Office of the Department in accordance with subsection 82(1) of the *Indian Act* this day of October 2004.

Alan Pelchies
Witness

Candice Paul
Chief Candice Paul