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Chief and Council
Skidegate First Nation
PO Box 1301
SKIDEGATE BC V0T 1S1

SKIDEGATE ANIMAL CONTROL BY-LAW NO. 7

Dear Chief and Council:

We are pleased to inform you that the above captioned by-law will come into force on June 1, 2008 pursuant to section 82 of the *Indian Act*. We have included the following comments for your consideration.

Subsection 4(1) of the by-law states that the "owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal." Subsection 4(2) states that "where there is more than one owner of a dog, they are jointly and severally liable under this section". Subsection 28(6) states that "where an animal 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 dog as soon after the seizure as the officer thinks fit without permitting any person to reclaim the animal and no damages or compensation may be recovered on account of such action". Subsection 29(3) states that no "damages or compensation may be recovered as a result of killing a dog by a person or animal control officer who is required to do so pursuant to section 29(1)".

While these subsections are permissible, Band Council should note that there are no sections of the *Indian Act* that prescribe penalties for, or offer protection from, civil liability. The *Indian Act* does not contain any procedures that would provide for the finding of responsibility upon the citizens or animal owners of the First Nation. Finally, a by-law cannot automatically impose civil responsibility upon parties. Only a judge of a court of competent jurisdiction in a province may determine civil liability and award damages subsequent to the finding of such liability.

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Please retain at least one copy of your original by-law for your records and provide your local law enforcement agency, judge or magistrate with a copy of this by-law. In order to provide assurance to these agencies that this by-law has been properly enacted according to the statutory requirements (in particular section 82 of the *Indian Act*), it may be useful to provide them with a copy of this letter stating the coming into force date, along with certified true copies of the by-law. The original by-law submitted to our office will be sent to you through the INAC regional office in order to produce certified true copies, as described in section 86 of the *Indian Act*. These will be sent to you shortly.

Finally, by-laws made under the *Indian Act* are subject to the Statutory Instruments Act. As such, no person may be convicted of an offence for contravening an unpublished by-law unless the Band Council proves that the by-law is exempted from publication in the Canada Gazette and that reasonable steps were taken to bring the by-law to the attention of persons who may be affected by it. An individual has the right to inspect and obtain copies of by-laws.

Although not a requirement, we recommend that First Nations submit their by-laws to our office in draft form prior to enactment whenever possible. An initial review of the draft of a proposed by-law gives First Nations an opportunity to discuss it and also assists in avoiding any major difficulties prior to enactment.

If you wish to discuss this matter or require further information please contact me at (819) 997-6450 or Jacques Boutin, By-law Advisor, at (819) 994-7474.

Sincerely,



Philippe Ethier
Manager
By-Law Advisory Services Unit
Band Governance Directorate
Lands and Trust Services

c.c. Merle Marchessault, Manager, Governance and Capacity Development



SKIDEGATE BAND COUNCIL

BOX 1301, SKIDEGATE, B.C. V0T 1S1 PHONE (250) 559-4496 FAX (250) 559-8247

SKIDEGATE INDIAN BAND

By-law No. 7

April 21, 2008

A By-law for the Control of Animals On Skidegate Reserve #1

WHEREAS paragraphs 81 (1)(a), (d), (e), (q) and (r), of the *Indian Act*, R.S.C. 1985, c.I-5, empower Council of a 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 Skidegate Indian Band is of the opinion that the uncontrolled ownership, breeding and running at large of animals may be detrimental to the health of residents on the Reserve, and a nuisance to such residents;

THEREFORE, the Council of the Skidegate Indian Band enacts this Animal Control By-law as follows:

SHORT TITLE

1. This by-law may be cited as the "Skidegate Indian Band Animal Control By-law".

INTERPRETATION

2. In this by-law:

"*animal*" means a dog, a cat, or any other domestic animal;

"*animal control officer*" means an animal control officer, appointed pursuant to section 6, or any by-law enforcement officer, including a peace officer or a person employed by Council for the purpose of enforcing the provision of this by-law;

"*animal register*" means the register kept by the animal control officer for the purpose of the registration of all dogs and other animals on the Reserve;

“*band*” means the Skidegate Indian Band, a band under the *Indian Act*;

“*Council*” means the Council of the Skidegate Indian Band as defined in the *Indian Act* and elected in accordance with the *Indian Act*;

“*cat*” means a soft-furred four-legged domesticated animal, whether male or female;

“*dog*” means a domesticated carnivorous mammal having a long snout and non-retractile claws and occurring in many different breeds, including any mammal that is a cross between a dog and a wolf;

“*dwelling*” means each single unit home being a fully or semi-detached building, a multiple unit dwelling, and 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 Council resolution and who meets provincial standards;

“*muzzle*” means an apparatus to secure a dog’s mouth in such a fashion that it cannot bite anything;

“*owner*” of an animal includes a person who possesses, or harbors an animal, and the terms “owns” and “owned” have a corresponding meaning;

“*pit bull*” includes:

- (a) a pit bull terrier
- (b) a Staffordshire bull terrier
- (c) an American Staffordshire terrier,
- (d) an American pit bull terrier
- (e) any dog of mixed breeding, which can be identified through its appearance and physical characteristics as being substantially similar of those dogs referred to in any of clauses (a) to (d), by a veterinarian;

“*at large*” or “*running at large*” means off the premises of the owner and not muzzled or under the control of any person;

“*reserve*” means the Skidegate Indian Band Reserve No. 1;

“*resolution*” means a decision made at a duly-convened meeting of a quorum of Council;

“*veterinarian*” means a member of the British Columbia Veterinary Medical Association;

"vicious dog" includes:

- (a) any dog that demonstrates any ferocious, vicious or aggressive behaviour;
- (b) any dog that an animal control officer, upon reasonable and probable grounds, believes to be a vicious dog;
- (c) any dog which has been the cause of a prosecution under this by-law within the previous six months where a conviction against anybody has been entered concerning that specific dog;
- (d) any dog which has bitten another animal or human without provocation; or
- (e) a prohibited dog.

APPLICATION

3. This by-law applies to all owners of domestic animals residing or visiting on the Skidegate Reserve No. 1.

LIABILITY

4.(1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal.

4.(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section.

PIT BULL BAN

5.(1) Except as permitted by this by-law, no person, who resides on the Reserve shall:

- (a) own a pit bull;
- (b) breed a pit bull;
- (c) transfer a pit bull, whether by sale or otherwise;
- (d) allow a pit bull in his possession to stray; or
- (e) train a pit bull for fighting.

5.(2) For the purposes of this by-law, a pit bull is a restricted pit bull if, it is owned by a resident of the Reserve on the day that this by-law comes into force.

5.(3) Despite subsection (1) a person may own a pit bull if it is a restricted pit bull.

5.(4) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this by-law.

ADMINISTRATION

6.(1) The Council may appoint, by 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.

6.(2) The Council may, in the resolution, provide for reasonable remuneration to be paid to the animal control officer.

7. A pound may be established with suitable buildings, yards and enclosures for the keeping of such animals as the animal control officer may impound as provided for in this by-law.

REGISTRATION AND IDENTIFICATION OF ANIMALS

8.(1) Every person keeping one or more dogs, or other animals on the Reserve shall register each animal, within sixty (60) days of the coming into force of this by-law and have an identification tag placed around the neck of each animal.

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

- (a) the applicant's name;
- (b) the applicant's address or lot number;
- (c) a description of the dog or other animal sought to be registered, including age, sex, name and breed if known;
- (d) the number of animals in the household;
- (e) a record that the animal 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.

9. The charge for registration and identification tags shall be twenty dollars (\$20.00) per year, or such amount as may be set by the Council from time to time.

10. Upon registration and payment of the annual fee and, if necessary, proof that the animal has been immunized against rabies, the animal control officer shall issue to the owner the license tag.

11. The license tag shall be securely attached to the collar or harness of the animal at all times.

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

IMMUNIZATION OF ANIMALS

13. All animals on the Reserve must be immunized in accordance with generally accepted veterinary standards.

14. The owner of any animal exposed to rabies shall, on demand, surrender the animal to the animal control officer in quarantine for a period of 14 days and such animal shall not be released from quarantine without the written permission of the medical officer of health.

15. Upon demand of the Council, the owner of any animal shall forthwith surrender to the animal control officer any animal 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.

16. Any animal 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 ANIMALS PER DWELLING

17.(1) No more than three (3) animals shall be kept harboured or possessed in any dwelling;

17.(2) The provisions of subsection (17)(1) shall not apply to dog or cat litters, whereby the pups or kittens are under four (4) months of age.

PART III - GENERAL PROHIBITIONS

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

18.(2) A dog need not be tethered or penned up as provided in subsection (18)(1) if the dog:

- (a) is held on a leash by a person capable of restraining the dog's movements;
- (b) is being used by a person for the purpose of hunting;
- (c) is being used by a person to work in a lawful manner with sheep or cattle; or
- (d) is used by a visually impaired person as a guide dog; or

18.(3) No owner shall allow an animal in heat to remain in any public place unless the animal is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.

18.(4) The owner of an animal who fails to take all necessary measures to ensure that the animal 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.

18.(5) The owner of any animal 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.

18.(6) The owner of a dog shall, when the dog 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 dog on the said property.

19. No owner shall allow his animal to remain unfed or without water whereby it either amounts to cruelty or causes the dog to become a nuisance.

20. No person shall punish or abuse an animal in a manner which is cruel or unnecessary.

21. No owner shall permit a dog to bark, yelp, growl or otherwise annoy or disturb the peace of residents on the Reserve.

PROHIBITIONS WITHIN SPECIFIC AREAS OF THE RESERVE

22.(1) The Council may at any time, by resolution, prohibit the keeping of animals within any area of the Reserve.

22.(2) Notice of any prohibition made by the Council pursuant to subsection 22(1) shall be posted in the Administration office and after the date of the posting of such notice, no person shall keep or have an animal within prohibited area.

22.(3) 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 the express written authorization from the Council, by way of resolution.

VICIOUS DOGS

23. Anyone owning a vicious dog or aggressive dog must post a clearly visible sign notifying the public.

24. Whenever it is in a public place, a vicious dog must be muzzled and kept on a leash.

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

STERILIZATION

26.(1) Subject to subsection (2) and (3), every owner of a restricted pit bull shall ensure that the pit bull is sterilized by a veterinarian on or before the day that is 60 days after the day on which this by-law comes into force.

26.(2) If the effect of subsection (1) would be to require sterilization of a pit bull before it reaches the age of 36 weeks, every owner of the pit bull shall instead ensure that it is sterilized on or before the day on which it reaches that age.

26.(3) An owner of a restricted pit bull is exempt from complying with subsection (1) if, in the written opinion of a veterinarian, the pit bull is physically unfit to be anaesthetized because of old age or infirmity. If a veterinarian gives a written opinion based on infirmity, the veterinarian shall state, in the written opinion, whether, in his or her opinion, the infirmity may not be permanent.

26.(4) Where the veterinarian states that an infirmity may not be permanent, he or she shall specify, in the written opinion, a date by which the owner should have the pit bull re-examined by a veterinarian to determine whether the pit bull is fit to be anaesthetized.

IMPOUNDING AND SEIZURE

- 27.(1) No owner shall permit a dog to be at large on the Reserve;
- 27.(2) An animal which is registered and found at large on the Reserve may be impounded for not less than two (2) days and, after notifying the owner, may thereafter be humanely destroyed or otherwise disposed of, unless in the meantime such animal has been claimed by its owner and the costs incurred for the impounding of the animal have been paid.
- 27.(3) An animal which is not registered and found at large on the Reserve may be impounded for not less than one (1) day after which time it may be humanely destroyed or otherwise disposed.
- 27.(4) No damages or compensation may be recovered as a result of the destruction of an animal by the animal control officer pursuant to subsections (2) and (3).
- 28.(1) An animal control officer may seize an animal from any person whom he has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this by-law.
- 28.(2) If an animal is apprehended because it has inflicted an unprovoked attack upon another animal or a person, the animal control officer shall impound the animal for such period of time as specified by a veterinarian or humanely destroy or otherwise dispose of the animal, and no damages or compensation may be recovered as a result of the destruction or disposal of such an animal.
- 28.(3) Subject to subsection (6), an animal control officer who has seized an animal pursuant to subsection (1) shall release the animal to its owner where:
- (a) the owner claims possession of the animal within two (2) days after the date of seizure;
 - (b) the owner pays to the animal control officer all expenses (a minimum of \$30 dollars per day) incurred in securing, caring for and feeding the animal; and
 - (c) the owner has obtained the necessary registration identification tag from the animal control officer before the animal is released.
- 28.(4) Where an animal has not been reclaimed within two (2) 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 dog where a veterinary surgeon so directs and no damages or compensation may be recovered as a result of the destruction or disposal of such an animal.
- 28.(5) The animal control officer shall seek veterinary attention for an animal 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 animal.

28.(6) Where an animal 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 dog as soon after the seizure as the officer thinks fit without permitting any person to reclaim the animal and no damages or compensation may be recovered on account of such action.

28.(7) The animal control officer shall, within a reasonable time, make every reasonable effort to notify the owner of an animal which has been impounded.

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

PROTECTION FROM VICIOUS DOGS

29.(1) A person or animal control officer may destroy, if necessary, a vicious dog that is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying;

- (a) a person;
- (b) another dog that is tethered;
- (c) a food cache, harness or other equipment; or
- (d) domestic livestock.

29.(2) A person or animal control officer who destroys a vicious dog, pursuant to section 29(1), shall immediately report the incident to the Council or animal control officer and notify the dog's owner.

29.(3) No damages or compensation may be recovered as a result of killing a dog by a person or animal control officer who is required to do so pursuant to section 29(1).

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 not exceeding \$1000.00 or to imprisonment for a term not exceeding 30 days, or to both a fine and imprisonment.

31. Notwithstanding any other provision of this by-law, where an animal control officer has reasonable grounds to believe that an owner is not complying with any provision of this by-law, he may give that owner a verbal warning.

ENACTMENT

This by-law is hereby enacted by the Council of the Skidegate Indian Band at a duly convened meeting held at Skidegate, British Columbia on the 21st day of April 2008.

The quorum of the Council is five (05).

Chief Councillor

~~_____~~
Councillor

~~_____~~
Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Being the majority of those members of the Council of the Skidegate Indian Band present at the aforesaid meeting of the Council.

I, JAMES COURTA, Chief Councillor of the Skidegate Indian Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development pursuant to section 82(1) of the **Indian Act**, this 21st day of April, 2008.

Witness

Chief Councillor