

**METLAKATLA FIRST NATION
ANIMAL CONTROL BY-LAW, 2016**

WHEREAS:

A. The Metlakatla First Nation has an inherent right to self-government which is recognized and affirmed by section 35 of the *Constitution Act, 1982* and Article 4 of the United Nations Declaration on the Rights of Indigenous Peoples;

B. Section 81, paragraphs (a), (d), (e), (q) and (r), of the *Indian Act* empower the Council of an Indian 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;

C. The Governing Council of the Metlakatla First Nation is of the opinion that the uncontrolled ownership, breeding, and running at large of animals may be detrimental to the health of the residents on Metlakatla lands, and a nuisance to such residents; and

D. The Governing Council of the Metlakatla First Nation deems it to be necessary and in the best interests of Metlakatla to make a by-law for such purposes,

NOW THEREFORE, the Governing Council of the Metlakatla First Nation duly enacts as follows:

**PART I
CITATION**

Citation

1. This By-Law may be cited as the *Metlakatla First Nation Animal Control By-Law, 2016*.

**PART II
INTERPRETATION AND APPLICATION**

Definitions and References

- 2.(1) In this By-Law:

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

"animal control officer" means and includes

- (a) the Metlakatla Community Safety Officer and any officer or employee of Metlakatla who has been assigned duties described in this By-Law,
- (b) a peace officer, and
- (c) any person, company or association that has entered into an agreement with Metlakatla to control or care for animals, and includes any servants or agents of such employee, person, company or association;

"at large" or "running at large" means off the premises of the owner and not under the control of any person;

"dangerous dog" means

- (a) any dog that demonstrates or has demonstrated any ferocious, vicious, dangerous or aggressive behaviour, including
 - (i) biting or attacking a human or animal without provocation, or
 - (ii) having a known propensity, tendency or disposition to attack a human or animal without provocation;
- (b) any dog that has been the cause of a prosecution under this By-Law within the previous six months where a conviction against any person had been entered concerning that specific dog;
- (c) any dog that an animal control officer has designated as a dangerous dog pursuant to section 36; and
- (d) any restricted dog that resides on Metlakatla lands at the time this By-Law comes into force, pursuant to subsection 24(2);

"dog" means any dog, male or female and includes an animal 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, 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;

"Governing Council" means the Metlakatla Governing Council, elected in accordance with the *Metlakatla First Nation Election Code*;

"impound" means to seize, deliver, receive or take into the custody of the animal control officer or a pound;

"kennel" means any building or structure or premises where dogs are bred, kept, raised, trained and boarded for commercial purposes;

"Metlakatla" means the Metlakatla First Nation (formerly known as the Metlakatla Indian Band);

"Metlakatla lands" means and includes all reserves of Metlakatla within the meaning of the *Indian Act*;

"muzzle" means to secure the mouth of an animal in such a fashion that it cannot bite anything;

"owner" means a person who possesses, harbours, or has control, care or custody of an animal, and where the owner is under the age of 18, the person responsible for the custody of that owner, and the terms "owns" and "owned" have a corresponding meaning;

"peace officer" means a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process, and includes a person appointed by the Governing Council for the purpose of maintaining law and order on Metlakatla lands;

"police dog" means a dog that is owned by a police force, is trained to assist police officers, and is under the care and control of a police officer;

"pound" means any facility, building, structure or enclosure suitable for the impounding, sheltering and keeping of animals, and includes a pound located outside of Metlakatla lands;

"resolution" means a motion passed and approved by a majority of the Governing Council members present at a duly convened meeting;

"restricted dog" means a dog over the age of 16 weeks which can be reasonably identified by an animal control officer as being predominantly one of the following breeds, or any mixed-breed dog consisting primarily of two or more of the following breeds:

- (a) Pit Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier,
- (b) Rottweiler,
- (c) wolf hybrid,
- (d) Bullmastiff,
- (e) Doberman Pinscher, and
- (f) German Shepherd;

"service animal" means a guide dog or other trained service animal identifiable by a harness, used principally to assist persons with visual, hearing or other impairment; and

"veterinarian" means a person who is a practicing registered member of the College of Veterinarians of British Columbia.

Interpretation

3.(1) In this By-Law, the following rules of interpretation apply:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
- (c) the expression "shall" is to be construed as imperative, and the expression "may" is to be construed as permissive;
- (d) unless the context indicates otherwise, "including" means "including, but not limited to", and "includes" means "includes, but not limited to";
- (e) where a provision in this By-Law is expressed in the present tense, the provision applies to the circumstances

as they arise;

(f) a reference to an enactment includes any amendment to it, any enactment that replaces it, and every regulation made under it; and

(g) headings form no part of the enactment and shall be construed as being inserted for convenience of reference only.

(2) This By-Law shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this By-Law according to its true spirit, intent and meaning.

(3) The provisions of this By-Law are severable, and where any provision of this By-Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion shall be severed from the remainder of this By-Law and the decision that it is invalid shall not affect the validity of the remaining portions of this By-Law.

(4) This By-Law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

Application

4. This By-Law applies to all Metlakatla lands.

PART III ADMINISTRATION

Animal Control Officer

5.(1) The Governing Council may, by resolution, appoint one or more animal control officers to provide for the administration and enforcement of this By-Law, and may at any time terminate any such appointment.

(2) The animal control officer is responsible for

(a) receiving registrations in accordance with section 8;

(b) issuing identification tags in accordance with section 9;

(c) maintaining and operating a pound; and

(d) performing any other duties of the animal control officer under this By-Law.

Obstruction of Animal Control Officer

6. No person may interfere with, obstruct or impede an animal control officer exercising powers or carrying out duties under this By-Law.

Establishment of Pound

7. The Governing Council may, by resolution

(a) establish a pound; and

(b) enter into an agreement with any persons to provide pound services, on or off Metlakatla lands.

Registration and Identification of Dogs

8.(1) Every person keeping one or more dogs on Metlakatla lands shall register, and have an identification tag placed around the neck of, each dog that is at least four months old.

(2) Every owner of a dog that is at least four months old shall, within 30 days of the coming into force of this By-Law, or of the dog residing on Metlakatla lands, file with the animal control officer an application for registration and identification tags, substantially in the form attached at Schedule "A", including the following information:

(a) the applicant's name, telephone number and email address;

(b) the applicant's address or lot number;

(c) a description of the dog sought to be registered, including age, sex, name and breed if known;

(d) the number of dogs in the household;

- (e) a record that the dog is immunized against rabies, noting the date of such immunization, the name of the person immunizing the dog, and the manufacturer's name of the vaccine and its batch number;
- (f) whether the dog is a dangerous dog or a service dog; and
- (g) any other information deemed by the animal control officer to be necessary for the proper administration of the By-Law.

9. The animal control officer shall issue an identification tag to the owner of a dog upon receipt of a completed application for registration pursuant to subsection 8(2).

10. The dog identification tag shall be metal and contain a number corresponding to the registration information kept and maintained by the animal control officer.

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

12. If an owner transfers ownership of a licenced dog to another person residing on Metlakatla lands, the new owner shall submit to the animal control officer a completed application for registration, within five days of taking ownership of the dog.

13. A dog identification tag issued to one dog is not transferable to another dog.

14. A female dog and her unweaned offspring under the age of four months shall be deemed to constitute one dog for the purposes of dog licensing.

15. An animal control officer shall issue a replacement identification tag for a current dog licence if the owner submits a written request for a new identification tag.

Immunization of Animals

16. All animals on Metlakatla lands shall be immunized in accordance with generally accepted veterinary standards.

17. The owner of any animal exposed to or reasonably suspected to be exposed to rabies shall keep the animal in isolation for a period of 14 days or as directed by a veterinarian, and, on demand by the animal control officer or by the Governing Council, surrender such animal to the animal control officer or to a veterinarian, to be held in quarantine at the discretion of a veterinarian and such dog shall not be released from such quarantine without the written consent of a veterinarian.

18. Upon demand of the animal control officer or by the Governing Council, the owner of any animal which has bitten any person or animal shall immediately surrender the animal to the animal control officer to be held in quarantine at the discretion of a veterinarian.

19. Any animal found to be infected with rabies shall immediately be humanely destroyed by its owner, or by the animal control officer or veterinarian, at the owner's expense.

Disposal of Dogs

20. An animal control officer may humanely dispose of a dog if the animal control officer receives a written request from the owner of the dog.

Disposal of Carcasses

21.(1) An animal control officer may collect and humanely dispose of a dead animal on Metlakatla lands if the animal control officer receives a written request from the owner of the animal.

(2) An animal control officer may remove and dispose of any dead animal located on Metlakatla lands.

Limitation on Number of Dogs and Cats per Dwelling

22.(1) No more than two dogs shall be kept, harboured or possessed in any dwelling, unless prior written approval is given by the Governing Council.

(2) Subsection (1) does not apply to dog litters, where the pups are under four months of age.

23.(1) No more than two cats shall be kept, harboured or possessed in any dwelling, unless prior written approval is given by the Governing Council.

(2) Subsection (1) does not apply to cat litters, where the kittens are under three months of age.

Restricted Dogs

24.(1) Subject to subsections (2) and (3), no restricted dog shall be permitted on Metlakatla lands at any time.

(2) Notwithstanding subsection (1), a restricted dog that

(a) resides on Metlakatla lands at the time this By-Law comes into force; and

(b) is registered and licensed with the animal control officer by the owner within 30 days of this By-Law coming into force

shall be permitted to remain on Metlakatla lands under the care and control of that owner, but shall be considered a dangerous dog within the meaning of this By-Law.

(3) Notwithstanding subsection (1), a restricted dog that is a police dog or a service animal shall be permitted on Metlakatla lands and shall not be subject to the regulations respecting dangerous dogs and restricted dogs contained in this By-Law.

Responsibilities of Owners

25.(1) No owner shall permit their dog to be at large on Metlakatla lands.

(2) Subject to subsection (3), every owner of a dog shall keep the dog safely tethered or penned up at all times.

(3) A dog shall not be considered to be at large pursuant to this By-Law, and need not be tethered or penned up as provided in subsection (2) if the dog is:

(a) held on a leash by a person capable of restraining the dog's movements;

(b) being used by a person for the purpose of hunting;

(c) being used by a person to work in a lawful manner with sheep or cattle; or

(d) a service animal or a police dog in the course of its duties.

(4) No owner shall allow a female dog in heat to remain in any public place unless the dog is attached to a leash and is accompanied by and is under the observation and control of the owner such that the dog cannot come into contact with other dogs.

(5) No owner shall allow a dog or animal to attack or bite another dog, animal or person.

(6) The owner of a dog who fails to take all necessary measures to ensure that such dog is under control or supervision or in the possession of the owner at all times, upon any property on Metlakatla lands, is guilty of an offence.

(7) The owner of a dog or other animal that 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.

(8) 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.

(9) No owner shall permit a dog or other animal to bark, yelp, growl or otherwise annoy or disturb the peace of residents on Metlakatla lands.

26. No owner shall keep or possess any animal unless the animal is provided with:

(a) clean potable drinking water at all times and suitable food of sufficient quantity and quality to allow for normal growth and the maintenance of normal body weight;

(b) food and water receptacles kept clean and disinfected and located so as to avoid contamination by waste matter;

(c) the opportunity for periodic exercise sufficient to maintain good health, including the opportunity to be unfettered from a fixed area and exercised regularly under appropriate control; and

(d) necessary veterinary medical care when the animal exhibits signs of pain or suffering.

Liability of Owners

27. If an animal bites, injures, harms or kills another animal or a person, or damages or destroys property, the owner is legally responsible.

General Prohibitions

28. No person shall keep any animal which normally resides outside, or which is kept outside for extended periods of time, unless the animal is provided with:

- (a) shelter that is sufficient to ensure protection from heat, cold and wet weather, that is appropriate to the animal's breed, weight and type of coat;
- (b) shelter that is at least one and one half times the length of the animal and at least the animal's length in width, and at least as high as the animal's height measured from the floor to the highest point of the animal when standing in a normal position, plus ten percent;
- (c) an area that provides sufficient shade to protect the animal from the direct rays of the sun at all times, and
- (d) shelter, pen and run areas that are regularly cleaned and sanitized and all excreta removed at least once per day.

29. No person shall hitch, tie or fasten an animal by any rope, chain or cord that it tied directly around the animal's neck or to a choke collar.

30. No person shall confine an animal in an enclosed space, including a vehicle, without ventilation that is adequate for the animal's health and safety.

31. No person shall transport an animal in a vehicle outside the passenger compartment unless

- (a) the animal is adequately confined; or
- (b) the animal is secured in a body harness or adequately fastened to prevent it from escaping or falling off the vehicle or otherwise being injured.

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

33. No person shall abuse an animal.

Prohibitions within Specific Areas of Metlakatla Lands

34.(1) The Governing Council may at any time prohibit the keeping or the entry of animals or certain classes or species of animals within or into any area of Metlakatla lands.

(2) Notice of any prohibition made by the Governing 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.

Kennels

35.(1) No person may establish, own or operate a kennel or establishment or facility for the boarding or treatment of animals within the limits of Metlakatla lands, without express written authorization to that effect from the Governing Council, by way of resolution.

(2) The Governing Council may pass laws or make policies regarding kennels on Metlakatla lands.

Dangerous Dogs

36.(1) An animal control officer may, on reasonable grounds, determine that a dog is dangerous, and notify the dog's owner of such determination, and the period of time of such determination, in writing.

(2) A determination under subsection (1) may be for any time period that an animal control officer considers appropriate.

(3) An owner that has received a notification pursuant to subsection (1) shall comply with section 37.

37.(1) Any owner of a dangerous dog:

- (a) shall post a clearly visible sign at the entrance of the premises and at all points of entry where the dog resides, which warns the public of the dangerous dog;
- (b) shall not allow the dangerous dog in a public place or on any private lands and premises unless the dog is
 - (i) firmly held by a person competent to restrain the dog on a leash not exceeding 2.5 metres in length, and
 - (ii) properly fitted with a humane basket muzzle that allows the dog to pant and drink;
- (c) shall not allow the dangerous dog at any time to be
 - (i) on school grounds, or
 - (ii) within 30 metres of any playground apparatus;
- (d) shall immediately advise an animal control officer if the dog is at large or has bitten or attacked any person or animal;

- (e) shall allow the animal control officer to photograph the dog, on demand;
- (f) shall, within two days of moving to a new residence, provide an animal control officer with the new address of the dangerous dog and the dangerous dog's owner;
- (g) shall, within two days of selling or giving away the dog, provide an animal control officer with the name, address and telephone number of the new owner; and
- (h) shall, within two days of the death of the dog, notify an animal control officer and provide the animal control officer with a veterinarian's certificate of death, if available.

(2) Notwithstanding paragraph (1)(b), a person may allow a dangerous dog to be in areas of private lands or premises so long as the dangerous dog is securely confined:

- (a) indoors;
- (b) on a deck that is no less than three metres above ground level; or
- (c) in a rear yard and inside a pen, enclosure or fenced area that
 - (i) is adequately constructed to prevent the dog from escaping,
 - (ii) is locked to prevent entry by children, and
 - (iii) has been inspected and approved by an animal control officer.

Impounding and Seizure

38.(1) An animal control officer may seize and impound:

- (a) a dog running at large; and
- (b) an animal from any person, where the animal control officer has reasonable cause to believe the person is violating or has violated or is about to violate any of the provisions of this By-Law.

(2) Subject to subsection (6), if an animal is seized because it has displayed aggressive behaviour or inflicted an unprovoked attack upon a person or another animal, the animal control officer shall impound the animal for such period of time as specified by a veterinarian.

(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 five days after the date of seizure;
- (b) the owner pays to the animal control officer all expenses incurred by the animal control officer in securing, caring for and feeding the animal;
- (c) the owner has, pursuant to section 8, registered the dog and obtained any necessary identification tag from the animal control officer; and
- (d) the animal control officer considers that the animal is in sufficiently good health to be returned to its owner and does not constitute a significant risk to the health or safety of persons or animals.

(4) Where an owner has not reclaimed an animal within five days after seizure, pursuant to subsection (3), and notification has been given to the owner, the animal control officer may sell, humanely destroy or dispose of the animal where a veterinarian so directs, and no damages or compensation may be recovered by the owner or any other person as a result of the destruction or disposal of such an animal.

(5) The animal control officer shall seek attention from a veterinarian for an animal found to be diseased or injured, where the owner has declined, failed or neglected to do so, and any fee arising from the provision of such veterinary care shall be a charge against the owner of the animal.

(6) Where an animal is seized that should, in the opinion of a veterinarian, be destroyed because of humane reasons such as disease or injury, or for reasons of health or safety to persons or animals, the animal control officer shall destroy the animal 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.

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

(8) The animal control officer shall file with the Governing Council a written report of each incident described in this section.

Animal Destroyed if Unable to Seize

39.(1) Where the animal control officer, after reasonable effort, is unable to seize a dog that is running at large contrary to the provisions of this By-Law and the animal control officer considers the dog to constitute a risk to the health and safety of residents of Metlakatla lands, the animal control officer may humanely destroy the dog.

(2) An animal control officer who humanely destroys a dog pursuant to subsection (1) shall immediately file a written report of the incident with the Governing Council and notify the dog's owner, where possible.

(3) No damages or compensation may be recovered as a result of the destruction of a dog by the animal control officer pursuant to subsection (1).

Protection from Dangerous Dogs and other Animals

40.(1) A person or animal control officer may humanely destroy, if necessary, a dog or other animal 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.

(2) A person who humanely destroys an animal pursuant to subsection (1) shall immediately report the incident to the animal control officer and notify the animal's owner, where possible.

(3) An animal control officer who humanely destroys an animal pursuant to subsection (1), or who receives a report from a person who has humanely destroyed an animal pursuant to subsection (1), shall immediately file a written report of the incident with the Governing Council and notify the animal's owner, where possible.

(4) No damages or compensation may be recovered as a result of the humane destruction of an animal by a person or animal control officer who is required to do so pursuant to subsection (1).

Other Animals

41. No person shall keep, harbour or possess on Metlakatla lands any animal that:

- (a) may be dangerous to the health and safety of residents of Metlakatla lands;
- (b) is not generally acknowledged to be harmless to persons or property; or
- (c) cannot be properly kept in a residence.

without the express written consent of the Governing Council.

Entry and Inspection

42. An animal control officer may enter upon property or premises where animals are kept at any reasonable time and may inspect any animal and the facilities for housing the animal in order to ascertain whether the regulations contained in this By-Law are being complied with.

PART IV

FEES

43.(1) The owner of an animal is responsible for all fees, charges and expenses incurred in relation to the care, feeding, veterinary treatment, securement, impoundment, destruction and disposal of an animal in accordance with this By-Law.

(2) Where Metlakatla has incurred costs described under subsection (1), the owner shall reimburse Metlakatla within 30 days of receiving a written request for reimbursement.

(3) Where costs described under subsection (1) are incurred by any of the following providers, the owner shall pay the provider directly for those costs upon written request:

- (a) an animal control officer other than an officer or employee of Metlakatla;
- (b) an animal shelter or pound that is not operated by Metlakatla;
- (c) a veterinarian; and
- (d) any other provider that is not Metlakatla or an officer or employee of Metlakatla.

**PART V
ENFORCEMENT**

Enforcement

44. A peace officer may order any person who engages in a prohibited activity under this By-Law to cease immediately.

45. If a person fails or refuses to obey an order under section 44, a peace officer may take such reasonable measures as may be necessary to stop the commission of the offence or remove the person from Metlakatla lands.

Offence and Penalty

46.(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 not exceeding 30 days, or to both a fine and imprisonment.

(2) In addition to the penalties under subsection (1), a court of competent jurisdiction may

(a) impose any additional remedies within its authority, including community service, education and restorative justice measures; and

(b) make an order prohibiting the continuation or repetition of the offence by the person convicted.

(3) The Governing Council may apply to a court of competent jurisdiction for an order restraining the contravention of this By-Law.

**PART V
GENERAL PROVISIONS**

Repeal


47. *By-Law Number 1997-02, Respecting the Control of Dogs on Reserve*, enacted on the 26th day of September 1997, is hereby repealed in its entirety.

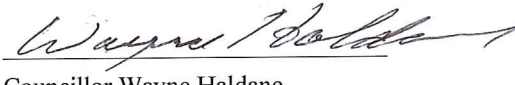
Force and Effect

48. This By-Law comes into force and effect on the day after it is approved by the Governing Council.

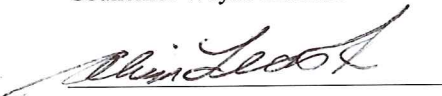
THIS BY-LAW IS HEREBY DULY ENACTED by the Governing Council on the 5 day of May, 2016, at Prince Rupert, in the Province of British Columbia.


A quorum of the Governing Council consists of four (4) members of the Governing Council.



Chief Harold Leighton

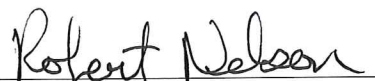

Councillor Wayne Haldane


Councillor Alrita Leask


Councillor Alvin Leask, Jr.


Councillor James Nelson, Sr.


Councillor Cynthia Smith


Councillor Robert Nelson, Sr.

SCHEDULE "A"
METLAKATLA FIRST NATION
ANIMAL CONTROL BY-LAW, 2016

DOG LICENCE APPLICATION

Name of owner of dog: _____
Telephone: _____
Email Address: _____
Address of owner of dog: _____

Name of dog: _____

Description of Dog: Male: [] Female: []
Spayed or neutered: ____ (attach certificate of spaying or neutering, if applicable)
Breed(s), if known: _____
Age: _____
Dangerous dog: _____
Service dog: _____

Number of dogs in household: _____

Immunization Record: Date: _____
Person who immunized dog: _____
Vaccine and batch: _____

Other information: _____

Date of Application: _____

Signature of Applicant