

**DOG BY-LAW  
ESKASONI BAND COUNCIL**

**WHEREAS** paragraph 81 of the *Indian Act*, R.S. C. 1985, c. 1-5 empower the council of a band to make 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 or ancillary to the exercise of powers under this section, and the imposition of a penalty for the violation of any such law.

**AND WHEREAS** the Council of the Eskasoni Band does hereby enact the Eskasoni Band Animal Control By-Law on the            Day of            , at a duly convened meeting of a quorum of the Council, without prejudice to but in express affirmation of its right of self-government.

**TITLE**

1. This by-law may be called the "Eskasoni Band Animal Control By-Law".

**INTERPRETATION**

2. In this By-Law:

**"Animal Control Officer"** means an official delegated by the Eskasoni Band Council under Section 81 for the purpose of enforcing the provisions of this By-law enacted pursuant to the *Indian Act*.

**"At large" or Running at large"** means off the property occupied, or owned, by the owner of the dog and;

- (1) not in the physical presence of the owner or some person in charge of the dog and;
- (2) while within 200 yards of a dwelling at any time of year, or within 100 yards of the shoreline of a body of water regularly accessed by the general public for purposes of recreational swimming from June 10 up to and including September 19, and in the presence of the owner or some person in charge thereof, the dog is not under the effective physical restraint of a leash no more than 6 feet in length controlled by the owner or the person in charge; or
- (3) while on any street, sidewalk or property owned or under the control of the Eskasoni Band Council on the Eskasoni Reserve and in the presence of the owner or some person in charge thereof, the dog is not under the effective physical restraint of a leash no more than 6 feet in length controlled by the owner or the person in charge.

**“Attack Dog”** means any dog trained to respond in a fierce or dangerous way to the commands of its owner or trainer.

**“Band”** means the Eskasoni Band, as defined in the *Indian Act*.

**“Council”** means the council of the Eskasoni Band as defined in the *Indian Act*.

**“Dog”** includes any dog, male or female or neutered more than one (1) day old, and includes an animal that is the result of the breeding of a dog and any other animal.

**“Dwelling”** means each single unit being a fully detached home, a semi-detached home, a 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.

**“Enclosure”** means a building, house, or an enclosed pen of sufficient strength to prevent a dog from coming in contact with persons other than the owner of the dog.

**“Fierce or Dangerous”** means any individual dog

- (i) which inflicts or bites or attacks a human being or domestic animal;
- (ii) any dog that an animal control officer upon reasonable and probable grounds believes to be a fierce or dangerous dog;
- (iii) with a demonstrated propensity, tendency or disposition to attack, to cause injury to or otherwise endanger the safety of human beings or domestic animals while at large;
- (iv) which when either unmuzzled, unleashed or unattended by its owner, or a person in whose care the dog was placed by its owner, in a vicious or terrorizing manner, approaches a person in an apparent attitude of attack upon streets, sidewalks, any public grounds, or places or on private property other than the property of the owner;  
or
- (v) owned, harboured or trained primarily or in part for the purposes of fighting; unless the circumstances described in the Part of this By-Law titled “Provoked Attacks” are met.

**“Guide Dog”** means any dog formally trained in a school recognized by the Canadian National Institute for the Blind (CNIB) to guide a blind person.

**“Judge”** means the judge of the Provincial Court of the Province of Nova Scotia.

**“Kennel”** means a facility registered with the Canadian Kennel Club comprised of any building, structure, compound, group of pens or cages, or property in which, or where, more than two (2) pure-bred dogs are kept or raised.

**“Muzzle”** means to secure a dog’s mouth in such fashion that it cannot bite anything.

**“Owner”** means any person who owns, possesses or harbours a dog or dogs, and shall include a registered owner under this By-Law. Where the person is a minor, owner includes a person with custody of the minor. “Owns” and “owned” have a corresponding meaning.

**“Reserve”** means the Eskasoni Indian Reserve.

**“Tranquilize”** means injection of a non-lethal amount of drugs approved by the Nova Scotia Veterinary Association into the body of a dog that immobilizes the dog enough to enable a Dog Control Officer to seize and impound it. Where in the absolute discretion of the Dog Control Office he feels that it would better to use a lethal injection in any circumstance he may do so.

#### **ANIMAL CONTROL OFFICER**

3. (1) The Council may appoint Animal Control Officers by resolution 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 resolution, provide for reasonable remuneration to be paid to the Animal Control Officers.

#### **REGISTRATION AND IDENTIFICATION OF DOGS**

4. On or before the 1<sup>st</sup> day of April in each calendar year, the owner of any dog shall register the dog with the Animal Control Officer for the Eskasoni Reserve.
  - (1) The application for registration and identification tag shall be filed with an Animal Control Office 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 property administration of this By-Law.

- (2) The owner of the registered dog shall receive a tag with the registration number and the year for which it was issued stamped thereon which shall be worn by the dog at all times except when the dog is being lawfully used for hunting purposes or participating in certified dog shows.
- (3) The charge for registration and identification tags shall be Ten Dollars (\$10.00) per year.
- (4) 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.
- (5) The registration and identification tag issued by the Animal Control Officer shall be valid until December 31 of the year for which it was issued.
- (6) No license fee is chargeable with respect to a dog that is trained to assist and assists a person with a disability.
- (7) If the owner declares that the tag has been lost, the Animal Control Officer may replace the tag upon payment by the owner of a fee to the Eskasoni Band in the amount of Ten Dollars (\$10.00).
- (8) On or before the first day of April in each calendar year every owner of a kennel shall pay a licence fee in the amount of Twenty-Five Dollars (\$25.00) to the Eskasoni Band, (unless a license fee for each dog is acquired). No license fee for a kennel in a location for which such a license has not been issued shall be accepted by the Animal Control Officer unless:
  - (a) the applicant provides a development permit from the Development Officer of the Eskasoni Band verifying the operation of a kennel is/will be in compliance with the zoning provisions of the Land Use By-law in effect; or
  - (b) the applicant provides an affidavit stating that their kennel is not a kennel as defined the Land Use By-Law in effect for their property on which the kennel is located.

Upon issuance of such a license, if it is for a commercial kennel as defined in the land Use By-Law in effect which required a development permit from the Development Officer of the Municipality, the Animal Control Officer shall notify the Eskasoni Band that a professional dog kennel business is/will be in operation at the site identified by the applicant.

## RECORDS

5. (a) The Animal Control Office shall keep a record of all dogs registered including:
- the date and number of registration;
  - the name and description of the dog; and
  - name, address and telephone number of the owner.
- (b) The Animal Control Officer shall keep a record of every dog for which a report has been received in compliance with the Part of this By-law entitled "Owner's Report". The record shall include the name and description of the dog reported and the name, address and telephone number of the person submitted the report.
- (c) The Animal Control Officer shall keep a record of every dog whose owner was charged with an offence under this By-Law. The record shall include the name and description of the dog charged and the name, address and telephone number of the owner.

## LIMIT ON NUMBER OF DOGS PER DWELLING

6. (a) No person, being the occupier of a dwelling on the reserve, shall keep or allow to be kept more than two (2) dogs on the premises of the dwelling.
- (b) The provisions of subsection (1) do not apply where the dog is less than eight (8) months of age.
- (c) Anyone who has more than two dogs at the coming into force and effect of this By-Law shall be entitled to keep that number of dogs, however they will not be allowed to replace any of the dogs that may die or be lost or in other ways no longer be associated with the residence of the owner. The limit of two (2) dogs per dwelling shall apply to them when the number of existing dogs has reached that figure.
- (d) An Animal Control Officer, who has reasonable grounds to believe that an owner has contravened subsection (a) 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 that notice.

## PENALTY

7. The owner of any dog which is guilty of any of the offences against this By-Law identified below is subject on summary conviction to be liable of a fine not exceeding One Thousand Dollars (\$1000.00) or imprisonment for a term not exceeding thirty (30) days, or both, for violation of a by-law made under section.

## GENERAL PROHIBITIONS

- 8.
- (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 (2) if the dog:
    - (i) is being used by a person for the purpose of hunting; or
    - (ii) is used by a visually impaired person as a guide dog
  - (3) is held on a leash by a person capable of restraining the dog's movements;
  - (4) No owner shall allow his/her dog to persistently disturb the quiet of a neighbourhood or any resident thereof by howling, barking, or in any other manner after notice of such offence being given to the owner of the dog or the occupier of the property.
  - (5) No owner shall allow a female dog in heat to remain in any public place unless such a female dog is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.
  - (6) If a dog, other than a guide dog, defecates on any public or private property other than the property of its owner, the omission by the owner to cause such defecation to be removed immediately shall be an offence.
  - (7) The owner of a dog which inflicts an unprovoked bite upon a person or any animal is guilty of an offence
  - (8) 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.
  - (9) No owner shall allow his dog to remain unfed or without water sufficiently long either to amount to cruelty or to cause the dog to become a nuisance.
  - (10) A kennel license fee has not been obtained in compliance with this By-Law.
  - (11) No person shall punish or abuse a dog in an manner or to an extent that is cruel or unnecessary.
  - (12) While the dog is at large within 200 yards of a dwelling at any time of the year, or within 100 yards of the shoreline of a body of water regularly accessed by the general public for purposes of recreational swimming from June 10 up to and including September 10, and in the presence of the owner or some person in charge thereof, the dog is not under the effective physical restraint of a leash no more than 6 feet in length controlled by the owner or the person in charge.

- (13) Any individual or individuals training a dog or dogs to be attack dogs within the meaning of this By-Law:
- (i) outside of an impoundment area which does not prevent the dog(s) from exiting the training area; and/or
  - (ii) within 500 feet of a residence other than the residence of the trainer.
- (14) The owner shall insure that his or her dog is bearing a tag issued on behalf of the Eskasoni Band Council.
- (15) The Band Council may at any time prohibit the keeping of animals within any area of the reserve.
- (a) Notice of any prohibition made by the Council 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.
- (b) 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 Council, by way of resolution.

#### **FIERCE & DANGEROUS DOGS**

- 9.
- (a) The owner of a fierce or dangerous dog shall post a clearly visible sign notifying the public of the presence of the dog.
  - (b) The owner of a fierce or dangerous dog shall ensure that the dog is muzzled at all times and that it is restrained with a secure leash made of chain with sufficient strength to prevent the dog from coming in contact with persons other than the owner and not exceeding six (6) feet in length and under the direct control and supervision of the owner of the dog.
  - (3) The owner of a fierce or dangerous dog shall ensure that while the dog is at the owner's dwelling, it is kept securely tethered or in a restricted area that shall be constructed so as to prevent any escape by the dog and prevent the entry by children.

## SEIZURE AND IMPOUNDING

10. (1) A dog found at large on the reserve may be seized by an Animal Control Officer without notice to or complaint against the owner or any such dog and shall be impounded in accordance with the provisions of section 11.
  - (2) An Animal Control Officer may seize a dog from any person when he has reasonable cause to believe there is a violation, has been a violation or is about to be a violation of any of the provisions of this By-Law and the dog shall be impounded in accordance with the provisions of section 11.
  - (3) While pursuing any dog in accordance with the performance of his or her duties under this By-Law, an Animal Control Officer 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.
  - (4) For the purpose of this By-Law, the Animal Control Officer shall be the pound keeper as well.
11. (1) An Animal Control Officer shall forthwith make every reasonable effort to notify the registered owner or an impounded dog bearing a tag, that the dog has been impounded and that the dog may be destroyed or otherwise disposed of unless the dog is claimed by the owner within 24 hours of an Animal Control Officer first taking possession of the dog.
  - (2) Subjection to subsection (2), an Animal Control Officer who has seized a dog pursuant to section 10 shall restore possession of the dog to its owner where:
    - (a) owner claims possession of the dog within 24 hours after the time of seizure;
    - (b) where the owner has failed to purchase an identification tag in accordance with this By-Law, he purchases the required identification tag from an Animal Control Officer before he obtains the release of his dog.
  - (3) (a) upon complaint against the owner verified by an independent witness willing to swear that they witnessed the attack, shall impound a fierce or dangerous dog which has inflicted bites or killed another domestic animal, unless:
    - (i) the other animal was killed on property owned; or
    - (ii) Occupied by the owner of the fierce or dangerous dog.

The owner of such fierce or dangerous dog may claim the dog if he/she signs a Release Form stating that they agree to keep the dog within the confines of the owner's dwelling, an enclosure, or the dog is securely muzzled and restrained with a chain of sufficient length to prevent the dog from coming in contact with persons other than the owner and not exceeding 6 feet in length, and under the direct control and supervision of the owner of the dog.



- (4) The pound keeper shall be obliged to provide food, water and shelter for any dog impounded for a period of 24 hours beginning at the time that the dog was seized by the Animal Control Officer.
- (5) The pound keeper shall make every effort to notify the registered owner of an impounded dog bearing a tag that:
  - (1) the dog has been impounded; and
  - (2) the dog may be destroyed after 24 hours impoundment (excluding Sundays or statutory holidays) if it is not claimed by the owner in compliance with this by law.
- (6) Upon the execution of a document provided by the pound keeper, the owner of the dog shall have the dog released into their possession.

#### **DESTRUCTION WHERE UNABLE TO SEIZE**

12. (1) Where an Animal Control Officer, after reasonable effort, is unable to seize a dog that is running at large contrary to the provision 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.

#### **PROTECTION FROM DOGS**

13. (1) An Animal Control Officer may destroy 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 not.
- (2) An Animal Control Officer may destroy a dog, without any notice or impounding, that is rabid, appears to be rabid, or exhibits the symptoms of canine madness.
- (3) No damages or compensation may be recovered as a result of the destroying of a dog by any person pursuant to subsections (1) or (2)
- (4) Any animal found to be infected with rabies shall be destroyed by its owner or by an Animal Control Officer at the expense of the owner.

**REPORTABLE DISEASES**

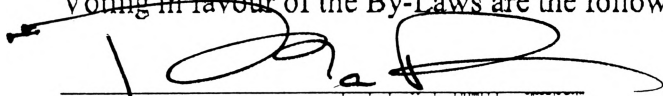
14. It shall be the responsibility of all person to report the diseases as set out in Schedule 2 under Reportable Diseases of Section 2 of the *Health Animals Act*.

**PROSECUTIONS**

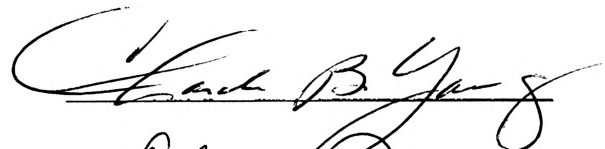

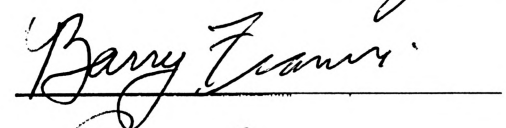

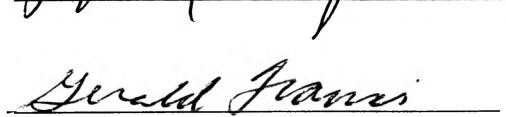
15. In addition to the summary conviction procedures set out in the *Criminal Code* (Canada) proceedings under this code may also be conducted according to the provisions of the *Summary Proceedings Act*, Revised Statutes of Nova Scotia, 1989, Chapter 450, any Regulations enacted pursuant to that Act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

**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Council of the Eskasoni Band this 2 Day of May, 2002.

Voting in favour of the By-Laws are the following members:

  
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**CHIEF BLAIR FRANCIS**

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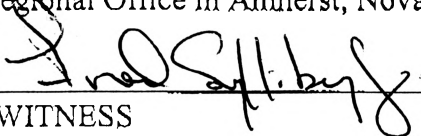
  
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being the majority of those members of Council of the Eskasoni Band present at the aforesaid meeting of the Council

The quorum of the Council is 6 members  
Number of members of the Council present at the meeting:

I, Blair Francis, Chief of the Eskasoni 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 in Amherst, Nova Scotia pursuant to subsection 82(1) of the Indian Act.

  
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yWITNESS

  
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CHIEF BLAIR FRANCIS