

By-law No. 2006-02
Being a By-law Respecting the Pit bulls on the Reserve

CARE AND CONTROL OF PIT BULLS BY-LAW

WHEREAS section 81, paragraph (a), (d), (e), (q) and (r), of the *Indian Act* empower the Council of an Indian Band to pass by-laws to provide for the health of residents on the reserve, the prevention of nuisances, the protection against and the prevention of trespass by domestic animals, in addition to, 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 Constance Lake First Nation Band is of the opinion that the uncontrolled ownership, breeding, and running at large of pit bulls may be detrimental to the health of the residents on the reserve, and a nuisance to such residents;

THEREFORE, the Council of the Constance Lake First Nation Band enacts this Pit bull Control Bylaw, Number 2006-02 as follows:

SHORT TITLE

1. This by-law may be cited as the "***Constance Lake First Nation Reserve Care and Control Pit Bulls By-law***".

INTERPRETATION

2. In this by-law

"***animal control officer***" means an animal control officer, appointed pursuant to section 3, or any by-law enforcement officer, including a police officer or a person employed by the 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 Pit bulls on the reserve.

"***band***" means the Constance Lake First Nation Band, as defined by Section 2 of the *Indian Act*;

"***Council***" means the Council of the Constance Lake First Nation Band, as defined in the *Indian Act*;

"***dwelling***" means each single unit home being a fully or semi-detached building, a multiple unit dwelling, an apartment home or 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 Pit bull's mouth in such a fashion that it cannot bite anything;

"***owner***" of a animal includes a person who possesses or harbours a animal, and the terms

"***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;

"***Pit bull***" has the same meaning as defined in the *Dog Owner's Liability Act, R.S.O. 1990, c-D. 16*. For greater certainty, pit bull is defined as such: a pit bull terrier, a Staffordshire bull terrier, an American Staffordshire terrier, an American pit bull terrier, a Pit bull that has an appearance and physical characteristics substantially similar to any of those Pit bulls.

"***reserve***" means the Constance Lake First Nation Indian Reserve(s) No. 92 (and 182).

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APPLICATION

3. This by-law applies to all owners of Pit bulls residing or visiting on the Constance Lake First Nation Reserve(s) No. 92 (and 182).

ANIMAL CONTROL OFFICER

4. (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 ANIMALS

5. (1) Every person keeping one or more Pit bulls on the reserve shall register and have an identification tag placed around the neck of each animal.

(2) The application for registration and identification tag shall be filed with the animal control officer and it will include:

(a) the applicant's name;

(b) the applicant's address or lot number;

(c) a description of the Pit bull sought to be registered, including age, sex, name and breed if known;

(d) the number of Pit bulls in the household;

(e) a record that the Pit bull is immunized against rabies, noting the date of such immunization, the name of the person immunizing the animal, including the manufacturer'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.

6. The charge for registration and identification tags shall be \$ 50 dollars per year.

7. The animal control officer shall issue the licence tag upon registration and payment of the annual fee and, if necessary, proof that the Pit bull has been immunized against rabies.

8. The licence tag shall be securely attached to the collar or harness of the Pit bull at all times.

9. The registration and identification tag will be valid for one full year from the date of issuance.

10. It is the owner's responsibility to prove that the Pit bull is not a pit bull, if it is not, by way of acquiring a signed affidavit from a licensed veterinarian as per *Dog Owner's Liability Act*.

IMMUNIZATION OF ANIMALS

11. All Pit bulls on the reserve must be immunized in accordance with generally accepted veterinary standards.

12. The owner of any Pit bull exposed to rabies shall, on demand by the band council, surrender such Pit bull to the band council to be held by the animal control officer in

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quarantine for a period of fourteen (14) days and such animal shall not be released from such quarantine without the written permission of the medical officer of health.

13. Upon demand of the band council, the owner of any Pit bull shall forthwith surrender to the animal control officer any Pit bull which has bitten any person or which has been exposed to rabies to be held in quarantine at the discretion of the medical health officer.

14. Any Pit bull found to be infected with rabies shall be destroyed by its owner or by the animal control officer at the owner's expense.

LIMITATION ON PIT BULLS PER DWELLING

15. (1) No more than one (1) shall be kept, harboured or possessed in any dwelling;

GENERAL PROHIBITIONS

16. (1) Subject to subsection (2), every owner of a Pit bull shall keep the Pit bull safely tethered or penned up at all times.

(2) A Pit bull need not be tethered or penned up as provided in subsection 15(1) if the Pit bull:

(a) is held on a leash by a person capable of restraining the Pit bull's movements;

(3) The owner of a Pit bull who fails to take all necessary measures to ensure that such Pit bull is under control or supervision or in the possession of the owner at all times, upon any property on the reserve, is guilty of an offence.

(4) The owner of a Pit bull 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.

(5) The owner of a Pit bull shall, when the Pit bull 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 Pit bull on the said property.

17. No owner shall allow his Pit bull to remain unfed or without water whereby it either amounts to cruelty or causes the Pit bull to become a nuisance.

18. No person shall punish or abuse a Pit bull in a manner which is cruel or unnecessary.

19. No owner shall permit a Pit bull to bark, yelp, growl or otherwise annoy or disturb the peace of residents on the reserve.

20. No owner shall permit a Pit bull to remain outdoors without adequate protection from the elements.

PROHIBITIONS WITHIN SPECIFIC AREAS OF THE RESERVE

21. (1) The Council may at any time prohibit the keeping of Pit bulls within any area of the reserve.

(2) Notice of any prohibition made by council pursuant to subsection 19(1) shall be posted in the band office and after the date of the posting of such notice, no person shall keep or have a Pit bull within the prohibited area.

(3) No person may establish, own or operate an establishment or facility for the boarding or treatment of Pit bulls within the limits of the reserve, without express written authorization to that effect from the band council, by way of band council resolution.

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Protection of the Public

22. Anyone owning a Pit bull or Pit bull must post a clearly visible sign notifying the public.

23. At all times, a Pit bull must be muzzled and kept on a leash whenever it is in a public place.

24. On private property, a Pit bull shall be kept on a secure leash or in a restricted area which shall be constructed so as to prevent any escape by the Pit bull and/or to prevent the entry of children.

Impounding and Seizure

25. (1) No owner shall permit his Pit bull to be at large on the reserve;

(2) A Pit bull found at large on the reserve shall impounded for not less than five (5) days and, after notifying the owner, may thereafter be humanely destroyed or otherwise disposed of, unless in the meantime such Pit bull has been claimed by its owner and the costs incurred for the impounding of the Pit bull have been paid.

26. (1) A person or animal control officer may kill, if necessary, a Pit bull which is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:

- (a)** a person;
- (b)** another dog whether or not it is tethered;
- (c)** a food cache, harness or other equipment; or
- (d)** domestic livestock.

(2) If a Pit bull is apprehended because it has inflicted an unprovoked attack upon an animal or human person, the animal control officer shall impound the animal for such period of time as specified by a veterinary surgeon.

(3) Subject to subsection (6), an animal control officer who has seized a Pit bull pursuant to subsection (1) may release the Pit bull to its owner where:

- (a)** the owner claims possession of the Pit bull 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 Pit bull as listed in Schedule "A" hereto attached;
- (c)** the owner has obtained the necessary registration identification tag from the animal control officer before the Pit bull is released.
- (d)** the animal control officer may detain the Pit bull at its discretion.

(4) Where a Pit bull has not been reclaimed within five (5) days after seizure, pursuant to subsection (3), and notification has been given to the owner, the animal control officer may humanely destroy or dispose of the Pit bull where a veterinary surgeon so directs and no damages or compensation may be recovered as a result of the destruction or disposal of such a Pit bull.

(5) The animal control officer shall seek veterinary attention for a Pit bull found to be diseased, whereby the owner has declined, failed or neglected to do so; in addition, any fee arising from the provision of such veterinary care shall be a charge against the owner of the Pit bull.

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(6) Whereby a Pit bull is seized which 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 Pit bull as soon after the seizure as the officer thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.

(7) The band council shall forthwith make every reasonable effort to notify the owner of a Pit bull which has been impounded.

(8) A written report of each such incident, as described in this section, shall be filed with the band council by the animal control officer.

ANIMAL DESTROYED IF UNABLE TO SEIZE

27. (1) Where the animal control officer, after reasonable effort, is unable to seize a Pit bull that is running at large, contrary to the provisions of this by-law, the officer may destroy the Pit bull.

(2) No damages or compensation may be recovered as a result of the destruction of a Pit bull by the animal control officer pursuant to subsection (1) or by the council.

PROTECTION FROM VICIOUS PIT BULLS

28. (1) A person or animal control officer who must kill a vicious Pit bull, pursuant to section 26(1), shall immediately report the incident to the Band Council or animal control officer and notify the Pit bulls' owner.

(2) No damages or compensation may be recovered as a result of killing a Pit bull by a person or animal control officer who is required to do so pursuant to section 26(1) or council.

IMPLEMENTATION OF OTHER RELEVANT LAWS

29. For safety and protection of the community members, it is CLFN's desire to recognize the *Dog Owner's Liability Act*.

PENALTY

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

31. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

32. This by-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to 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 Band this 5th day of February, 2007.

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

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

(Member of the Council)

(Member of the Council)

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

The quorum of the Council is ⁴ members.

4

Number of members of the Council present at the meeting:

4

I, Chief/Councillor of the 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 _____ office of the department pursuant to subsection 82(1) of the Indian Act,

this day 5th of February, 2007.

(Witness) (Chief/Councillor)

SCHEDULE "A"

Suggested fees only- council to set the actual fee

Registration fee	\$ 50 /year/dog (based on an annual period)
Boarding Fees:	\$15.00/day/dog (based on a 5 day period) \$15.00/day/dog (based on a 3 day period)
Quarantine Animal authorities)	\$15.00/day/animal (based on a 10 day period as per health
Euthanasia	\$45.00 per dog/cat
Cadaver Disposal	\$30.00 per animal
Quarantined Animal	\$.00 per animal for 10 days (as per Health Authorities)