



Your file - Votre référence

JUL 28 2006

Our file - Notre référence

E4216-654

Chief and Council
Tsawout First Nation
PO Box 121
7725 Tetayut Rd.
SAANICHTON BC V8M 2C3

Dear Chief and Council:

TSAWOUT FIRST NATION ANIMAL CONTROL BYLAW NO.2006-01

We are pleased to inform you that the above captioned by-law will come into force on **August 20, 2006** pursuant to section 82 of the *Indian Act*. We would also like to refer you to our comments regarding *By-Law No.2006-01* provided to you in our letter of May 19, 2006.

Please note that the coming into force of your by-law, pursuant to section 82 of the *Indian Act*, is not an expression of opinion by the Minister or a ruling by the Department of Indian and Northern Affairs that the by-law is valid; only a court of law has the power to determine the validity of a law.

Please retain at least one 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 a certified true copy 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 As such, no person may be convicted of an offence for contravening an unpublished by-law unless the Band Council proves that the by-law is exempted from publication in the Canada Gazette and that

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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 do not hesitate to contact me at (819) 997-6450.

Sincerely,



Philippe Ethier
A/Manager
By-Law Advisory Services Unit
Band Governance Directorate

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



Indian and Northern Affairs Canada
 Affaires indiennes et du Nord Canada
 www.inac.gc.ca www.ainc.gc.ca

Lands and Trust Services
 600 - 1138 Melville Street
 British Columbia Region
 VANCOUVER BC V6E 4S3
 ph (604) 666-3931 fax (604) 775-7149

RECEIVED
 AUG 11 2006

Your file - Votre référence

Our file - Notre référence

E4216-654

TSAWOUT FIRST NATION
 SURVEYOR OF TAXE

August 4, 2006

Chief and Council
 Tsawout First Nation
 PO BOX 121
 SAANICHTON BC V8M 2C3

Dear Chief and Council:

RE: Tsawout First Nation Animal Control By-law No. 2006-01

Please find enclosed the three certified true copies of the following by-law:

- **Tsawout First Nation By-law No. 2006-01**

We have kept the original on our file should you require additional copies certified pursuant to section 86 Indian Act in the future.

If you have any questions, please call me at 604-666-5305.

Yours truly,

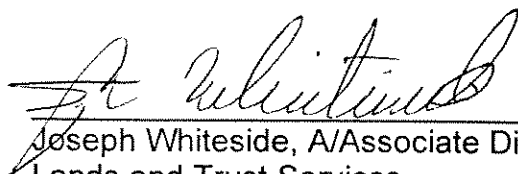
Jean-Émile Dufault
 Band Governance Officer & Indian Monies Officer
 Lands and Trust Services
 BC Region
 600 – 1138 MELVILLE ST
 VANCOUVER BC V6E 4S3
 TEL: 604-666-5305
 FAX: 604-666-2670

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~~TSAWOUT FIRST NATION~~
SURVEYOR OF TAXES

CERTIFICATION

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Tsawout First Nation Animal Control By-law No. 2006-01 dated 11th. day of July, 2006 is a true copy of the said by-law.



Joseph Whiteside, A/Associate Director
Lands and Trust Services,
a Superintendent as defined in
Sec 2(1) Indian Act RSC 1985

RECEIVED
28 AUG 17 2006
TSAWOUT FIRST NATION
SUPERVISOR OF TAXES

TSAWOUT FIRST NATION
ANIMAL CONTROL BYLAW NO. 2006-01

A BYLAW RESPECTING
THE CONTROL OF ANIMALS
FOR THE TSAWOUT FIRST NATION

WHEREAS:

- A. The Council deems it advisable, necessary, expedient and in the best interest of Tsawout First Nation and all Owners and occupiers of the Tsawout Lands, to establish a Bylaw concerning the control of Dogs and Animals and to provide for the health and safety of all residents on Tsawout 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 Tsawout 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 Tsawout 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 Tsawout Lands.

THEREFORE the Council enacts the following Bylaw:

1.0 SHORT TITLE

1.1 This Bylaw may be cited as the "Animal Control Bylaw No. 2006-01".

2.0 REPEAL OF TSAWOUT BYLAW NO. 2000-01

2.1 Tsawout Bylaw no. 2000-01, enacted on the 23rd day of July 1993 for the purpose of regulating the care and control of animals, is hereby repealed.

3.0 DEFINITIONS

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

- a) “**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:
- i. cattle, goats, horses, poultry, rabbits, sheep, swine kept for the purpose of providing meat or eggs; and
 - ii. animals that are wild by nature, kept in captivity, and whose pelts are commonly used for commercial purposes.
- b) “**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;
- c) “**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;
- d) “**Council**” means the governing council of the Tsawout First Nation elected pursuant to section 74 of the *Indian Act*.
- e) “**Dangerous Dog**” means any dog which meets any one or more of the following conditions:
- i. a Dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
 - ii. a Dog that, while at large, has attacked, bitten, killed or caused injury to an Animal;
 - iii. a Dog that, while at large, has aggressively pursued or harassed a person;
 - iv. a Dog that, while at large, has aggressively pursued or harassed a Animal;
 - v. 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
 - vi. 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.
- f) “**Dog**” means both male and female of the species *canis domesticus* apparently over the age of four months and includes a Dangerous Dog;
- g) “**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;

- h) **"Impounded"** means seized, delivered, received or taken into the Pound, or into the custody of the Animal Control Officer or Poundkeeper as provided in this Bylaw;
- i) **"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;
- j) **"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;
- k) **"Pound"** means any premises maintained and operated for the purpose of keeping Dogs or Animals Impounded under this Bylaw;
- l) **"Poundkeeper"** 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:
 - i. the maintenance and operation of a Pound;
 - ii. to seize, keep or destroy Dogs or Animals;
- m) **"Public Notice"** means written notice posted in at least three different and conspicuous places on Tsawout Lands, including in the main administration office of the Tsawout First Nation;
- n) **"Tsawout 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 Tsawout Lands have been set apart by Her Majesty the Queen.
- o) **"Tsawout Lands"** as it relates to this Bylaw means East Saanich Indian Reserve No. 2 and Fulford Harbour Indian Reserve No. 5.

4.0 ADMINISTRATION

- 4.1 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.
- 4.2 The Animal Control Officer is authorized and directed to carry out the provisions set out in this Bylaw.

4.3 Council of the Tsawout 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 Poundkeeper; and
- d) maintain and operate a Pound.

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

5.0 DOGS

5.1 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 Tsawout Lands.

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

5.3 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.

5.4 A Dog need not be confined as required in subsection 5.3, 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.

5.5 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.

5.6 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 5.4, the Dangerous Dog wears a Muzzle if it is not confined as required under subsection 5.3.

5.7 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.

- 5.8 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 Tsawout Lands.
- 5.9 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.
- 5.10 The Council may prohibit the keeping of any Dogs on any area of Tsawout Lands for health and safety reasons, provided it gives Public Notice of such prohibition.

6.0 OTHER ANIMALS

- 6.1 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.
- 6.2 No Owner of an Animal shall allow or permit that Animal at large.
- 6.3 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.
- 6.4 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.
- 6.5 The Council may prohibit the keeping of any Animals on any area of Tsawout Lands for health and safety reasons, provided it gives Public Notice of such prohibition.

7.0 SEIZURE, SALE AND DISPOSAL OF ANIMALS

- 7.1 The Animal Control Officer may seize and impound any Dog or Animal at large on Tsawout Lands.
- 7.2 If reasonably possible, the Animal Control Officer will, in a timely manner, notify the Owner, of the impoundment of the Dog or Animal.

- 7.3 The Animal Control Officer or Poundkeeper may detain any Dog or Animal seized on Tsawout Lands until the following amounts are paid to Tsawout First Nation:
- a) all actual costs incurred by Tsawout 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 Tsawout Lands;
 - b) any veterinarian fees incurred by Tsawout First Nation under section 7.5; and
 - c) any penalties or fees established under this Bylaw by Tsawout Council from time to time.
- 7.4 An Owner must sign a receipt for any Dog or Animal prior to the release of the Dog or Animal from the Pound.
- 7.5 The Animal Control Officer or the Poundkeeper may request the attendance of a veterinarian to the Pound, if in the view of the Animal Control Officer or Poundkeeper, 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 Poundkeeper, acting in good faith.
- 7.6 If five days after the Animal Control Officer or Poundkeeper 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 Poundkeeper, may:
- a) sell the Dog or Animal pursuant to this Article 7.0; or
 - b) have the Dog or Animal destroyed in a humane manner.
- 7.7 If more than one Dog or Animal has been Impounded and:
- a) the Owner thereof is known, then the Animal Control Officer or the Poundkeeper, 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 7.3, 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 Poundkeeper, as the case may be, may sell all the Dogs or Animals Impounded.
- 7.8 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.
- 7.9 If, in the reasonable opinion of the Animal Control Officer or the Poundkeeper, 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 Poundkeeper, as the case may be, may cause the Dog or Animal to be destroyed.

- 7.10 No Owner or person will be allowed to reclaim, purchase or adopt a Dog or Animal that has been determined under section 7.9, to need to be destroyed.
- 7.11 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.
- 7.12 No damages or compensation are recoverable against the Tsawout First Nation, or any member, contractor, agent or employee of the Tsawout First Nation, as a result of a Dog or Animal being destroyed under provisions of this Bylaw.

8.0 OFFENCES AND PENALTIES

- 8.1 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*.

9.0 NOTICES

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

Tsawout First Nation
PO Box 121
7725 Tetayut Road
Saanichton, BC V8M 2C3

Attention: Animal Control Officer

- 9.2 Notice from the Tsawout 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.

10.0 GENERAL

- 10.1. 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.
- 10.2 This Bylaw shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.
- 10.3 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.
- 10.4 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.

- 10.5 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.
- 10.6 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*.
- 10.7 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 Tsawout First Nation Council at a duly convened meeting of the Tsawout First Nation held at the Tsawout First Nation Administration Offices at 7725 Tetayut Road Saanichton, British Columbia, this 11th day of JULY, 2006.

A QUORUM OF COUNCIL CONSISTS OF FOUR COUNCILLORS

Allan Claxton

CHIEF ALLAN CLAXTON

Gwen Underwood

COUNCILLOR GWEN UNDERWOOD

Louis Claxton

COUNCILLOR LOUIS CLAXTON

Harvey Underwood

COUNCILLOR STANLEY SAM

COUNCILLOR HARVEY UNDERWOOD

Toby Joseph

COUNCILLOR TOBY JOSEPH

Frank Pelkey

COUNCILLOR FRANK PELKEY

I, ALLAN CLAXTON, a Councillor of the Tsawout First Nation, do hereby certify that a true copy of the foregoing Bylaw was forwarded to the Minister of Indian Affairs and Northern Development pursuant to subsection 82(1) of the *Indian Act* this 11th day of JULY, 2006.

Allan Claxton

SIGNATURE