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**THE MEMBERTOU BAND**

**BY-LAW NO. 1995.9**

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

16 October 1995

**MEMBERTOU BAND ANIMAL CONTROL BY-LAW**

**WHEREAS** section 81, paragraph (a), (d), (e), (q) and (r), of the Indian Act empower the Council of the Membertou 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 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 Membertou 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 Membertou Band of Indians enacts a by-law as follows:

**Short Title**

1. This by-law may be cited as the "Membertou Band 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 Unimaki Police, the Royal Canadian Mountain Police and a person employed by the Membertou Band Council for the purpose of enforcing the provisions of this by-law.

"animal register" means the register kept by the Animal Control Officer for the purpose of the registration of all dogs and other animals on the reserve.

"band" means the Membertou Band;

"cat" means any cat, male or female;

"council" means the Council of the Membertou Band, as defined in the Indian Act;

"dog" means any dog, male or female more than one (1) day old, and includes an animal that is a cross between a dog and a wolf, and coyote.

"dwelling" means each single unit being a fully detached home, a semi-detached home, a

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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 of health 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 harbours 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 the control of any person;

"reserve" means the Membertou Indian Reserve(s) No.28B and No. 29.

"villainous dog" includes

- (i) any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
- (ii) any dog that an Animal Control Officer, upon reasonable and probable grounds, believes to be a villainous dog;
- (iii) any dog which has been the cause of a prosecution under this by-law within the previous six 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

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identification tag placed around the neck of each dog.

- (2) The application for registration and identification tag shall be filed with the Membertou 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 age, sex, 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; and
  - (f) any other information deemed by the Animal Control Officer to be necessary for the proper administration of the by-law.
- (3) The charge for registration and identification tags shall be of THIRTY DOLLARS (\$30.00) per year.
- (4) The Animal Control Officer shall issue the licence tag upon registration and payment of the annual fee and proof of immunization of the dog against rabies is provided.
- (5) The licence 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 the 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

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written permission of the Medical Officer of Health.

7. An owner upon demand made by the Band Council shall forthwith surrender to the Band Council any animal which has bitten any person or which has been exposed to rabies to be held in quarantine at the discretion of the Medical Officer of Health.
8. Any animal found to be infected with rabies shall be destroyed by its owner or by the Animal Control Officer at the expense of the owner.

**Limit on number of dogs per dwelling**

9. (1) No person, being the owner of a dwelling on the reserve, shall keep or allow to be kept more than two (2) dogs on the premises of the dwelling.
- (2) The provisions of subsection (1) do not apply where the dog is less than eight (8) months of age.
- (3) 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), within forty-eight hours of receipt of the notice.
- (4) An Animal Control Officer shall seize and cause to be impounded any animal exceeding the established limit of two pursuant to subsection (1), and the owner shall be liable to pay an impoundment cost of TEN DOLLARS (\$10.00) per day, and the pound keeper shall keep such animal in the pound and shall record in a register kept for that purpose, the name and address of any person who brings in such an animal along with the date the animal was delivered to the pound keeper.

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

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- (3) No owner shall permit a dog to bark, yelp, growl or otherwise annoy or disturb the peace of residents of 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. The owner of a dog shall, when the dog is on public property or private property belonging to another person, immediately pick up and thereafter dispose of, any feces, vomit, or any other waste left by the dog on the said property.
15. 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.
16. 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 prohibition 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 resolution.

**Villainous dogs**

18. Anyone owning a villainous dog or aggressive dog must post a clearly visible sign notifying the

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public.

19. A villainous dog must, at all times, be muzzled and must be kept on a leash whenever it is in a public place.
20. On private property, a villainous 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 reserve;
  - (2) An animal found at large in the reserve may be impounded for not less than five (5) 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.
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 this 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 impound the animal for such period of time to be specified by a veterinary surgeon.
  - (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 five (5) 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;
    - (c) where the owner has failed to purchase an identification tag, he obtains the registration identification tag from the Animal Control Officer before he obtains the release of his dog.
  - (4) Where a dog has not been reclaimed within five (5) days after seizure pursuant to subsection (3), the animal control officer may humanely destroy or dispose of the dog

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where a veterinary surgeon so directs and no damages or compensation may be recovered as a result of the destruction or disposal of a dog by the Animal Control Officer.

- (5) If an animal is found to be diseased, the Animal Control Officer shall seek veterinary attention for it where the owner has declined, failed or neglected to do so; any fee arising from the provision of such veterinary care shall be a charge against the owner of the animal.
- (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 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.

**Destruction where unable to seize**

23. (1) Where the 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 recovered as a result of the destruction of a dog by the Animal Control Officer pursuant to subsection (1).

**Protection from dogs**

24. (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,
  - (b) another dog that is tethered; or
  - (c) a food cache, harness or other equipment.



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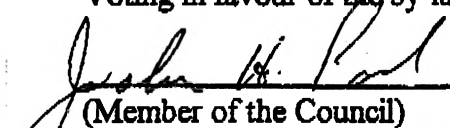
- (2) No damages or compensation may be recovered as a result of the killing of a dog by any person pursuant to subsection (1).

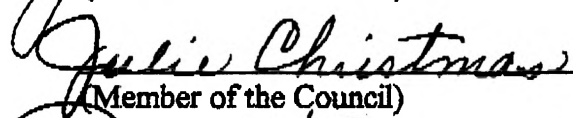
**Penalty**


25. 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 THOUSAND DOLLARS (\$1000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.


**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Council of the Membertou Band this 16th day of October, 1995.

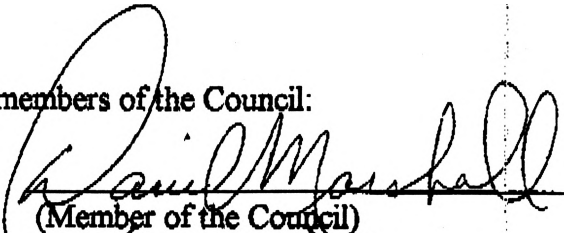
Voting in favour of the by-law are the following members of the Council:


  
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 (Member of the Council)


  
 \_\_\_\_\_  
 (Member of the Council)

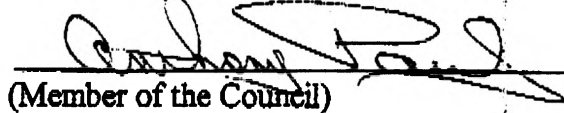
  
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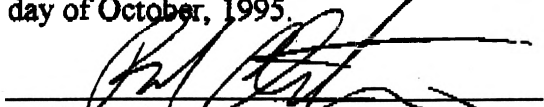
  
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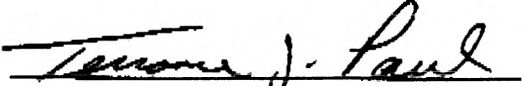
being the majority of those members of the Council of the Membertou Band present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 8.

I, Terrance Paul, Chief of the Membertou 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 offices in Amherst, Nova Scotia pursuant to subsection 82(1) of the Indian Act, this 20th day of October, 1995.

  
 \_\_\_\_\_  
 (Witness)

  
 \_\_\_\_\_  
 Chief Terrance Paul