



BIG COVE BAND COUNCIL

Site 11, Box 1, Big Cove, Kent Co., N.B. E0A 2L0

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By-Law No. _____
of the Big Cove First Nation or Band
**A BY-LAW TO REGULATE BEE-KEEPING
AND POULTRY RAISING ON THE BIG
COVE FIRST NATION RESERVE**

WHEREAS the Council of the Big Cove First Nation desires to make a by-law for the regulation of bee-keeping and poultry raising on the Big Cove First Nation Reserve;

AND WHEREAS the Council of Big Cove First Nation is empowered to enact a by-law in respect of bee-keeping, poultry raising and with respect to any matter arising out of or ancillary to the exercise of the power, and for the imposition of a penalty for a violation thereof, pursuant to paragraphs 81(1)(k), (q) and (r) of the *Indian Act*;

AND WHEREAS it is deemed necessary and expedient for the health, safety, welfare and economic development of the Mi'kmaq inhabitants of Big Cove First Nation Reserve No. 15 to licence and regulate the activities of bee-keeping and poultry raising within the territory and jurisdiction of the First Nation;

NOW THEREFORE the Council of the Big Cove First Nation or Band hereby enacts the following by-law:

SHORT TITLE

1. This by-law may be cited as the "*Big Cove Bee-Keeping and Poultry Raising By-Law*."

INTERPRETATION

2. In this by-law,
 - (a) "apiary" means a place where bees are kept;
 - (b) "band" means the Big Cove Band, as defined by section 2 of the *Indian Act*;
 - (c) "bee-keeper" means a person who owns bees or has bees in his possession;
 - (d) "bee-keeping register" means the register kept by the by-law enforcement officer for the purpose of the registration of all bee-keeping owners and/or operators on the reserve;
 - (e) "by-law enforcement officer" means a Big Cove Bee-Keeping and Poultry Raising By-law Enforcement Officer appointed by the Council of the Big Cove First Nation or Band pursuant to section 4, or any by-law enforcement officer appointed by the

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said Council, including a peace officer or a person employed by the said Council for the purpose of enforcing the provisions of this by-law;

- (f) "chicken" means any bird of the species *Gallus domesticus*;
- (g) "chicks" means poultry one month old or less;
- (h) "council" means the Council of the Big Cove Band as defined in the *Indian Act*;
- (i) "contagious disease" includes *infectious laryngotracheitis*, *salmonella pullorum*, *salmonella gallinarum*, *mycoplasma gallisepticum*, *mycoplasma synoviae*, *fowl cholera*, *newcastle* and *chlamydia*;
- (j) "game birds" means domesticated game birds that are in captivity and includes pheasant, partridge, quail, grouse, guinea fowl and pea fowl but does not include doves, pigeons, ducks, geese, psittacine and song birds;
- (k) "hatchery" means a building or portion of a building equipped with an incubator capacity of two hundred or more eggs and used for incubation purposes;
- (l) "hatching eggs" means eggs intended for the production of chicks;
- (m) "inspector" means a qualified inspector of apiaries and poultry, turkey or game birds;
- (n) "medical health officer" means a veterinarian licenced to practice in the Province of New Brunswick and duly appointed by a resolution of council for the purposes of this by-law;
- (o) "operators" mean private or commercial enterprises operated for the purpose of bee-keeping or poultry raising and includes an individual person;
- (p) "owner" means the owners of a bee-keeping or poultry raising operation and includes a person who keeps, possesses or harbours bees or poultry, and the terms "owns" and "owned" have a corresponding meaning;
- (q) "person" includes a business or corporation;
- (r) "poultry" means fowl or birds, domestic or wild;
- (s) "poultry raising register" means the register kept by the by-law enforcement officer for the purpose of registration of all poultry raising owners and operators on the reserve;

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- (t) "registered hatchery" means a hatchery that is registered by the Minister of Agriculture of the federal Department of Agriculture under the *Livestock and Livestock Products Act*, R.S.C. 1970, c.L-8;
- (u) "reserve" means the Big Cove Indian Reserve No. 15;
- (v) "turkey" means any bird of the species *meleagris gallopavo*.

APPLICATION

- 3. This by-law applies to all bee-keeping and poultry raising and all bee-keeping or poultry raising owners and operators, residing, visiting or doing business upon the Big Cove Indian Reserve No. 15.

ADMINISTRATION

- 4. (1) The Council may appoint, by band council resolution, a bee-keeping and poultry raising by-law enforcement officer to provide for the Administration and Enforcement of this by-law and more specifically to receive and record registrations and to issue registration certificates pursuant to this by-law;
- (2) The Council may, by band council resolution, provide for the reasonable remuneration of the by-law enforcement officer.

REGISTRATION

- 5. (1) All bee-keeping or poultry raising owners and operators shall register with the by-law enforcement officer responsible for enforcing this by-law and upon issuance of an annual registration certificate by the said officer shall immediately place and display the certificate in a location of high visibility at the facility housing or processing bees or bee products or poultry or poultry products as circumstances dictate;
- (2) Applications for registration shall be filed annually with the by-law enforcement officer and shall include:
 - (a) the applicant's name;
 - (b) the applicant's civic address or lot number on the reserve;
 - (c) a description of the bee-keeping or poultry raising ownership particulars or operation sought to be registered;

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- (d) the number of bees and poultry in stock;
 - (e) the health inspection records of the owner or operator in respect of their bee-keeping or poultry raising; and
 - (f) any other operational, health or economic information deemed by the by-law enforcement officer to be necessary for the proper administration of the by-law.
- (3) The fee for registration shall be \$_____ dollars per year for bee-keeping owners and operators and \$_____ dollars per year for poultry raising owners and operators;
- (4) The by-law enforcement officer shall issue a registration certificate to an owner and/or operator annually pursuant to this by-law upon filing of the application for registration and payment of the annual fee;
- (5) A registration certificate issued to a bee-keeping owner or operator may include and contain health and safety requirements relating to the ownership of bees or the operation of a bee-keeping enterprise as are set out in sections 19 thru 23 of this by-law;
- (6) A registration certificate issued to a poultry raising owner or operator may include and contain those health and safety requirements relating to the ownership of poultry or the operation of a poultry raising enterprise as are set out in sections 7 thru 18 and 20 thru 23 of this by-law;
- (7) Subject to paragraph 6 of this by-law, a registration certificate is valid for one year from the date of issuance.
6. Notwithstanding any other provision of this by-law, upon an inspection by a by-law enforcement officer of a location housing or processing poultry or bees, that officer may suspend or revoke a registration certificate as the result of a violation of its enumerated requirements by an owner or operator.

POULTRY HEALTH AND SAFETY

7. (1) A by-law enforcement officer may, for the purpose of ascertaining the existence of any prescribed or contagious disease, at any reasonable time:
- (a) enter and search any place where he has reason to believe that flocks of poultry or hatching eggs are present;

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- (b) stop and search any vehicle or equipment in which he has reason to believe that flocks of poultry or hatching eggs are present;
 - (c) seize and detain flocks of poultry or hatching eggs, vehicles or equipment containing poultry or hatching eggs or containers where he has reason to believe that they contain or did contain poultry or hatching eggs, until such time as an investigation can be made to ascertain the existence of any prescribed or contagious disease;
 - (d) carry out tests and investigations to ascertain the existence of any prescribed or contagious disease;
 - (e) require the production for inspection of all books, records or other documents pertaining to poultry, hatching eggs or the disposition thereof.
- (2) A by-law enforcement officer acting under subsection (1) may request the assistance of a peace officer;
 - (3) A by-law enforcement officer before entering and searching any place under subparagraph 7(1)(a) shall make reasonable effort to obtain permission to enter and search from the person he believes to be the owner and/or operator of that place;
 - (4) A by-law enforcement officer shall be furnished with a certificate of his appointment pursuant to this by-law and in the course of his duties shall if so requested, produce the certificate;
 - (5) The owner and/or operator of any place and every person found therein and the owner and/or operator of the vehicle, equipment, containers or flock of poultry or hatching eggs shall give a by-law enforcement officer all reasonable assistance in his power to enable the by-law enforcement officer to carry out his duties and functions under this by-law and shall furnish him with such information with respect to the administration of this by-law as he may reasonably require;
 - (6) No person shall obstruct or hinder a by-law enforcement officer in the carrying out of his duties or functions under this by-law;
 - (7) No person shall knowingly make a false or misleading statement either verbally or in writing to a by-law enforcement officer engaged in carrying out his duties or functions under this by-law.
8. The Council may authorize a medical health officer or other qualified person to disinfect places, containers, vehicles and equipment to treat a flock of poultry for the purpose of eradicating prescribed or contagious diseases.

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9. Subject to section 10 no live poultry shall be admitted into the reserve unless it is accompanied by a certificate from the medical health officer stating that:
- (a) the poultry is free from infectious *laryngotracheitis*;
 - (b) no outbreak of infectious *laryngotracheitis* has occurred in such close proximity to the poultry as to subject it, in the opinion of the medical health officer to the danger of infection from that disease; and
 - (c) the poultry has not been vaccinated against infectious *laryngotracheitis*.
10. (1) A certificate under section 9 is not required in respect of day old chicks from a registered hatchery;
- (2) Chickens, turkeys and game birds which are intended to be shown or exhibited shall be accompanied by a certificate from a person acceptable to the medical health officer stating that the chickens, turkeys or game birds have been vaccinated for infectious *laryngotracheitis* thirty (30) days before the date of the show or exhibition.
11. The by-law enforcement officer may enter any premises where live poultry, poultry equipment in use or hatching eggs are kept or housed for the purpose of inspection for prescribed or contagious diseases.
12. (1) The by-law enforcement officer may order the destruction, segregation or other disposal of:
- (a) live poultry, poultry equipment or hatching eggs infected with a contagious disease, as certified by the medical health officer, or
 - (b) any flock of poultry among which poultry infected with a contagious disease, as certified by the medical health officer, is found, without compensation to the owner thereof.
- (2) An order provided for in subsection (1) shall be in writing and directed to the owner and/or operator;
- (3) If an owner and/or operator does not comply with an order provided for in subsection (1) in the manner and within the time stated in the order, the by-law enforcement officer may carry out the terms of such order;
- (4) Every person to whom an order referred to in subsection (1) is directed shall comply with such order.

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13. (1) Where the by-law enforcement officer orders the destruction, segregation or disposal of live poultry infected with a contagious disease in accordance with section 12, he may order the premises where the poultry is kept or the surrounding area to be under quarantine for the period of time specified in the quarantine order;
- (2) No person shall purchase or obtain during the period specified in a quarantine order any flock which he intends to keep on premises or areas which are subject to a quarantine order made under subsection (1) unless he has procured a certificate from the medical health officer certifying that the flock is free of the contagious disease;
- (3) A quarantine order made under subsection (1) shall be in writing and directed to any person who is in possession of live poultry being kept in the area subject to the quarantine order.
14. (1) The medical health officer may enter any premises within an area which is subject to a quarantine order made under section 13 and may order the owner or the person who is in possession of the flock
 - (a) to take such action as the medical health officer considers necessary to eradicate or control the contagious disease within a specified period of time; or
 - (b) to destroy the flock in the manner approved by the medical health officer.
- (2) Where a person fails or neglects to comply with the order of the medical health officer made under subsection (1), the by-law enforcement officer may carry out the order.
15. No person shall:
 - (a) show or exhibit chickens, turkeys or game birds; or
 - (b) permit to be shown or exhibited chickens, turkeys or game birds, at a show or exhibition on the reserve unless the chickens, turkeys or game birds are accompanied by a certificate signed by the medical health officer indicating:
 - (c) that all chickens, turkeys or game birds which are four weeks of age and over in the flock of origin of those birds being shown or exhibited have proved negative to a serological test for *salmonella pullorum* and *salmonella gallinarum* within twelve months preceding the show or exhibition,
 - (d) that the chickens, turkeys or game birds being shown or exhibited were included in the flock of origin at the time of the test referred to in paragraph

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(c), and

(e) the date on which the test was conducted.

16. (1) No person shall show or exhibit a chicken, turkey or game bird at a show or exhibition unless the bird is tagged with an identification tag in the form prescribed by the council and set out in Schedule A;
- (2) Subject to subsection (3), no person except a medical health officer shall affix or cause to be affixed to a chicken, turkey or game bird being shown or exhibited at a show or exhibition an identification tag in the form prescribed by Schedule A;
- (3) The identification tag referred to in subsection (1) shall be affixed by the medical health officer to a chicken, turkey or game bird immediately after the bird has been tested by that medical health officer for *salmonella pullorum* and *salmonella gallinarum* where the medical health officer is satisfied that the tests are negative.
17. (1) No person shall vaccinate or cause the vaccination of chickens, turkeys or game birds for *infectious laryngotracheitis* except for chickens, turkeys or game birds
- (a) which are intended to be shown or exhibited, or
- (b) which have been vaccinated in accordance with an order of the by-law enforcement officer under section 18;
- (2) No person shall show or exhibit chickens, turkeys or game birds at a show or exhibition unless the birds have been vaccinated for *infectious laryngotracheitis* by the medical health officer thirty (30) days prior to the date of the show or exhibition.
18. (1) If the by-law enforcement officer is of the opinion that there is an outbreak of a contagious disease in a flock, he may order the vaccination of that flock or any other flock in the surrounding area for the disease;
- (2) Any person in possession of the flock which is the subject of an order under subsection (1) shall comply with the order;
- (3) Written notice of the order of the by-law enforcement officer shall be served on every person who is in possession of a flock of poultry which is subject to the order;
- (4) Vaccines approved by the medical health officer shall be used for the vaccination of a flock for the purposes of subsection (1).

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BEE HEALTH AND SAFETY

19. No person shall import bees into the reserve unless the bees are accompanied by a certificate issued not more than six months before the importation by the appropriate authority of a province or territory, certifying that the bees are free from *American Foulbrood*, *Varroa Mite*, *Tracheal Mite* and any other infectious or contagious diseases.
- (1) Every person having possession of bees referred to in section 19 shall for a period of six months after the bees are imported retain in his possession the certificate issued respecting the cleanliness of the bees and shall upon request from a by-law enforcement officer produce the said certificate;
 - (2) No person shall have in his possession any used bee-keeping equipment that is accessible to bees other than bees in possession, care or control of a bee-keeper;
 - (3) All bees imported into the reserve in hives or in combs, and all bees amongst which a contagious or infectious disease exists shall be kept in quarantine on the premises of the owner and/or operator who shall within three(3) days after coming into possession of the bees, or of the outbreak of the disease, as the case may be, immediately notify the by-law enforcement officer;
 - (4) An owner and/or operator, upon notifying the by-law enforcement officer pursuant to subsection 19(3) shall not allow the removal from his premises of any bees, used apiary appliances, or equipment, until the bees, appliances and equipment have been properly disinfected and a Clearance Certificate has been issued to that effect by the medical health officer;
 - (5) No person shall keep infected bees with the disease known as *American Foulbrood*, *European Foulbrood*, *Sacbrood*, *Nosema*, *Honey Bee Mite*, *Varroa Mite*, *Chalkbrood* or any other infectious or contagious disease harmful to honey bees in the egg, larval, pupal or adult stage and every bee-keeper who becomes aware of the existence of such disease among his bees shall at once notify the by-law enforcement officer;
 - (6) No person shall sell, barter, give away, trade or exchange any bees infected or reasonably known to be carrying any infectious or contagious disease harmful to honey bees at any time;
 - (7) For the purposes of administering this by-law, a by-law enforcement officer shall have access to all places where bees, bee products, supplies or appliances used in apiaries are kept, and shall if requested, produce a certificate of his appointment;
 - (8) Notwithstanding any other provision of this by-law, upon receiving notification of

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any bees harmful to a bee-keeper's honey bees, or upon reasonable belief that a bee-keeper's honey bees are carrying infectious or contagious diseases, the by-law enforcement officer may:

- (a) seize and detain the bees in quarantine until he is satisfied as to whether the bees are infected;

Upon learning that the bees are infected the by-law enforcement officer shall:

- (b) disinfect or cause to have the bees and bee-keeping equipment disinfected;
or
 - (c) destroy by fire the bees and bee-keeping equipment.
- (9) A by-law enforcement officer acting pursuant to this by-law may request the assistance of a peace officer;
 - (10) A by-law enforcement officer before entering and searching an apiary, or any other place where bees are kept, pursuant to this by-law shall make reasonable effort to obtain permission to enter and search from the person he believes to be the owner and/or operator of that place;
 - (11) A by-law enforcement officer shall be furnished with a certificate of his appointment pursuant to this by-law and in the course of his duties shall if so requested, produce the certificate;
 - (12) The by-law enforcement officer shall periodically inspect all established apiaries on reserve for the purposes of compliance and discovery of infectious or contagious bee diseases.

LIMITATIONS

- 20. (1) The Council may, by resolution of council, determine and fix the maximum number of bees or poultry which may be kept, harboured or possessed by an owner or operator, including a beekeeper;
- (2) The Council may, by resolution of council, fix and allot to owners and/or operators quotas for the production of bees or poultry on such basis and under such conditions as the council considers proper and to establish such quotas with respect to Designated areas;
- (3) The Council may, by resolution of council and in its absolute discretion, revoke any determination or quota made pursuant to subsections 20(1) or 20(2) of this by-law.

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PROHIBITIONS

21. (1) Subject to subsection (2) every owner and operator shall ensure that all measures which are generally accepted in the bee-keeping and poultry raising industries designed to guarantee that bees or poultry are kept under proper control and supervision are observed at all times;
- (2) An owner or operator who fails to take the generally accepted and necessary measures to ensure that bees or poultry are under control or supervision or in the possession of the owner or operator at all times, on the reserve, as described in subsection 21(1) of this by-law, is guilty of an offence;
- (3) An owner or operator who causes damage to any property including moveable property, lawns, flower gardens, flower beds, bushes or plants or other features of real property as a result of a violation of subparagraph 21(2) of this by-law is guilty of an offence;
- (4) Civil liability for any damage or harm to a person or property caused by the failure of an owner or operator, or those under the supervision or direction of an owner or operator, to secure bees or poultry and prevent the escape of bees or poultry rests upon the owner or operator.

DESIGNATED AREAS

22. (1) The council may at any time by amending by-law:
- (a) restrict the keeping of bees or poultry to a designated area of the reserve, and
- (b) regulate the production, transportation and marketing of bees and bee products or poultry and poultry products within the reserve.
- (2) Notice of any restriction and designation made by the council pursuant to subsection 22(1) shall be posted in the public area of the Band's Administration Office and, after the date of the posting of such notice no person shall keep or have bees or poultry except within a designated area.

SEIZURE

23. (1) A by-law enforcement officer may seize the bees or poultry of an owner or operator whom he has reasonable grounds to believe is violating any of the provisions of this by-law;
- (2) Bees or poultry may be apprehended by a by-law enforcement officer if it is

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ascertained that the bees or poultry have inflicted damage to property or have become a demonstrable nuisance to residents on the reserve;

- (3) Subject to sections 12 and 19, a by-law enforcement officer who has seized bees or poultry pursuant to subsection 23(2) shall release the bees or poultry to their owner or an operator who had possession of the bees or poultry immediately prior to their seizure where:
 - (a) the owner or operator claims possession of the bees or poultry within five (5) days after the date of seizure;
 - (b) the owner or operator pays to the by-law enforcement officer all reasonable expenses incurred by the Band in securing the bees or poultry;
 - (c) the owner or operator demonstrates to the by-law enforcement officer that he has possession of a valid registration certificate or obtains such a certificate before the bees or poultry are released.
- (4) Where the bees or poultry have not been reclaimed within five (5) days after a seizure made pursuant to subsection 23(1) of this by-law and written notification has been provided to an owner or operator described in that subparagraph, the by-law enforcement officer may humanely destroy or dispose of the bees or poultry seized and no damages or compensation may be recovered as a result of the destruction or disposal;
- (5) When bees or poultry are seized by a by-law enforcement officer and those bees or poultry are injured or should be destroyed without delay for humane reasons, or for reasons of health or safety relating to persons or animals, the by-law enforcement officer shall destroy the bees or poultry without delay and without permitting any owner or operator to reclaim the bees or poultry and no damages or compensation may be recovered on account of such action;
- (6) Where the by-law enforcement officer after engaging in a reasonable effort, is unable to seize bees or poultry that are at large contrary to the provisions of this by-law, that officer may destroy the bees or poultry;
- (7) No damages or compensation may be recovered as a result of the destruction of bees or poultry by a by-law enforcement officer pursuant to subsections 23(5) and 23(6) of this by-law;
- (8) The by-law enforcement officer shall make every reasonable effort to notify an owner or operator that their bees or poultry have been seized and impounded;

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- (9) A written report on the seizure or destruction of bees or poultry pursuant to this by-law shall be prepared by the by-law enforcement officer and filed by him with the council.

PENALTY

24. 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 (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.

GENERAL

25. Should a court of competent jurisdiction determine that any provision of this by-law is invalid for any reason, the invalid provision shall be severed from the by-law and the validity of the remainder of the by-law shall not be affected.
26. This by-law comes into force forty (40) days following the date of mailing to the Minister of Indian Affairs and Northern Development as required by section 82 of the *Indian Act*.

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THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of the Big Cove First Nation or Band this 16 day of July 2001.

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

Laura Levi ✓
Bessie Lamm
Lyn Polchies ✓
Joe King ✓
Eth Davis ✓

representing a majority of those members of the Council of the Big Cove First Nation or Band present at the aforesaid meeting of the Council.

A quorum of the Council is 5 members. The number of members of the Council present at the meeting was 7.

I, Chief Robert L. Perry Chief of the Big Cove 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 19 day of July 2001.

Theresa Cegust-Henri
Witness

Chief Robert Levy