

THE PIIKANI NATION

BYLAW NO. 02-2016 STRAY HORSE ROUND-UP BYLAW

**Being a Bylaw of the Piikani Nation to provide for
the control of stray horses on the Piikani Nation Reserve 147
and Peigan Timber Limits 147B pursuant to Section 81 of the Indian Act**

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WHEREAS many stray and neglected horses have been permitted to run at large in the Community Pastures and other common areas on the Piikani Nation Reserve 147, and have become a nuisance to residents and a risk to the condition of the pastures and the health of the said horses;

AND WHEREAS the said horses have remained at large notwithstanding requests to the known owners of the said horses for their removal;

AND WHEREAS it is expedient and necessary to make provision for the removal of the said horses before the onset of winter makes their removal impractical;

AND WHEREAS pursuant to sections 81(c), (d), (e), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5, as amended, the Piikani Nation Council is empowered to make bylaws for the prevention of nuisance, 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 for fees and charges for their services, and with respect to matters arising out of or ancillary thereto, the observance of law and order, and for the imposition of a penalty for a violation of this Bylaw;

NOW THEREFORE the Piikani Nation 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 Horse Round-up Bylaw”.

Interpretation

1.2 Except as otherwise defined in this Bylaw, the words used in this Bylaw shall have the meanings assigned to them in the *Pound Bylaw*, being Piikani Nation Bylaw No. 2.

1.3 In this Bylaw unless the context otherwise requires:

“Allocated Lands” means lands which an individual has been granted permission to occupy and use according to the custom of the Piikani Nation;

“Assessor” means a person appointed as an assessor by the Council pursuant to this Bylaw.

“Council” means the Council of the Piikani Nation duly elected from time to time in accordance with the *Piikani Nation Custom Election Bylaw, 2002*, as amended, and which is a “council of the band” as defined by s. 2(1) of the Indian Act.

“damage” means damage done to real or personal property by a horse or any person in capturing, impounding or disposal of a horse.

“disposal of a horse” means selling or destroying a horse, or releasing a horse to its owner, as the case may be, and “disposal activities” are activities relating to the disposal of a horse.

“expenses” means the expenses incurred in capturing, confining, impounding, identifying, maintaining, transporting and selling horses, attempting to ascertain the owner of horses, and carrying out any other provisions of this Bylaw, or such other similar activities as may be prescribed by the Council.

“Community Pasture” means the Peigan Hay Lease and the North Community Pasture.

“Implementation Period” means the period from the coming into force of this Bylaw until the end of the Impoundment Period for the last horse claimed, sold or destroyed in accordance with the Bylaw.

“Impoundment Period” means the period for which a horse is impounded pursuant to this Bylaw and during which an owner may claim an impounded horse.

"Manager" means the Manager of the Piikani Nation Land Department, or the Assistant Manager where no Manager is appointed.

"Notice" means the notice published pursuant to sections 2.2 and 2.6.

"owner" means a natural person or body corporate who has legal title to a horse, or that person's agent or delegate.

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

"Reserve" means the Piikani Nation Reserve No. 147 and Peigan Timber Limit 147B.

"Round-up Period" means the period designated by the Manager pursuant to section 2.2 during which any horse found at large on the Community Pasture will be removed from the Community Pasture and impounded.

Application

- 1.4 This Bylaw applies on the Piikani Nation Reserve 147 and Peigan Timber Limits 147B during the Implementation Period.
- 1.5 During the Implementation Period, wherever the provisions of this Bylaw are inconsistent with the *Pound Bylaw*, the provisions of this Bylaw shall prevail.

Part 2 – ROUND-UP

Administration of Round-up

2.1 The Manager shall administer and oversee the capture, impoundment, and disposal of horses pursuant to this Bylaw.

2.2 So soon as is expedient after the passing of this Bylaw, the Manager shall designate a period during which all horses found at large on the Community Pasture shall be captured and impounded, and shall publish Notice of same in the Piikani Nation Administration Office and the Lands Office.

2.3 For the duration of the Implementation Period, the Manager is appointed as a pound-keeper, and may appoint subordinate pound-keepers who report to the Manager, and designate pounds.

2.4 During the Implementation Period, no pound-keeper or other person shall capture or impound any horse that is at large in the Community Pasture or the townsite of Brocket except under the direction of the Manager.

2.5 During the Implementation Period, any person may request a copy of this Bylaw from the Piikani Nation Administration Office or the Piikani Nation Lands Office, free of charge.

2.6 The Notice issued pursuant to section 2.2 shall state:

- (a) That horses at large in the Community Pasture or the townsite of Brocket will be captured and impounded during the dates of the Round-up Period;
- (b) That horses marked with a brand or other identification will be sold or destroyed within three days of capture unless claimed with proof of ownership;
- (c) That horses not marked with a brand or other identification will be sold or destroyed within two days of capture unless claimed with proof of ownership including genetic evidence showing ownership of the sire or dam;
- (d) That no unbranded horse may be claimed without payment of the cost of capture and impoundment;
- (e) That no horse may be claimed without proof that arrangements have been made to keep the horse off of the Community Pasture and the townsite of Brocket;
- (f) That attempts to disrupt or interfere with the round-up, to brand horses which were previously unbranded, or to capture horses not already marked with the capturer's brand, are an offence punishable upon summary conviction by a fine of up to \$1,000.00, or imprisonment for up to 30 days, or both;
- (f) That details of the administration of the capture, impoundment and disposal of horses are provided for in this Bylaw; and
- (g) That copies of this Bylaw may be obtained from the Piikani Nation Administration Office and the Piikani Nation Lands Office free of charge.

2.7 Notwithstanding section 5 of the *Pound Bylaw*, the conduct of capture, impoundment and disposal activities pursuant to this Bylaw shall be at the expense of the Piikani Nation.

PART 3 – LIABILITY

Liability for Trespassing Horses

3.1 Where any horse causes damages or causes a person to incur expenses, or both, during the Implementation Period, the owner of the horse shall be liable for the damage or expenses, or both, except where such damage or expenses is due wholly to the fault of the person suffering the damage or expenses.

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 the person could have prevented it by fencing his Allocated Lands.

3.3 No pound-keeper or person authorized to assist in the capture, impoundment or disposal of horses shall be liable for any damage caused by a horse that is not owned by that person, unless the damage is caused, in whole or in part, deliberately by the person or due to the person's gross negligence.

PART 4 – CAPTURE, CONFINEMENT AND IMPOUNDMENT OF HORSES

Powers of Pound-keeper

4.1 Any horse found at large on the Community Pastures or the townsite of Brocket during the round-up period shall be deemed to be trespassing.

4.2 During the Implementation Period, a pound-keeper may, if satisfied that a horse is trespassing pursuant to section 4.1, capture and impound it or authorize another person to capture and impound it at a pound designated by the Manager.

Destruction of Dangerous Horses

4.3 A pound-keeper who is satisfied that

- (a) a horse is trespassing pursuant to this Bylaw, and
- (b) attempted capture of the horse will likely result in injury to some person or animal,

may destroy the horse in a safe and humane manner or authorize another person to destroy the horse in the same manner, provided that the person destroying the horse shall comply with federal firearms and safety legislation.

4.4 No damages or compensation may be recovered by the owner as a result of the destruction of a horse by the pound-keeper or any person authorized by him pursuant to Section 4.3.

Destruction of Injured Horses

4.5 Where a horse is trespassing, captured or impounded which the pound-keeper has reason to believe is injured or should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals:

- (a) the pound-keeper shall document the injuries or state of health of the horse and any risk to the health or safety of persons or animals;
- (b) upon documenting the injuries or state of health of the horses and any risk to the health or safety of persons or animals, the pound-keeper shall destroy the horse forthwith without permitting any person to reclaim the horse;
- (c) where the pound-keeper has reason to believe that the horse might be infected with a disease which causes it to carry a risk to the health of persons or animals, the pound-keeper shall forthwith use reasonable efforts to consult with the Federal Environmental Health Officer in respect of any decision to be made pursuant to this section; provided that the pound-keeper shall not be required to wait on the availability of the Federal Environmental Health Officer if the situation appears to pose an immediate and serious risk to health and safety;
- (d) if the pound-keeper has reason to believe that the condition of the horse is the result of abuse or neglect, the pound-keeper may report the incident to the Society for the Prevention of Cruelty to Animals, along with a copy of the documentation created pursuant to subsection (a);

and, provided that the pound-keeper and Federal Environmental Health Officer are acting in good faith, no damages or compensation may be recovered by the owner as a result of such actions.

Period of Impoundment

4.6 Any horse impounded pursuant to this Bylaw shall be impounded:

- (a) For three days, if it is marked with a brand or other identification; or
- (b) For two days, if it is not marked with a brand or other identification;

after which the pound-keeper may, in his sole discretion, order the horse to be sold or destroyed, provided that no horses may be sold or destroyed prior to 10 days following the issuance of the Notice.

4.7 A person claiming to be the owner of a horse but unable to meet the requirements for claiming the horse pursuant to section 4.8 within the Impoundment Period may request an extension the Impoundment Period, provided that he pays, in advance, any damages, the Capture Fee and Impound Fees accrued to date, and the Extension Fee, and further provided that the total Impoundment Period including any extension or extensions may not exceed 10 days without the approval of the Manager.

Claiming of Horses

4.8 During the Impoundment Period of a horse, where a person claiming to be the owner of that horse:

- (a) provides proof satisfactory to the pound-keeper that he is the owner; and
- (b) pays the Capture Fee and the Impoundment Fee, if the horse is not marked with a brand or other identification;

the pound-keeper shall release the horse to the owner's custody.

Proof of Ownership of Unmarked Horses

4.9 Any horse impounded pursuant to this Bylaw that is not marked with a brand or other identification shall be deemed to have no owner unless ownership is proven pursuant to sections 4.10 and 4.11.

4.10 No person shall be recognized to be the owner of a horse that is not marked with a brand or other identification unless he provides at his own expense during the Impoundment Period genetic evidence that he is the owner of the sire or dam of the horse.

4.11 Where a person provides genetic evidence that he is the owner of the sire of a horse, and another person provides genetic evidence that he is the owner of the dam of the same horse, unless the parties provide satisfactory evidence to the contrary, the horse shall be deemed to be jointly owned by both persons.

PART 5 – DISPOSITION OF PROCEEDS OF SALE OF HORSES

5.1 When a horse is sold pursuant to this Bylaw, the proceeds of sale shall be disbursed in accordance to this Part.

5.2 The proceeds of sale of any horse that is not marked with a brand or other identification shall be applied to defray the cost of all capture, impoundment and disposal activities during the Implementation Period, with the balance paid to the general account of the Piikani Nation Administration.

5.3 The proceeds of sale of any horse that is marked with a brand or other identification shall be disbursed in the following priority, on proof that expenses have been incurred;

- (a) To pay for all expenses associated with the sale of the horse, including transporting the horse to the place of sale; and
- (b) To pay any fees that have accrued pursuant to this Bylaw.

5.4 Any balance of the proceeds of sale remaining after compliance with section 5.3 shall be paid into the general account of the Piikani Nation Administration.

5.5 The Council shall pay out of a balance referred to in Section 5.4, to the extent the money is available in that balance, to a person claiming damages, the following amount;

- (a) The amount of the damage claim, if it is reasonable in the opinion of the Manager after reviewing the available evidence; or
- (b) The assessment calculated by an Assessor under section 5.8.

5.6 The Council may pay out of the balance, if any, of the proceeds of sale of horse after compliance with section 5.5 to a person who

- (a) Makes a claim within three (3) months from the date of the sale of the horse, and
- (b) Establishes to the satisfaction of the Council that the person was the owner of the horse prior to the sale.

5.7 When a horse is sold in pursuant to this Bylaw and a dispute exists or arises between the owner of the horse and any person claiming to have suffered damage, the proceeds of the sale of the horse shall not be paid in accordance with sections 5.5 and 5.6 until:

- (a) The parties to the dispute agree in writing to the disposition of the balance of proceeds, in which case Council shall pay the balance of the proceeds of the sale of the horse in accordance with the agreement, or
- (b) A court awards damages and directs payment of the balance of proceeds to one or both parties to the dispute, in which case the Council shall pay the balance of the proceeds of the sale of that horse in accordance with the direction of the court.

Assessment of Damages

5.8 When a horse that is marked with a brand or other identification is impounded pursuant to this Bylaw and

- (a) the owner of the horse is not known, and
- (b) a person claiming to have suffered damage and the Manager do not agree on the amount of damage

the Council may, at the request of the pound-keeper or the person claiming to have suffered damage, appoint an Assessor to assess the amount of the damage and, when appropriate, to determine the horse or horses responsible for the damage.

5.9 An Assessor shall, on making his assessment and determination, give a written notice to the Council, the Manager and the person claiming to have suffered damage, showing the assessment and determination, if any.

5.10 The assessment and determination, if any, of the Assessor is final for the purpose of calculating the amount to be paid to the person claiming to have suffered damage pursuant to Section 5.5.

PART 6 – FEES

- 6.1 The proscribed fees for the purposes of this Bylaw are:
- (a) A Capture Fee for each horse captured in the amount of \$50.00.
 - (b) An Impoundment Fee for each day, or portion of a day, that a horse is impounded of \$20.00.
 - (c) An Extension Fee for each request to extend the Impoundment Period for a horse pursuant to section 4.7 in the amount of \$100.00, plus \$20.00 for each day by which the Impoundment Period is to be extended.

PART 7 – GENERAL MATTERS

Delegation

- 7.1 The Council may delegate any of its powers, duties or functions under this Bylaw to the Manager, a pound-keeper, Assessor or any other person, except its power to make regulations under this Bylaw.
- 7.2 When a delegation is made under section 7.1, a reference in this Bylaw or the regulations to the Council or a pound-keeper or Assessor with respect to the delegated powers, duties or functions is to be read as if it were a reference to the delegated body.

Regulations

- 7.3 The Council, by Band Council Resolution, may make regulations for the proper administration of this Bylaw.

PART 8 – OFFENCES

Offences and Penalties

- 8.1 Any person who
- (a) interferes in, disrupts, or causes a disturbance during the capture, impoundment or disposal activities prescribed by this Bylaw;
 - (b) during the Implementation Period, marks or attempts to mark with a brand or other form of identification a horse that is not already so marked and is at large in the

- Community Pasture or the townsite of Brocket, or captured or impounded pursuant to this Bylaw, except with the approval of a pound-keeper in writing; or
- (c) during the Implementation Period, captures or impounds, or attempts to capture or impound, any horse that is at large in the Community Pasture or the townsite of Brocket, other than a horse marked with the person's brand or other identification, except under the direction of a pound-keeper in writing;

commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty (30) days, or to both a fine and imprisonment.

Civil Liability Unaffected

- 8.2 Nothing in this Bylaw affects the civil liability of a person who contravenes any provision of this Bylaw or the regulations and the question of liability for damages.

PART 9 – COMING INTO FORCE

- 9.1 This Bylaw comes into force upon publication pursuant to section 86 of the *Indian Act*.

READ FOR A FIRST TIME by Council this 8th day of November, 2016 at 2:29 pm

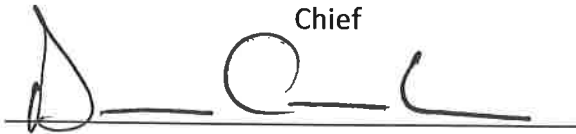
READ FOR A SECOND TIME by Council this 10th day of November, 2016 at 1:21 pm

READ FOR A THIRD TIME by Council this 16th day of November, 2016 at 11:04 am

THIS BYLAW IS HEREBY made at a duly convened meeting of the Piikani Nation Council this 16th day of November, 2016.

Piikani Nation Council:

Chief



Councillor Doane Crow Shoe



Councillor Keith Grier



Councillor Troy Knowlton

Councillor Fabian North Peigan



Councillor Brian Jackson



Councillor Barnaby Provost



Councillor Ferlin Crow Shoe



Councillor Lowell Yellow Horn

Being the majority of those members of the Piikani Nation Council present at the aforesaid meeting of the Council.

The quorum of the Piikani Nation Council is seven (5) members.

Number of members of the Piikani Nation Council present at the meeting is ____.