

PAUQUACHIN FIRST NATION ANIMAL CONTROL BYLAW NO. 2015-01

A BYLAW RESPECTING THE CONTROL OF ANIMALS FOR PAUQUACHIN FIRST NATION

WHEREAS:

- A. The Council deems it advisable, necessary, expedient and in the best interest of Pauquachin First Nation and all Owners and occupiers of the Pauquachin Lands, to establish a Bylaw concerning the control of Dogs and Animals and to provide for the health and safety of all residents on Pauquachin Lands.
- B. The Council has deemed it necessary to regulate the care and control of Dogs and Animals, to prevent nuisance and trespass by Dogs and Animals on Pauquachin Lands.
- C. The Council has authority to regulate the care and control of Dogs and Animals, and provide for the health and safety of all residents on Pauquachin Lands pursuant to section 81 of the *Indian Act* (Canada).
- D. The Council is of the opinion that the uncontrolled ownership and running at large of Dogs and Animals may be detrimental to the health and safety and a nuisance to the residents on Pauquachin Lands.

THEREFORE the Council enacts the following Bylaw:

1. SHORT TITLE

This Bylaw may be cited as the "Animal Control Bylaw No. 2015-01".

2. DEFINITIONS

In this Bylaw, including the recitals, unless the content otherwise requires:

"Animal" means an animal, other than a Dog that is tame or kept, or that has been and is being sufficiently tamed or kept, to serve some purpose for the use of man; and includes:

- a) cattle, goats, horses, poultry, rabbits, sheep, swine kept for the purpose of providing meat or eggs; and
- b) animals that are wild by nature, kept in captivity, and whose pelts are commonly used for commercial purposes.

"Animal Control Officer" means any person appointed by the Council or contracted by Council from time to time for the purpose of administering, applying and enforcing this Bylaw, and includes any assistant or any person appointed by the Council to assist in carrying out the provisions of this Bylaw;

"At large" means any Dog or Animal being elsewhere other than on the premises of a person owning or having custody, care or control of such Dog or Animal and not being under the direct charge and effective control of a responsible and competent person;

"Council" means the governing council of the Pauquachin First Nation elected pursuant to section 74 of the *Indian Act*.

"Dangerous Dog" means any dog which meets any one or more of the following conditions:

- a) a Dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- b) a Dog that, while at large, has attacked, bitten, killed or caused injury to an Animal;
- c) a Dog that, while at large, has aggressively pursued or harassed a person;
- d) a Dog that, while at large, has aggressively pursued or harassed a Animal;
- e) a Dog with a known propensity to attack or injure a person without provocation or to otherwise threaten the safety of human beings or domestic animals; and
- f) a Dog that has been deemed dangerous, vicious or similar under a law or Bylaw of any other First Nation, municipality, or regional district in the Province of British Columbia.

"Dog" means both male and female of the species *canis domesticus* apparently over the age of four months and includes a Dangerous Dog;

"Enclosure" means any fence, pen, run or other structure suitable to prevent the entry of young children, and suitable to confine a Dog or Animal, in conjunction with any other measures necessary to prevent a Dog or Animal from escaping, such as tethering;

"Impounded" means seized, delivered, received or taken into the Pound, or into the custody of the Animal Control Officer or Pound keeper as provided in this Bylaw;

"Muzzle" means a device used to secure a Dog's mouth in such a humane fashion so that it cannot bite any person or other Dog or Animal;

"Owner" when used in relation to the ownership of an Dog or Animal, includes a person owning, possessing, having custody, care and control of a Dog or Animal or permitting the Dog or Animal to remain about the person's parcel of land, building, dwelling, mobile home or premises and, where the Owner is under 18 years of age, the person responsible for the custody of the person under 18 years of age;

"Pauquachin First Nation" means the body of people formerly known as a "Band" under section 2 of the *Indian Act* and for whose use and benefit in common Pauquachin Lands have been set apart by Her Majesty the Queen

"Pauquachin Lands" as it relates to this Bylaw means Cole Bay Indian Reserve No. 3

"Pound" means any premises maintained and operated for the purpose of keeping Dogs or Animals Impounded under this Bylaw;

"Pound keeper" means the individual or authorized agent of any corporation, society, governmental body or other organization with whom Council has an agreement to perform any of the following tasks in accordance with this Bylaw:

- a) the maintenance and operation of a Pound;
- b) to seize, keep or destroy Dogs or Animals;

"Public Notice" means written notice posted in at least three different and conspicuous places on Pauquachin Lands, including in the main administration office of the Pauquachin First Nation;

3.0 ADMINISTRATION

3.1 The Council may appoint a person to act as an Animal Control Officer and any assistants to the Animal Control Officer as the Council deems necessary.

3.2 The Animal Control Officer is authorized and directed to carry out the provisions set out in this Bylaw.

3.3 Council of the Pauquachin First Nation may from time to time enter into agreement with an individual or an authorized agent of any corporation, society, governmental body or other organization to:

- a) carry out the provisions set in this Bylaw;
- b) enforce the provisions set in this Bylaw;
- c) act as Pound keeper; and
- d) Maintain and operate a Pound.

3.4 Council may, by a resolution, establish a charge or fees payable in respect of any matter administered under this Bylaw.

4.0 DOGS

4.1 No person shall own, possess or have care and control of more than four Dogs at any time or in any place or premises on Pauquachin Lands.

4.2 No Owner of a Dog shall allow or permit the Dog to be at large.

4.3 Every Owner of a Dog shall at all times while the Dog is on the premises of the Owner, keep the

Dog confined either in an Enclosure or indoors.

4.4 A Dog need not be confined as required in subsection 4.3, if the Dog is:

- a) on a leash less than two metres long and held by a person capable of restraining the dog's mobility;
- b) used as a guide assistance dog; or
- c) being used by a person in aid of hunting activities.

4.5 Every Owner of a female Dog which is in heat shall confine and house the Dog for the time in which the Dog is in heat.

4.6 In addition to the general requirements that apply to Dogs under this Bylaw, any Owner of a Dangerous Dog must:

- a) Clearly post signs to that effect at any premises where the Dangerous Dog regularly resides; and
- b) Ensure that, in addition to the requirements under subsection 4.4, the Dangerous Dog wears a Muzzle if it is not confined as required under subsection 4.3.

4.7 The Owner of a Dog is responsible and liable for any and all damages caused by that Dog to any other person, or personal or real property.

4.8 No Owner of a Dog shall allow or permit a Dog to bark, yelp or howl or otherwise disturb the peace and quiet of other residents on Pauquachin Lands.

4.9 Every Owner of a Dog is responsible for the care and control of the Dog and must:

- a) ensure that the Dog does not become a nuisance;
- b) provided sufficient food and water for the Dog's humane survival;
- c) refrain from punishing or abusing the Dog unnecessarily, or in a manner that amounts to cruelty; and
- d) provide a clean and sanitary living environment for the Dog.

4.10 The Council may prohibit the keeping of any Dogs on any area of Pauquachin Lands for health and safety reasons, provided it gives Public Notice of such prohibition.

5.0 OTHER ANIMALS

5.1 No Owner of an Animal shall allow or permit the Animal to be elsewhere other than the premises of the Owner, unless the Animal is under direct control of that person.

- 5.2 No Owner of an Animal shall allow or permit that Animal at large.
- 5.3 The Owner of an Animal is responsible and liable for any and all damages caused by that Animal to any other person, personal or real property.
- 5.4 Every Owner of an Animal is responsible for the care and control of the Animal and must:
- a) ensure that the Animal does not become a nuisance;
 - b) provided sufficient food and water for the Animal's humane survival;
 - c) refrain from punishing or abusing the Animal unnecessarily or in a manner that amounts to cruelty; and
 - d) provide a clean and sanitary living environment for the Animal.
- 5.5 The Council may prohibit the keeping of any Animals on any area of Pauquachin Lands for health and safety reasons, provided it gives Public Notice of such prohibition.

6.0 SEIZURE, SALE AND DISPOSAL OF ANIMALS

- 6.1 The Animal Control Officer may seize and impound any Dog or Animal at large on Pauquachin Lands.
- 6.2 If reasonably possible, the Animal Control Officer will, in a timely manner, notify the Owner, of the impoundment of the Dog or Animal.
- 6.3 The Animal Control Officer or Pound keeper may detain any Dog or Animal seized on Pauquachin Lands until the following amounts are paid to Pauquachin First Nation:
- a) all actual costs incurred by Pauquachin First Nation in administering this Bylaw with respect to the Dog or Animal, including costs for impounding, boarding, and transporting the Dog or Animal seized from Pauquachin Lands;
 - b) any veterinarian fees incurred by Pauquachin First Nation under section 6.5; and
 - c) any penalties or fees established under this Bylaw by Pauquachin Council from time to time.
- 6.4 An Owner must sign a receipt for any Dog or Animal prior to the release of the Dog or Animal from the Pound.
- 6.5 The Animal Control Officer or the Pound keeper may request the attendance of a veterinarian to the Pound, if in the view of the Animal Control Officer or Pound keeper, the Dog or Animal is suffering from any illness, injury, disease or sickness or for any other valid reason as deemed necessary by the Animal Control Officer or the Pound keeper, acting in good faith.
- 6.6 If five days after the Animal Control Officer or Pound keeper has notified an Owner that his or her Dog or Animal has been seized, and the Owner has not reclaimed the Dog or Animal, then the Animal Control Officer or Pound keeper, may:

- a) sell the Dog or Animal pursuant to this Article 6.0; or
- b) have the Dog or Animal destroyed in a humane manner.

6.7 If more than one Dog or Animal has been Impounded and:

- a) the Owner thereof is known, then the Animal Control Officer or the Pound keeper, as the case may be, must not sell or cause to be sold any more of such Dogs or Animals than is necessary to realize from the sale the total amount owing by the Owner under section 6.3, and the Owner of the Dogs or Animals is entitled to any surplus funds; or
- b) the Owner of the Dogs or Animals is not known, then the Animal Control Officer or Pound keeper, as the case may be, may sell all the Dogs or Animals Impounded.

6.8 The Animal Control Officer must give Public Notice of a sale under this Bylaw, describing each Dog or Animal to be sold and the date, time and location of the sale.

6.9 If, in the reasonable opinion of the Animal Control Officer or the Pound keeper, a Dog or Animal seized under this Bylaw is so severely injured or diseased, that the Dog or Animal needs to be destroyed for humane or health and safety reasons, then the Animal Control Officer or Pound keeper, as the case may be, may cause the Dog or Animal to be destroyed.

6.10 No Owner or person will be allowed to reclaim, purchase or adopt a Dog or Animal that has been determined under section 6.9, to need to be destroyed.

6.11 Any person is permitted to destroy a Dog or Animal that is at large and in the act of pursuing, attacking, injuring, damaging, killing or destroying a person, or another Dog or Animal that is in an Enclosure.

6.12 No damages or compensation are recoverable against the Pauquachin First Nation, or any member, contractor, agent or employee of the Pauquachin First Nation, as a result of a Dog or Animal being destroyed under provisions of this Bylaw.

7.0 OFFENCES AND PENALTIES

7.1 Every person who contravenes any part of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine of not more than one thousand dollars or to imprisonment of a term not exceeding thirty days pursuant to s. 81(1)(r) of the *Indian Act*.

8.0 NOTICES

8.1 Any Notice to the Pauquachin First Nation shall be made in writing to the Pauquachin First Nation and mailed, postage pre-paid or personally delivered to:

Pauquachin First
9010 West Saanich rd.
North Saanich, BC

V8L 5W4

Attention: Office Administrator

8.2 Notice from the Pauquachin First Nation to an Owner shall be in writing and mailed postage pre-paid or personally delivered to the last known address of the Owner.

9.0 GENERAL

9.1 Words within this Bylaw importing the male gender include the female gender and vice versa, and words importing the singular number include the plural number and vice versa.

9.2 This Bylaw shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

9.3 Head notes, marginal notes and provision headings form no part of this Bylaw but shall be construed as being inserted for convenience of reference only.

9.4 A finding by a court of competent jurisdiction that a section or provision of this Bylaw is ultra vires, void or invalid, shall not affect or bear upon the validity or invalidity of any other section or part of this Bylaw, or this Bylaw as a whole.

9.5 Where a provision in this Bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.

9.6 Any section of this Bylaw, including any schedules, may be amended by a Bylaw adopted by Council and approved in accordance with the *Indian Act*.

9.7 This Bylaw shall come into force upon it not being disallowed by the Minister pursuant to section 82(2) of the *Indian Act*.

THE ABOVE BYLAW IS HEREBY APPROVED AND PASSED by a majority of the Pauquachin First Nation Council at a duly convened meeting of the Pauquachin First Nation held at the Pauquachin First Nation Administration Offices at 9010 West Saanich rd. North Saanich, British Columbia, this day of 16, JUNE, 2015.

A QUORUM OF COUNCIL CONSISTS OF THREE COUNCILLORS



CHIEF REBECCA HARRIS



COUNCILLOR HERMAN HENRY



COUNCILLOR ALLAN TOM



COUNCILLOR DARLENE HENRY



COUNCILLOR MADELINE BARTLEMAN

ANIMAL CONTROL SERVICES AGREEMENT

This Agreement dated for reference the 16 day of June, 2015

BETWEEN:

CAPITAL REGIONAL DISTRICT
P.O. Box 1000
625 Fisgard St.
Victoria, B.C. V8W 2S6

(the "CRD")

OF THE FIRST PART

AND:

PAUQUACHIN FIRST NATION
9010 W Saanich rd
Sidney, BC
V8L 5W4

(the "First Nation")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

- A. The First Nation has enacted a Bylaw pertaining to the care and control of animals on the Reserve;
- B. The CRD, a public authority, provides animal control services;
- C. The First Nation and the CRD wish to enter into an agreement for the provision of animal control services;
- D. The First Nation has authorized the execution of this Agreement by a Band Council Resolution duly passed at a meeting of the Band Council held on the 16 day of June, 2015, a copy of which is attached as Schedule B to this Agreement; and
- E. The CRD Board has passed a resolution approving this Agreement, a copy of which is attached as Schedule C to this Agreement.

NOW THEREFORE in consideration of the premises and the terms and conditions hereinafter contained, the sufficiency of which is hereby acknowledged by both parties, the CRD and the First Nation covenant and agree each with the other as follows:

1.0 DEFINITIONS

1.1 In this Agreement,

"Bylaw" means the Pauquachin First Nation Animal Control Bylaw No. 2006-01, attached hereto as Schedule A to this Agreement.

"Costs" means the hourly rate of \$78, paid to the CRD for the provision of animal control and pound services for the First Nation

"Bylaw Enforcement Officer" means the person appointed by the First Nation Band Council to enforce the Nation's bylaws;

"Reserve" means the Pauquachin First Nation Indian Reserve Number IR.3, which is a reserve within the meaning of the Indian Act (Canada).

"Services" means and includes the following, carried out and delivered to the equivalent level of similar services provided by the CRD within the municipalities and electoral areas in which it provides such work:

- (a) on the request of the Bylaw Enforcement Officer, and in accordance with the Bylaw and all other applicable enactments, the seizure, impounding and destruction of cats, dogs and other domestic animals located on the Reserve; and
- (b) anyother enforcement activities under the Bylaw as requested by the Bylaw Enforcement Officer.

2.0 TERM

2.1 This Agreement is for a term commencing at 12:00 AM on September 01, 2015 and terminating at 11:59 PM on December 31, 2015, together with a right of renewal for four (4) additional terms of one (1) year each pursuant to Section 3.

3.0 RENEWAL

3.1 The First Nation shall have the right to renew this Agreement, and this Agreement shall be deemed to be automatically renewed for each of four (4) additional one (1) year terms for the calendar years 2016 to 2019, inclusive, unless either party has given the other notice of termination pursuant to Section 4.

4.0 TERMINATION

4.1 By notice in writing delivered to the other party not later than September 30 in any year of the term of this Agreement or renewals hereof, either the CRD or the First Nation may elect not to renew this Agreement for the subsequent calendar year and to terminate the arrangement for Services provided hereunder effective January 01 of any such subsequent year.

5.0 AMENDMENT

- 5.1 Unless otherwise agreed by the parties, amendments to the terms and conditions of this Agreement proposed by either party to take effect January 01 of any renewal term shall be requested by so notifying the other party in writing not later than September 30 of the preceding year.

6.0 CRD COVENANTS

6.1 For the purposes of this Agreement, and in consideration of the Costs paid or agreed to be paid by the First Nation pursuant to Section 7.1, the CRD shall provide the Services to the First Nation in a competent, careful and professional manner, and shall without limitation:

- (a)** maintain an office within the Capital Regional District which is open to the public during normal business hours for inquiries relating to the Services;
- (b)** for the purpose of the poundkeeper component of the Services, maintain a pound facility in a sanitary condition providing for humane treatment of the animals impounded;
- (c)** administer and enforce the Bylaw including without limitation any required court appearances and legal proceedings generally, engaging the professional legal counsel which may be required in connection therewith, and shall exercise the enforcement authority contained within the Bylaw for and on behalf of the First Nation, except for any powers that remain to be exercised exclusively by the First Nation pursuant to this Agreement or statute or common law applicable to local government;
- (d)** account for and retain all revenue from impoundment fees, violation fees, municipal ticket information fines, fees from sale of animals, and fine and court costs recovered through enforcement of the Bylaw;
- (e)** keep a detailed record of accounts and activities in relation to the Services; prepare and deliver to the First Nation not less than quarterly a report including the following information:
 - number of tickets, offence notices and warning notices issued;
 - number of animals impounded;
 - impoundment, boarding and ticket fine revenues received; and
 - number and types of complaints received.including such information for both the reporting period and the year-to-date;
- (f)** comply with reasonable instructions from the First Nation with respect to the provision of the Services;
- (g)** pursue on the First Nation's behalf any civil remedy i.e. dog destruction orders, injunctions or civil proceedings authorized by resolution of the First Nation Council;

- (h) provide after hours emergency call-out service for serious incidents, including, attacks by dogs on people or animals, and unusual situations deemed to involve public safety in relation to domestic animals.

7.0 FIRST NATION COVENANTS

- 7.1 In consideration of the performance by the CRD of the Services, the First Nation shall pay monthly, on invoice, to the CRD the rate of \$78 per hour for the time officers spend on Reserve and in addition shall appoint those persons designated by the CRD as Animal Control Officers under the Bylaw and as authorized officers under section 16 (6) of the Community Charter.
- 7.2 The First Nation shall pay for any professional legal counsel which may be required for any legal proceedings resulting from the enforcement of the Bylaw, where the enforcement actions have been taken at the request of or with the permission of the First Nation.

8.0 MUTUAL INDEMNIFICATION

- 8.1 Except to the extent that a claim, loss, action, suit or demand, and legal fees and expenses associated therewith, is a result of a party's negligence or breach of its obligations under this Agreement, the other party shall indemnify and hold harmless the first mentioned party and its officers, employees and contractors from and against all such claims, losses, actions, suits, demands, fees and expenses arising out of this Agreement. This provision shall survive the expiry or earlier termination of this Agreement.

9.0 INSURANCE

- 9.1 Each party shall maintain liability insurance coverage in an amount not less than Two Million Dollars (\$2,000,000.00) per single occurrence to meet its indemnification obligations under Section 8.
- 9.2 Neither party shall cancel or materially change its insurance coverage without first providing the other with thirty (30) days written notice thereof.
- 9.3 Any liability insurance required hereunder must contain cross liability coverage in the event that both parties claim coverage under the same policy.

10.0 CONTRACTOR STATUS

The parties agree that the CRD is an independent contractor engaged by the First Nation for the sole purpose of providing the Services. Neither the CRD nor any of its personnel is engaged by the First Nation as an employee, servant or agent. The CRD is solely responsible for payment of Workers Compensation premiums and compliance with all WCB Regulations, and shall bear sole responsibility for the safety of its officers and employees and any costs whatsoever arising out of employee injuries or claims records. The

CRD shall make all payroll payments or deductions required by law or collective agreement. Nothing in this Agreement shall be construed as creating an agency, partnership or joint venture between the First Nation and the CRD.

11.0 POLICE AUTHORITY

11.1 Nothing in this Agreement shall operate so as to prevent, limit or derogate from the authority of a municipal police officer to take enforcement action under the Bylaw.

12.0 BINDING EFFECT

12.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and permitted assignees.

IN WITNESS WHEREOF the Parties hereto have caused these presents to be executed the day, month and year first above written.

The Corporate Seal of PAUQUACHIN)
NATION was hereunto affixed in the)
presence of:)

_____)
Authorized Signatory)

_____)
Authorized Signatory)

c/s

The Corporate Seal of the CAPITAL)
REGIONAL DISTRICT was hereunto)
affixed in the presence of:)

_____)
Authorized Signatory)

_____)
Authorized Signatory)

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Authorized Signatory)

Authorized Signatory)

c/s

The Corporate Seal of the CAPITAL)
REGIONAL DISTRICT was hereunto)
affixed in the presence of:)

Authorized Signatory)

Authorized Signatory)

Chronological No -
File Reference - 21092015-01

BAND COUNCIL RESOLUTION

Note The words "From our Band Funds" "Capital" or "Revenue" is the case, must appear in all resolutions requesting expenditures from Band Funds.

The council of the PAQUACHIN FIRST NATION	Current Capital Balance \$ _____
Agency VANCOUVER ISLAND	Committed \$ _____
District BRITISH COLUMBIA	Current Revenue Balance \$ _____
Province SIDNEY	Committed \$ _____
Place 21 September 2015	
Date Day/Month/Year	

DO HEREBY RESOLVE:

Chief and Council approve the Animal Control Services Agreement Bylaw No. 2015-01 on June 16, 2015

A quorum for this Band
consists of 3 (Three)
Council Member

Heleen Housie

(Chief)

Mr Batteman

Councillor

Darlene Henry

Councillor

[Signature]

Councillor

FOR DEPARTMENTAL USE ONLY

1. Band Fund Code	2. Computer Balances A. Capital \$ _____ B. Revenue \$ _____	3. Expenditure	4. Authority (Indian Act Section)	5. Source of Funds Capital _____ Revenue _____
Recommended _____ Date		Approved _____ Date		
_____ Recommending Officer		_____ Approving Officer		

