

BY-LAW NO. 3

SAMSON CREE NATION STRAY ANIMAL BY-LAW

Pursuant to Section 81(1) (e), (q) and (r) of the Indian Act, R.S.C. 1985 C-15 as amended, and pursuant to the provisions of Treaty Number 6 and the Traditional Law of the Samson Cree Nation, and pursuant to Sections 25 and 35 of the Constitution Act 1982, the Council of the Samson Cree Nation, duly assembled, hereby enacts as follows:

PART I - OPERATIVE AND INTERPRETATIVE

1. Title

This By-law may be cited as "The Stray Animal By-law of the Samson Cree Nation".

2. Purpose

The purpose of this By-Law is to provide the control of livestock and other animals on the Samson Reserve.

3. Definitions

In this By-Law,

- (a) "Council" means the Council of the Samson Cree Nation as elected from time to time;
- (b) "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes:
  - i. a sidewalk, including the boulevard portion of the sidewalk,
  - ii. if a ditch lies adjacent to and parallel with the roadway, the ditch, and
  - iii. if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be;

- (c) "Inspector" means:
- i. a person appointed or designated by the Council of the Samson Cree Nation, or
  - ii. a member of the Royal Canadian Mounted Police, or
  - iii. any person designated by the Council as having policing authority on the Reserve;
- (d) "Livestock" means any horse, head of cattle, sheep, swine or goat;
- (e) "Occupier" means a person who has been granted exclusive possession of a portion of the Reserve, either by a Certificate of Possession, or by Resolution of the Council, and including that person's immediate family;
- (f) "Reserve" means the Samson Indian Reserve Numbers 137 and 137A;

#### PART II

4. For the purposes of this By-Law,
- (a) the "last person in possession of the livestock" means the last person in actual possession of the livestock, but does not include a person who captures, confines or impounds livestock pursuant to this By-Law, and
  - (b) when livestock is captured, confined or impounded pursuant to this By-Law, the "last person in possession of the livestock" means the person who was the last person in actual possession of the livestock before the capture, confinement or impoundment of the livestock.

#### PART III

5. If livestock trespass on land which is in the exclusive possession of any person, either pursuant to a Certificate of Possession or pursuant to a Resolution of Council, while the livestock is on such person's land, the Occupier of such land may capture and confine them or authorize another person to capture and confine them in a place appropriate to enable an inspector to identify them.

6. No Occupier or person on his behalf capturing trespassing livestock pursuant to Section 5 herein shall permit or allow the captured livestock to be:

- (a) transported or driven along a highway, or
- (b) transported or driven over land of which he is not the Occupier, unless authorized to do so by an inspector.

7. When an Occupier or person on his behalf captures livestock trespassing on his land, he shall, within forty eight (48) hours of the time that the livestock is confined, complete a Statement of Capture in a form as set out in Schedule "A" to this By-Law and detail all expenses and damage incurred in connection therewith and send it to the inspector.

8. An inspector may at any time, if he is satisfied that livestock is trespassing, capture and impound the livestock or authorize a person to capture and impound them.

9. An inspector who is satisfied that

- (a) livestock is trespassing on land, and;
- (b) attempted capture of the livestock will likely result in injury to some person, and;
- (c) after reasonable inquiry, the owner or the last person in possession of the livestock is unknown, or the owner or the last person in possession of the livestock is unwilling or unable to remove the livestock,

may destroy and arrange for the disposal of the livestock or authorize another person to destroy and arrange for the disposal of the livestock.

10. An inspector may enter any land on the Reserve without the consent of the Occupier thereof for the purpose of capturing trespassing livestock and removing it from the land.

11. When an inspector receives a Statement of Capture of Livestock pursuant to Section 7 herein, he shall impound the livestock and

- (a) leave the livestock with a person who has the livestock confined, or

- (b) transport or arrange for the transport of the livestock to a livestock market, a stock yard or other place that, in the opinion of the inspector, is a suitable place to keep the livestock.

#### PART IV

12. When an inspector impounds livestock, he shall

- (a) if he knows or is able to determine the owner or the last person in possession of the livestock,
  - i. notify one or both of them of the impoundment of the livestock, and
  - ii. by notice in writing, warn the owner or the last person in possession of the livestock or both that, unless all expenses associated with a capture and impounding and all damages caused by the trespassing livestock is paid within fourteen (14) days of the date of the Notice, the livestock will be sold by a public auction without further reference to either of them, or
- (b) if he does not know, and after reasonable inquiry is unable to determine who is the owner or the last person in possession of the livestock, to sell the livestock by public auction.

#### PART V

13. If, before livestock impounded pursuant to this By-Law is sold by public auction, the owner or the last person in possession of the livestock claims it and pays the expenses referred to in Section 12(a)(ii), the inspector shall release or authorize the person confining the livestock to release the livestock to the owner or the last person in possession of the livestock.

14. When livestock is impounded pursuant to this By-Law and

- (a) the owner or the last person in possession of the livestock refuses to pay the expense referred to in Section 12(a)(ii), or

- (b) no person claims the livestock, the inspector shall, on expiry of the Notice referred to in Section 12(a)(ii), or after the reasonable inquiry referred to in Section 12(b), sell the livestock by public auction.

#### PART VI

15. When livestock is sold by public auction pursuant to this By-Law, the proceeds of sales shall be disbursed in accordance with Sections 16, 17 and 18 of this By-Law.

16. If the owner or the last person in possession of the livestock is not known, the proceeds of a sale of livestock shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

- (a) to pay the expenses of selling the livestock;
- (b) to pay any expense in capturing and confining the livestock;
- (c) to pay any expense in transporting the livestock and attempting to ascertain the owner or the last person in possession of the livestock;
- (d) to pay any expense in maintaining the livestock;
- (e) to pay any damages caused by the trespassing livestock.

17. Any balance of the proceeds of a sale remaining after compliance with Section 16 shall be paid to the Samson Cree Nation.

18. If any person within six (6) months of the sale of livestock pursuant to this By-law proves to the satisfaction of the Council that he was the owner of the livestock prior to the sale, any amounts paid to the Samson Cree Nation as a result of such sale shall be paid to such person, but if no claim is made within the six (6) month period, all such amounts shall be forfeited absolutely to the Samson Cree Nation.

#### PART VII

19. The owner or the person in actual possession of livestock or

domestic fowl or any person authorized by either of them, may kill a dog which is in the act of pursuing, worrying or destroying that livestock or domestic fowl on land occupied by such person or a person in actual possession of that livestock or domestic fowl.

**PART VIII**

20. No person shall permit or allow any livestock owned by him or in his possession to trespass on land occupied by another person within the Reserve.

21. No person shall permit or allow any livestock owned by him or in his possession to be on a highway unless it is in his or another person's direct and continuous charge and he or that other person is competent to control the livestock.

**PART IX**

22. A person who

(a) opens and fails to close a gate, or

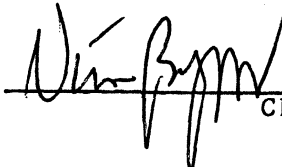
(b) tampers with, damages or destroys a gate or fence,

as a result of which livestock escapes is guilty of an offence.

**SECTION X**

23. A person who contravenes this By-Law is guilty of an offence and is liable of not more than One Thousand (\$1,000.00) Dollars, or thirty (30) days imprisonment, or both.

**APPROVED and PASSED** at a duly convened meeting of the Council of the Samson Cree Nation, duly elected, this 5th day of March, 1991.

  
\_\_\_\_\_  
Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

I, **VICTOR BUFFALO**, Chief/Councillor of the Samson Cree Nation, do hereby certify that a true copy of the foregoing By-law was forwarded to the Minister of Indian Affairs and Northern Development pursuant to Section 82 (1) of the Indian Act this 5th day of March, 1991.

Witness

Chief/Councillor

SCHEDULE "A"

**STATEMENT OF CAPTURE**

(PURSUANT TO SECTION 7 OF THE STRAY ANIMAL BY-LAW  
OF THE SAMSON CREE NATION)

TAKE NOTICE that the livestock described below has been  
captured and was found trespassing on land occupied by  
\_\_\_\_\_, on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

(description of livestock captured)

FURTHER TAKE NOTICE that the said livestock caused  
damage, the particulars of which are as follows:

AND FURTHER TAKE NOTICE that the following expense has  
been incurred in the capture of the said livestock:

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(signed by person capturing  
livestock)