

**THE BLOOD TRIBE  
BYLAW NO. 02-2008  
STRAY LIVESTOCK BYLAW**

Being a Bylaw of the Blood Tribe to provide for  
the control of stray livestock on the Blood Indian Reserve  
pursuant to Section 81 of the *Indian Act*

**WHEREAS** the Blood Tribe Council has determined that stray livestock may be detrimental to the health of the residents of the Blood Indian Reserve and a nuisance to such residents;

**AND WHEREAS** the Blood Tribe Council considers it expedient and desirable that a bylaw be enacted to provide for the control of stray livestock on the Blood Indian Reserve;

**AND WHEREAS** the Blood Tribe Council is empowered to make a bylaw pursuant to subsections 81(1)(a), (d), (e), (q) and (r) of the *Indian Act*, RSC 1985, c. I-5 to provide for the health of the residents of the Blood Indian Reserve, the prevention of nuisances, the protection against and the prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision of fees and charges for their services, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

**AND WHEREAS** the Blood Tribe Council enacted By-Law No. 6 on the 2<sup>nd</sup> day of February, 1960, which provides for the protection against and prevention of trespass by cattle and other domestic animals, the establishment of a pound, the appointment of a poundkeeper, the regulation of his duties, and the provision for fees and charges for his services on the Blood Indian Reserve ("*Bylaw No. 6*");

**AND WHEREAS** the Blood Tribe Council has determined that *Bylaw No. 6* requires updating and revision;

**AND WHEREAS** the Blood Tribe Council has deemed it expedient to repeal *Bylaw No. 6*, thereby replacing it with this Bylaw No. 02-2008;

**NOW THEREFORE** the Blood Tribe Council, without prejudice to but in express affirmation of its inherent right of self-government, hereby enacts the following bylaw:

**PART 1 - GENERAL**

**Short Title**

1.1 This bylaw may be cited as the "Stray Livestock Bylaw".

**Interpretation**

1.2 In this bylaw unless the context otherwise requires:

"Assessor" means a person appointed as an assessor by Council pursuant to this bylaw.

"Blood Tribe" means the Blood Indian Band, which is a band as defined by the *Indian Act*.

"Calendar Year" means a space of twelve (12) calendar months calculated from any point.

"Council" means the Chief and Councillors of the Blood Tribe duly elected from time to time in accordance with the *Kainaiwa/Blood Tribe Election Bylaw and Regulations, 1995*.

"damage" means damage done to real or personal property by livestock or any person in capturing livestock.

"Dog Control Bylaw" means Bylaw No. 01-2006 being a bylaw of the Blood Tribe to provide for the licensing, regulation and control of dogs on the Reserve.

"expenses" means the expenses incurred in capturing, confining, impounding, identifying, maintaining, transporting and selling livestock, attempting to ascertain the owner of livestock or the last person in possession of livestock, and carrying out any other provisions of this bylaw, as set out in Schedule "A" annexed to and forming part of this bylaw.

"impound facility" means a place where livestock are impounded.

"last person in possession of livestock" means

(a) the last person in actual possession of livestock, but does not include a person who captures, confines or impounds livestock pursuant to this bylaw; and

(b) when livestock are captured, confined or impounded pursuant to this bylaw the "last person in possession of livestock" means the person who was the last person in actual possession of livestock before the capture, confinement or impoundment of the livestock;

"livestock" means

(a) any horse, head of cattle, sheep, swine, goat, mule, ass or bison; or

(b) any other similar animal declared by the Council to be livestock, except a dog as that term is defined in the *Dog Control Bylaw*.

"Livestock Control Officer" means

(a) a person appointed as a Livestock Control Officer pursuant to this bylaw or any bylaw enforcement officer, including a police officer or a person employed by the Council for the purpose of enforcing the provisions of this bylaw; or

(b) any person assisting a person appointed as a Livestock Control Officer;

"Notice of Impoundment" means a notice in the form set out in Schedule "B" annexed to and forming part of this bylaw.

"Notice of Sale" means a notice in the form set out in Schedule "C" annexed to and forming part of this bylaw.

"occupant of the land" means the person who has been allocated Reserve land by the Council and is shown on the Blood Indian land registry as the person entitled to possession of such land.

"owner of livestock" means a natural person or body corporate who has legal title to livestock, any person who may not have legal title but who has possession or control of livestock, either temporarily or permanently, or any person who keeps livestock or allows livestock to remain on his land.

"Reserve" means the Blood Indian Reserve Nos. 148 and 148A, and any future additions to the reserve lands of the Blood Tribe.

"resident" means the person who is residing on Reserve land.

### **Application**

1.3 This bylaw applies on the Reserve.

## **PART 2 - ADMINISTRATION**

### **Livestock Control Officers, Assessors and Others**

2.1 The Council may appoint, by band council resolution, Livestock Control Officers, Assessors and any other persons required to provide for the administration and enforcement of this bylaw.

2.2 The Council may, in the band council resolution, provide for reasonable remuneration to be paid to the persons appointed pursuant to Section 2.1.

### **PART 3 - LIABILITY**

#### **Liability for Trespassing Livestock**

- 3.1 When livestock trespass and cause damage or expenses are incurred, or both, the owner of livestock and the last person in possession of livestock are jointly and severally liable for the damage or expenses, or both, except where such damage or expense is due wholly to the fault of the person suffering the damage or expense.
- 3.2 For greater certainty, any damage or expense shall not be treated as due to the fault of the person suffering it by reason only that he could have prevented it by fencing his land.

#### **Liability for Opening and Not Closing Gate**

- 3.3 When a person
- (a) opens and fails to close a gate, or
  - (b) tampers with, damages or destroys a gate or a fence,
- as a result of which livestock escape, the person is liable for any damage that occurs or expenses that are incurred, or both, and is liable to both the owner of livestock, and when the last person in possession of livestock was required to pay for any damage or expenses under Section 3.1, to that person.
- 3.4 Nothing in Section 3.3 restricts the liability under Section 3.1 of the owner of livestock and the last person in possession of livestock.

### **PART 4 - CAPTURE, CONFINEMENT AND IMPOUNDMENT OF LIVESTOCK**

#### **Powers of Livestock Control Officer**

- 4.1 A Livestock Control Officer may at any time, if he is satisfied that livestock are trespassing, capture and impound them or authorize another person to capture and impound them.

#### **Destruction of Dangerous Livestock**

- 4.2 A Livestock Control Officer who is satisfied that
- (a) livestock are trespassing on land,
  - (b) attempted capture of the livestock will likely result in injury to some person, and

(c) after reasonable inquiry the owner of livestock or the last person in possession of livestock is unknown, or the owner of livestock or the last person in possession of livestock is unwilling or unable to remove the livestock,

may destroy the livestock in a safe and humane manner or authorize another person to destroy the livestock in the same manner.

- 4.3 No damages or compensation may be recovered as a result of the destruction of livestock by the Livestock Control Officer or any person authorized by him pursuant to Section 4.2.

#### **Destruction of Injured Livestock**

- 4.4 Where livestock is captured which is injured or should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals, the Livestock Control Officer shall destroy the livestock as soon after the capture as he thinks fit without permitting any person to reclaim the livestock and no damages or compensation may be recovered on account of such action.

#### **Capture of Livestock**

- 4.5 If livestock trespass on land, the occupant of the land or the resident may, while the livestock are on the occupant's or resident's land, capture and confine them or authorize another person to capture and confine them in a place appropriate to enable a Livestock Control Officer to identify them.

- 4.6 No occupant of the land, resident, or a person acting on their behalf, capturing trespassing livestock under Section 4.5 shall permit or allow the captured livestock to be:

- (a) transported or driven across or along a highway, or
- (b) transported or driven over any land which does not belong to the occupant of the land or is not land upon which the resident resides,

unless authorized to do so by a Livestock Control Officer.

- 4.7 When the occupant of the land, resident, or a person acting on their behalf, captures livestock trespassing on the occupant's or resident's land, the occupant of the land, resident, or the person acting on their behalf shall, within 48 hours of the time that the livestock is confined, complete a statement of capture and expenses incurred in connection with the capture and provide it to the Livestock Control Officer.

**Confinement of Stray Livestock**

- 4.8 When a Livestock Control Officer receives a statement of capture of stray livestock pursuant to Section 4.7, he shall impound such livestock and
- (a) leave the livestock with the person who has the livestock confined, or
  - (b) transport or arrange for the transport of the livestock to an impound facility.

**Impoundment of Livestock**

- 4.9 Where a Livestock Control Officer impounds livestock pursuant to this bylaw:
- (a) he shall issue a Notice of Impoundment to the owner of livestock or the last person in possession of livestock, or both, if he knows who they are, by any means he considers reasonable; or
  - (b) he shall post a Notice of Impoundment in the Blood Tribe Administration building and any other public place deemed suitable where he does not know, and after reasonable inquiry is unable to determine, the owner of livestock or the last person in possession of livestock.
- 4.10 The notice period for a Notice of Impoundment shall be as follows:
- (a) for the first impoundment of livestock in a Calendar Year, fourteen (14) days; and
  - (b) for the second or more impoundment of livestock in a Calendar Year, seven (7) days.

**Effect of Notice of Impoundment**

- 4.11 On the issue or posting of a Notice of Impoundment, the livestock described in the notice become subject to the control of the Livestock Control Officer and shall not be transported or disposed of except:
- (a) in accordance with this bylaw, and
  - (b) with the consent of the Livestock Control Officer.
- 4.12 No person shall transport, move or dispose of livestock impounded pursuant to this bylaw without the prior written consent of the Livestock Control Officer.

**Release of Impounded Livestock**

- 4.13 For the first impoundment of livestock in a Calendar Year, if the owner of livestock or the last person in possession of livestock claims the livestock on or before the date set out in the Notice of Impoundment and pays the applicable expenses as set out in Schedule "A", and pays for all damages, the Livestock Control Officer shall release or authorize the person confining the livestock to release the livestock to the owner of livestock or the last person in possession of livestock.
- 4.14 For the second or more impoundment of livestock in a Calendar Year, if the owner of livestock or the last person in possession of livestock claims the livestock on or before the date set out in the Notice of Impoundment, and:
- (a) establishes to the satisfaction of the Livestock Control Officer that a proper place to keep the livestock has been secured, which may consist of an executed grazing permit or similar agreement; and
  - (b) pays the applicable expenses as set out in Schedule "A"; and
  - (c) pays for all damages

then the Livestock Control Officer shall release or authorize the person confining the livestock to release the livestock to the owner of livestock or the last person in possession of livestock.

**PART 5 - SALE OF LIVESTOCK**

**Sale of Livestock**

- 5.1 When livestock is impounded pursuant to this bylaw and
- (a) the owner of livestock or the last person in possession of the livestock refuses to pay the expenses and damages referred to in Section 4.13 on or before the date set out in the Notice of Impoundment, or
  - (b) the owner of livestock or the last person in possession of the livestock has not established to the satisfaction of the Livestock Control Officer that he has secured a proper place to keep the livestock and refuses to pay the expenses and damages referred to in Section 4.14 on or before the date set out in the Notice of Impoundment, or
  - (c) no person claims the livestock on or before the date set out in the Notice of Impoundment,

then the Livestock Control Officer shall, after the date set out in the Notice of Impoundment has passed:

(d) issue a Notice of Sale to the owner of livestock or the last person in possession of the livestock, or both, if he knows who they are, by any means he considers reasonable; or

(e) post a Notice of Sale in the Blood Tribe Administration building and any other public place deemed suitable where he does not know, and after reasonable inquiry is unable to determine, the owner of livestock or the last person in possession of livestock.

5.2 For the first impoundment in a Calendar Year, if the owner of livestock or the last person in possession of livestock claims the livestock on or before the date set out in the Notice of Sale and pays the applicable expenses as set out in Schedule "A", and pays for all damages, the Livestock Control Officer shall release or authorize the person confining the livestock to release the livestock to the owner of livestock or the last person in possession of livestock.

5.3 For the second or more impoundment of livestock in a Calendar Year, if the owner of livestock or the last person in possession of livestock claims the livestock on or before the date set out in the Notice of Sale, and:

(a) establishes to the satisfaction of the Livestock Control Officer that a proper place to keep the livestock has been secured, which may consist of an executed grazing permit or similar agreement; and

(b) pays the applicable expenses as set out in Schedule "A"; and

(c) pays for all damages

then the Livestock Control Officer shall release or authorize the person confining the livestock to release the livestock to the owner of livestock or the last person in possession of livestock.

5.4 The notice period for a Notice of Sale shall be as follows:

(a) for the first impoundment of livestock in a Calendar Year, fourteen (14) days; and

(b) for the second or more impoundment of livestock in a Calendar Year, seven (7) days.

5.5 When a Notice of Sale has been issued or posted pursuant to this bylaw and

(a) the owner of livestock or the last person in possession of the livestock refuses to pay the expenses and damages referred to in Section 5.2 on or before the date set out in the Notice of Sale, or



(b) the owner of livestock or the last person in possession of the livestock has not established to the satisfaction of the Livestock Control Officer that he has secured a proper place to keep the livestock and refuses to pay the expenses and damages referred to in Section 5.3 on or before the date set out in the Notice of Sale, or

(c) no person claims the livestock on or before the date set out in the Notice of Sale,

then the Livestock Control Officer shall, after the date set out in the Notice of Sale has passed, sell the livestock by public auction or by any other means deemed expedient in the opinion of the Livestock Control Officer.

#### **PART 6 - DISPOSITION OF PROCEEDS OF SALE OF LIVESTOCK**

6.1 When livestock is sold pursuant to this bylaw, the proceeds of sale shall be disbursed in accordance with this Part.

6.2 The proceeds of the sale of the livestock shall be disbursed in the following priority, on proof of expenses having been incurred:

(a) to pay expenses associated with the sale of livestock, including transporting the livestock to the place of sale;

(b) to pay expenses incurred in capturing and impounding the livestock;

(c) to pay expenses in transporting the livestock to an impound facility and attempting to ascertain the owner of livestock or the last person in possession of livestock, including expenses for issuing notices and mileage; and

(d) to pay any other expenses incurred pursuant to Schedule "A".

6.3 Any balance of the proceeds of a sale remaining after compliance with Section 6.2 shall be paid into the general funds account of the Blood Tribe.

6.4 The Council shall pay out of a balance referred to in Section 6.3, to the extent that money is available in that balance, to a person claiming damage, the following amount:

(a) the amount of the damage claim, if it is reasonable in the opinion of the Livestock Control Officer, or

(b) the assessment calculated by an Assessor under Section 6.8.

- 6.5 The Council may pay out of the balance, if any, of the proceeds of a sale of livestock after compliance with Section 6.4 to a person who
- (a) claims, within one (1) year from the date of the sale of livestock, and
  - (b) establishes to the satisfaction of the Council that the person was the owner of livestock prior to the sale.
- 6.6 When livestock is sold pursuant to this bylaw and a dispute exists or arises between the former owner of livestock or the last person in possession of livestock and any person claiming to have suffered damage, the proceeds of a sale of the livestock shall be paid in accordance with Sections 6.2 and 6.3 until:
- (a) the parties to the dispute agree in writing to the disposition of the balance of the proceeds, in which case the Council shall pay the balance of the proceeds of the sale of that livestock in accordance with the agreement, or
  - (b) a court awards damages and directs payment of the balance of the proceeds to one or both of the parties to the dispute, in which case the Council shall pay the balance of the proceeds of the sale of that livestock in accordance with the direction of the court.

### **Assessment of Damages**

- 6.7 When livestock is impounded pursuant to this bylaw and
- (a) the owner of livestock and the last person in possession of livestock are not known, and
  - (b) a person claiming to have suffered damage and a Livestock Control Officer do not agree on the amount of damage,
- the Council may, on being requested to do so, direct an Assessor to assess the amount of the damage and, when appropriate, to determine the livestock responsible for the damage..
- 6.8 An Assessor shall, on making his assessment and determination, give a written notice to the Council, the Livestock Control Officer and the person claiming to have suffered damage, showing the assessment and determination, if any.
- 6.9 The assessment and determination, if any, of the Assessor is final for the purpose of computing the amount to be paid to a person claiming to have suffered damage pursuant to Section 6.4.

## **PART 7 - PROTECTION OF LIVESTOCK**

### **Definitions**

7.1 In this Part:

(a) "Animal Control Officer" means the animal control officer appointed pursuant to the *Dog Control Bylaw*.

(b) "dog" means a dog as defined in the *Dog Control Bylaw*.

### **Dog Control Bylaw**

7.2 Where a dog is in the act of pursuing, bothering, injuring or destroying livestock, the owner of livestock or any other person who witnesses such act, shall contact the Animal Control Officer.

7.3 The Animal Control Officer, when contacted pursuant to Section 7.2, shall handle the dog in accordance with the *Dog Control Bylaw*.

## **PART 8 - IDENTIFICATION OF LIVESTOCK**

### **Identification**

8.1 In order to assist in the identification of livestock, all livestock on the Reserve shall be branded by the owner of livestock, or in some other way permanently identified by him, and such brand or other permanent identification shall be filed with the Livestock Control Officer.

### **Registry**

8.2 The Livestock Control Officer shall keep a registry of all livestock branded or otherwise permanently identified.

### **Sale or Transfer**

8.3 Any sale or transfer of livestock branded or permanently identified by the owner of livestock to another person shall be reported by the seller to the Livestock Control Officer within seven (7) days of such sale or transfer.

## **PART 9 - GENERAL MATTERS**

### **Delegation**

9.1 The Council may delegate any of its powers, duties or functions under this bylaw to a Livestock Control Officer, Assessor or any other person, except its power to make regulations under this bylaw.