

**BY-LAW NO 04
of Kebaowek First Nation**

A By-law respecting the care and
control of animals on the reserve of Kebaowek First Nation

Enacted on the 23 day of May 2018

WHEREAS Kebaowek First Nation was formerly known as Eagle Village First Nation-Kipawa;

WHEREAS Kebaowek First Nation asserts its right to self-government through its elected Council;

WHEREAS section 81, paragraph (a), (d), (e), (q) and (r), of the *Indian Act*, R.S.C., 1985, c. I-5 (“*Indian Act*”) empowers the Council of Kebaowek First Nation 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, and 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;

WHEREAS the Council of Kebaowek First Nation is of the opinion that the uncontrolled ownership, breeding, and running at large of animals may be detrimental to the health and safety of the residents on the reserve, and a nuisance to such residents;

WHEREAS the Council of Kebaowek First Nation has consulted with the Témiscamingue Regional County Municipality in an effort to adopt, where possible and beneficial for Kebaowek First Nation, harmonised rules that facilitate enforcement while responding the specific needs of Kebaowek First Nation;

THEREFORE, the Council of Kebaowek First Nation enacts this Animal Control Bylaw, Number ____, as follows:

Short title

1. This by-law may be cited as the “Animal Control By-law.”

Interpretation

2. In this by-law

“animal” means a dog, a cat, or any other animal kept, possessed or harboured by a person or persons on the reserve; (“*animal*”)

“officer” means a police officer, police constable, public security officer; (“*agent*”)

“band” means Kebaowek First Nation (formerly Eagle Village First Nation – Kipawa), which is a band defined by Section 2 of the *Indian Act*; (“*bande*”)

“cat” means any cat, male or female; (“*chat*”)

“Council” means the Council of Kebaowek First Nation (formerly Council of Eagle Village First Nation – Kipawa), including its Chief, which is a band council as defined in the *Indian Act*; (“*Conseil*”)

“dog” means any dog, male or female and includes an animal that is a cross between a dog and a wolf; (“*chien*”)

“dog catcher” means a person employed by Kebaowek First Nation for the purpose of removing animals from the reserve; (“*ramasseur de chiens*”)

“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; (“*logement*”)

“minor” means a person not yet 18 years of age; (“*mineur*”)

“owner” of an animal includes a person who possesses or harbours an animal, and a person who is temporarily charged with control of an animal in the absence of the original owner; the terms "owns" and "owned" have a corresponding meaning; (“*propriétaire*”)

“at large” or “running at large” means off the premises of the owner or not under the control of any person; (“*en liberté*” ou “*courir en liberté*”)

“reserve” means Kebaowek First Nation (formerly known as Eagle Village First Nation – Kipawa), which is a reserve as defined by the *Indian Act*; (“*réserve*”)

“vicious dog” includes

- a) any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
- b) any dog that an officer or dog catcher, upon reasonable and probable grounds, believes to be a vicious dog;
- c) any dog which has bitten another animal or human without provocation. (“*chien méchant*”)

Application

3. This by-law applies to all owners of animals residing in or visiting Kebaowek First Nation.

4. Each adult owner is responsible for his or her own conduct and the conduct of any minor child whom the owner allows to take charge of the animal.
5. If the owner of an animal is a minor, the adult who has custody of the minor owner is responsible for the conduct the child.
6. If a child commits an infraction in accordance with the present by-law, any adult who has care of the child can be held responsible for the infraction.
7. New residents to Kebaowek First Nation shall comply with the present by-law even if their animal is registered with a municipal corporation, another First Nation or other public entity.

Limitations on animals per dwelling

8. (1) It is prohibited to keep, harbour or possess more than three (3) animals per dwelling, subject to the further restrictions in subsection (2);
 - (2) It is prohibited to keep, harbour or possess more than two dogs or two cats per dwelling.
 - (3) The owner or, if the owner is a minor, the parent of the minor owner of a dog or cat has 90 days after the dog or cat gives birth to comply with subsections (1) and (2).
 - (4) The provisions of subsection (1) shall not apply to fish and other aquatic vertebrae.

General Prohibitions

9. (1) Subject to subsection (2), every owner of a dog shall keep the dog safely tethered or penned up at all times.
 - (2) A dog need not be tethered or penned up as provided in subsection 9(1) if the dog:
 - a) is held on a leash of a maximum of 2 metres long by a person capable of restraining the dog's movements; or
 - b) is used by a visually impaired person as a guide dog.
 - (3) No owner shall allow a female dog 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.
 - (4) The owner who fails to take all necessary measures to ensure that his or her dog 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.

- (5) 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, in a hygienic manner, any feces, vomit, or any other waste left by the dog on the said property.
 - (6) No owner shall permit a dog to bark, yelp, growl or otherwise annoy or disturb the peace of residents on the reserve.
 - (7) Any owner of a dog who has bitten someone shall inform the police services within 24 hours of the incident.
- 10. The owner of an animal which causes damage, other than the damage referred to in subsection 9(5), to any property including moveable property, lawns, flower gardens, flower beds, bushes or plants, garbage or other parts of property, is guilty of an offence.
 - 11. No one shall allow an animal under his or her care to remain unfed or without water whereby it either amounts to cruelty or causes the dog to become a nuisance.
 - 12. No person shall punish or abuse an animal in a manner which is cruel or unnecessary, including by unnecessarily hitting the animal, by overloading it, or by keeping it in a way that could cause harm to the animal.
 - 13. No owner shall abandon an animal in an effort to dispose of it.

Prohibitions within Specific Areas of the Reserve

- 14. (1) The Council may at any time prohibit the keeping of animals within any area of the reserve.
 - (2) Notice of any prohibition made by council pursuant to subsection (1) shall be posted in the band office and after the date of the posting of such notice, no person shall keep or have an animal within the prohibited area.
- 15. (1) Subject to subsection (2), an animal is not permitted in an establishment that serves food to the public or in a public building, except for a guide dog used by a visually impaired person.
 - (2) Police dogs or other animals used by security forces for professional safety and security reasons may enter an establishment open to the public provided that the animal remains at all times under the control of its handler.
- 16. 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 express written authorization to that effect from council.

17. No person shall feed seagulls, pigeons or other birds in a manner or location that could encourage these birds to assemble in sufficient numbers to cause inconvenience to neighbours, damage a neighbouring building disturb garbage or otherwise make a mess of the premises.

Vicious Dogs

18. It is prohibited and constitutes a danger to public safety to keep anywhere on the reserve a dog that is:

- a) vicious, dangerous, has rabies or has previously attacked another domestic animal or a person;
- b) of the Bull Terrier, Staffordshire Bull Terrier, American Bull Terrier or American Staffordshire Terrier breeds or a hybrid of one of these breeds (commonly known as “Pit Bulls”);
- c) of the Rottweiler or Doberman Pinscher breeds or a hybrid of one of these breeds.

19. Residents of Kebaowek First Nation who already possess a prohibited breed or hybrid of the dogs listed in paragraphs 18(b) and (c) upon the adoption of this by-law may continue to keep the otherwise prohibited dog in a manner that complies with the other provisions of this by-law. However, these same residents shall not keep any off-springs of the prohibited dog nor acquire new prohibited dogs following the adoption of this by-law.

20. Residents who wish to avail themselves of section 19 of the present by-law must be able to provide proof that this section applies to them, upon request by Council.

Wild and Exotic Animals

21. It is prohibited to keep, possess or harbour a wild animal.

22. No person may keep, possess, harbour or traffic in big cats, poisonous animals or predatory reptiles, such as pythons, except if the animal in question is part of an event or activity presented by a zoo, circus or nature exhibition, in which case all required safety measures to protect the public should be taken by the event organiser, circus owner or zoo owner, as the case may be.

Removal of Animals from Reserve

23. An officer may visit and examine, between 7 a.m. and 7 p.m., all property both inside and outside of any house, structure or building, to determine whether the present by-law is being complied with. Any owner, tenant or occupant of the house, structure or building in question shall permit entry to the officer and answer all questions asked pertaining to compliance with this by-law.

24. Any dog found at large on the reserve may be removed from the reserve by an officer or dog catcher.
25. The dog shall be taken to the North Bay and District Humane Society or to an equivalent service provider with whom Kebaowek First Nation may, from time to time, establish a partnership for the purpose of animal control.
26. The owner, if known, will be informed of the whereabouts of their dog. Conditions for the retrieval of the dog depend on the procedure established by the organization housing the removed dog and are not the responsibility of council.
27. (1) An officer or dog catcher may seize a dog 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.

(2) Whereby, a dog is seized and should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals, a police officer shall destroy the dog as soon after the seizure as the officer or dog catcher thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.

Dangerous Animals Destroyed if Unable to be Seized

28. (1) Where a police officer or dog catcher, after reasonable effort, is unable to seize an animal that is running at large, contrary to the provisions of this by-law, and the police officer or dog catcher has a reasonable belief that the animal poses a danger to the safety of a person or another animal on the reserve, a police officer may destroy the dangerous animal.

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

Protection from Vicious Dogs

29. (1) A person or officer may kill, if necessary, a vicious dog which 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; or
 - c) a harness or other equipment meant to control the vicious dog.
(2) A person or officer who must kill a vicious dog, pursuant to subsection (1), shall immediately report the incident to the Council or officer and notify the dogs' owner.

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

Penalty

30. (1) 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 or to imprisonment for a term of no more than 30 days, or to both a fine and imprisonment.
- (2) Police officers may administer fines to any person who contravenes this by-law as well as take all reasonable measures necessary to prevent further offences from occurring.
- (3) Except in exceptional circumstances, an offence related to sections 9(1), 9(3), 9(4), 9(7), 11, 12, 13, 18, 21, 22 may incur a fine of \$100 for a first offence and \$200 for all subsequent offences.
- (4) For all other offences of this by-law, a fine of \$75 may be incurred for the first offence and \$150 for all subsequent offences.
- (5) Notwithstanding paragraphs (2), (3) and(4), if a fine remains unpaid for more than 30 days, Kebaowek First Nation reserves the right to increase the amount of the fine owing to account for the cost of prosecuting the offence.

General

31. The present by-law is adopted in English and the French version is a translation.
32. 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.
33. Kebaowek First Nation may charge a person who requests a paper copy of this by-law the reasonable cost of printing incurred by such a request.
34. Following its adoption by Council, this by-law comes into force upon publication on the website of Kebaowek First Nation pursuant to s. 86(5) of the *Indian Act*.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of Kebaowek First Nation this __ day of _____ , 20__ .

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

(Member of the Council, Chief)

(Member of the Council)

(Member of the Council)

being the majority of those members of the Council of Kebaowek First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members.

Number of members of the Council present at the meeting: ____.