

WE WAI KAI NATION ANIMAL CONTROL BY-LAW BYLAW NO. 2018-01

WHEREAS the We Wai Kai Nation has an inherent right to self-government which emanates from the culture, language and land of our people, and 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;

WHEREAS the We Wai Kai Nation has taken control of its lands and resources pursuant to the Framework Agreement on First Nation Land Management (the "Framework Agreement"), and has enacted the We Wai Kai Nation Land Code, which came into force and effect on December 7, 2009.

WHEREAS the We Wai Kai Nation, as an aspect of our inherent right of self-government, has the jurisdiction to address animal control issues on its reserve lands, including the prevention of nuisances, the protection against and prevention of 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;

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

NOW THEREFORE, the We Wai Kai Nation hereby enacts the following By-Law:

PART I – INTERPRETATION AND APPLICATION

1.0 Title

1.1 This By-Law may be cited as the "We Wai Kai Nation Animal Control By-Law 2018-01".

2.0 Purpose

2.1 In this By-Law, the following definitions apply:

"Animal" means any dog, cat or domestic animal.

"Cat" means any cat, male or female;

"Collector" means the Collector of the District of Campbell River.

"Council" means the Council of the We Wai Kai Nation.

"District" means the District of Campbell River.

"Dog" means any animal of the canine species, irrespective of age or sex.

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"Domestic Animal" means any horse, mule, ass, swine, sheep, goat, rabbit, animal of the bovine species, turkey, goose, duck, fowl, dove, pigeon, fur-bearing animal under the Fur-farm Act, R.S.B.C. 1996, Chapter 167, and any wild animal so tamed as to be considered as a pet by the owner thereof.

"Owner" of an animal includes a person who possesses or harbors an animal, and the terms "owns" and "owned" have a corresponding meaning;

"Pound" means any facility established, maintained, or operated as a pound in accordance with this By-Law.

"Pound keeper" means the person appointed from time to time by resolution of Council for the purpose of enforcing and carrying out the provisions of this By-Law, and includes any assistant pound keeper appointed pursuant to the provisions of this By-Law.

"Premises" means area of land with its appurtenances and with or without buildings which, because of its unity of use, may be regarded as the smallest conveyable unit. The holder of an allotment and or Right of Occupancy or occupant of any land within the reserves shall there for allow a pound keeper on or into the premises

"Reserve" means the following We Wai Kai Nation Indian Reserves:

- a) Village Bay Indian Reserve # 7,
- b) Open Bay Indian Reserve # 8,
- c) Drew Harbour Indian Reserve # 9,
- d) Cape Mudge Indian Reserve # 10
- e) Quinsam Indian Reserve # 12, and
- f) Lands set apart by Canada in the future as lands reserved for the use and benefit of the We Wai Kai Nation, within the meaning of subsection 91(24) of the Constitution Act, 1867 and section 2(1) of the Indian Act;

"Run at Large" means being elsewhere than on the premises of a person "Running at Large" owning or having the custody, care or control of any animal and not being under the direct and continuous charge of a person who is competent to control it on any Cape Mudge Indian Reserve #7,8,9,10 and 12.

"Treasurer" means the Treasurer for the District of Campbell River.

"Unlicensed Dog" means any dog for which the license for the current year has not been paid as provided in this By-Law or to which the tag provided for by this By-Law is not attached.

"Vicious Dog" includes;

- a) any dog that demonstrates any ferocious, vicious, or aggressive behavior
- b) any dog that an animal control office, upon reasonable and probable grounds,

- believes to be a vicious dog;
- c) any dog which has been the cause of the prosecution under this by-law within the previous six months where a conviction against anybody had been entered concerning that specific dog;
 - d) any dog which has bitten another animal or human without provocation.

3.0 Administration

- 3.1 The We Wai Kai Nation will be entering into a contract with the District of Campbell River for the administration of the We Wai Kai Nation Animal Control By-law.
- 3.2 There is hereby established a pound for the District at such location or locations as the Council may, by resolution designate from time to time; provided, however, that the Council shall not designate a location in unorganized territory without the consent of the Chief and Council.
- 3.2 The Council may, by resolution, enter into an agreement with the British Columbia Society for the Prevention of Cruelty to Animals (hereinafter called the "S.P.C.A.") or with any other person or organization for the establishment, maintenance, operation and regulation of a pound or may enter into an agreement with an improvement district or the Minister of Agriculture for the joint operation of a pound.
- 3.4 The Council shall, by resolution, appoint a Pound keeper and such assistant or assistants as it may determine.
- 3.5 The Pound keeper shall keep a pound book in a form prescribed by the Treasurer from time to time, showing therein every animal impounded, and length of time of such impoundment and all funds received and disbursed in respect of the operation of the pound.
- 3.6 The Pound keeper shall report on the operation and maintenance of any pound in his charge to Council or to any person or committee designated by Council, at such times as Council may direct.
- 3.7 Every Pound keeper shall keep the pound to which he is appointed, clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and with reasonable shelter, segregation and care, as circumstances may warrant.
- 3.8 The Pound keeper shall pay to the Treasurer, all funds received by him pursuant to the authority of this By-Law forthwith after receipt thereof and all such funds shall become the property of the District.

4.0 Licensing

- 4.1 No person shall keep any dog unless a valid subsisting license has been issued in respect of that dog under this By-Law.

- 4.2 An application for a license under this By-Law shall be made by paying the fee subscribed in Schedule 'A' attached hereto and forming part of this By-Law, and applying to the collector in such form as the Collector may from time to time prescribe.
- 4.3 Upon receipt of the prescribed fee and completed application form signed by the owner of the dog, the Collector shall issue a license and corresponding license tag for the dog.
- 4.4 A new resident of the We Wai Kai Nation who holds a valid and subsisting dog license from another municipality shall be given credit for said license by making application for a replacement license and payment of the fee prescribed in Schedule "A"
- 4.5 Upon receipt of proof that a dog has been castrated or has received an ovariohysterectomy, the Collector shall pay to the owner the difference between the license fee in Section 2 or 3 and Section 1 in Schedule "A" provided, however, that no refund will be considered unless application for same has been received prior to the animal reaching the age of 11 months.
- 4.6 Where, in the opinion of the Pound Keeper, an animal having been adopted proved to be unsuitable, the owner may return the animal and receive a refund of 75% of the fees paid to the District.
- 4.7 Notwithstanding the above, the owner of a dog adopted from the Campbell River Animal Shelter after January 1st, 1984, shall pay the license fee set out in Schedule "A", Section 1 as if the dog has been neutered or has received an ovariohysterectomy. If the owner fails to have the dog altered prior to the age of 11 months, the license fee shall revert to that set out in Schedule "B", Section 2.
- 4.8 Notwithstanding Section 3.8 hereof, the Pound keeper is hereby authorized to retain the difference between the unaltered and altered adoption fees included in Schedule "B", Section 6. The Pound keeper shall be accountable monthly to the Treasurer for the funds collected under this Section.
- 4.9 Every license and corresponding license tag issued under this By-Law;
 - a) expires on the 31st day of December of the year in which it is issued; and
 - b) is valid only in respect of the dog for which it is issued.
- 4.10 The person to whom a license is issued under this By-Law, shall, while the license is valid and subsisting, affix and keep affixed, the corresponding license tag to a collar or harness worn at all times by the dog for which the license is issued.
- 4.11 Where a license or license tag is lost or destroyed, the person to whom the original license was issued may, by paying the fee prescribed in Appendix "A", apply to the Collector, in a form and manner prescribed by him, for a replacement license or license tag.
- 4.12 No person other than the owner of the dog shall remove from such dog, a license

tag issued pursuant to this By-Law or a collar or harness to which a license tag issued pursuant to this By-Law is attached.

- 4.13 Where a dog has not been licensed for any calendar year;
- a) By the 28th day of February of that year; or
 - b) Within one month of its acquisition by its owners

Whichever date is the later, the application for a dog license shall be as prescribed in Schedule "B" to this By-Law. Where a dog has been licensed before the later date as above, a five dollar (\$5.00) early payment discount shall be permitted.

5.0 Animal Control

- 5.1 No person owning or having the custody, care or control of any dog shall suffer, permit or allow such animal to run at large within We Wai Kai Nation lands and reserves # 7,8,9,10,12.
- 5.2 No person owning or having the custody, care or control of any dog shall suffer, permit or allow such dog to be in a street, lane, park or other public place within any of the We Wai Kai Nation reserves, unless such dog is led on a leash or chain by a person who is competent to control it.
- 5.3 No person shall keep, harbor, house or maintain within any We Wai Kai Nation reserves, a vicious or habitually noisy dog.
- 5.4 Notwithstanding Section 5.1, no person having the custody, care or control of any dog shall suffer, permit or allow such animal to enter into a public park unless such animal is leashed at all times and under direct and continuous charge of a person who is competent to control it.
- 5.5 No person shall cause or allow any dog owned by them or under their control to defecate on any park unless the person shall immediately remove the excrement;
- 5.6 No person who has removed excrement shall deposit same except where the excrement is securely contained in a litter receptacle and in an impermeable bag or other impermeable container so as not to ooze, leak or fall out into public litter receptacles;
- 5.7 No animal shall be permitted on any of the Campbell River Reserve Tot Lots;
- 5.8 No animal shall be permitted within 50 feet of any playground apparatus;
- 5.9 This section does not apply to a hearing, seeing or physically impaired person

- accompanied by a trained guide dog or working dog;
- 5.10 Notwithstanding Section 5.4 no person shall cause or allow any dog owned by them or under their control to be on any park or portion of a park during any Special event as determined by the Chief and Council of the We Wai Kai Nation.
- 5.11 If, in the opinion of the Chief and Council, the users of any park are not complying with the provisions of this section, they may temporarily close the park to animals. Such closure must be reported to Council who may extend or withdraw the closure.
- 5.12 a) The Pound keeper or any Peace Officer may immediately seize and impound:
any animal that is found in any place contrary to the provisions of Sections 5.1 to 5.14 inclusive; or
b) any unlicensed dog.
- 5.13 If any Peace Officer seizes an animal pursuant to Section 5.12, he shall, as soon as practical, notify the Pound keeper of such seizure and cause such animal to be delivered to the Pound keeper;
- 5.14 The Pound keeper shall receive and impound any animal delivered to him by a Peace Officer pursuant to Section 5.12;
- 5.15 The Pound keeper shall retain in a pound any animal seized and impounded pursuant to this Section and shall not release any such animal except in accordance with the provisions of this By-Law.
- 5.16 Where a dog is seized and impounded pursuant to Section 5.12, the Pound keeper shall:
- a) if the dog is unlicensed, retain it for twenty-four (24) hours; or
b) if the dog is licensed, forthwith notify the owner thereof in person, by telephone or by mail addressed to the last known address of the owner, in which case the notice shall be deemed to have been received by the owner 24 hours after deposit thereof in any post box within We Wai Kai Nation lands, giving the following information:
- i. date and time of impoundment;
ii. description of dog;
iii. name and address of the Pound keeper to whom application may be made for release of the dog; and
iv. costs of seizure, expenses to the date of the notice, and any continuing costs and expenses.
- 5.17 Where an animal other than a dog is seized and impounded pursuant to Section 5.12 the Pound keeper shall, if the owner is known to the Pound keeper, forthwith notify the owner in accordance with the provisions of subsection (b) of Section 5.16.
- 5.18 (a) If the owner or duly authorized agent of an impounded dog has not in the case of an unlicensed dog within 24 hours of impounding; or

in the case of a licensed dog within 48 hours of being notified pursuant to subsection (b) of Section 5.16;

appear at the pound and release the dog so impounded by payment of the fees and charges set out in Schedule "B" attached hereto and forming part of this By-Law, plus the cost of a license for the dog, if applicable, the Pound keeper may dispose of such dog as hereinafter set out.

- (b) If the owner or duly authorized agent of an impounded animal does not, within 48 hours of being notified pursuant to Section 5.17 or within 72 hours of impounding, whichever comes first, appear at the pound and release the animal so impounded by payment of the fees and charges set out in Schedule "B", plus the cost of a license for the animal, if applicable, the Pound keeper may dispose of such animal as hereinafter set out.
 - (c) after the expiration of the relevant period of time set out in subsection or (a) or (b) the Pound keeper may cause the animal to be sold by auction or private sale for an amount not less than the amount of any fees and charges outstanding plus the cost of a license for the animal. If applicable, or if in the Pound keepers opinion the animal cannot or should not be sold he may destroy the animal.
 - (d) Where any animal is sold pursuant to subsection © all proceeds therein shall pass to the purchaser and all rights or property in the animal that existed before the sale shall be extinguished.
- 5.19 Notwithstanding any other provision of this By-Law if it is found that any impounded animal is suffering from any injury, disease or sickness, or from any other cause or is unduly vicious, the Pound keeper may, in his discretion immediately destroy such animal if he is of the opinion that such animal would not survive such injury, disease or sickness, or that such animal constitutes a hazard or that it would be an act of humanity to destroy such animal, and decision be heard, when possible in consultation with a veterinarian.
- 5.20 The Provincial court may, on application and on being satisfied that a dog has killed or injured, or is likely to kill or injure a person or domestic animal, order that the dog be killed in a manner prescribed in the order.
- 5.21 It shall be he duty of the Pound keeper to remove the carcass of any dog or cat killed on a public street on We Wai Kai lands whenever the killing of such animal on such street comes to his knowledge, and for so doing he shall be entitled to demand and receive from the owner or possessor there (if known) the fee set out in Schedule "B".
- 5.22 (a) The Pound keeper may, where he has reason to believe that an unlicensed dog has taken refuge on any premises request that the occupant of such premises to satisfy him that such license has been paid and to exhibit such tag, or to forthwith deliver to him such dog; and where any dog is found to be on any such premises as aforesaid, no person shall fail to refuse to exhibit such license receipt or tag, or fail, neglect, or refuse to deliver such dog on request, or resist or interfere with such Pound keeper in seizing such dog.
- (b) The Pound keeper may, where he has reason to believe that an unlicensed dog has

taken refuge in any premise that he has reason to believe are not occupied, enter such premises in order to seize such dog.

- 5.23 No person shall obstruct or interfere with the Pound keeper or any peace officer in the exercise of any of the powers granted to or duties imposed on them pursuant to this By-Law.
- 5.24 No person shall rescue or attempt to rescue any animal lawfully in the custody of the Pound keeper or of any other person as herein provided, or in a pound.
- 5.25 No person other than the owner thereof shall feed pigeons or other birds on or about private or public property and no person shall keep pigeons so that the pigeons congregate in such numbers so as to constitute a nuisance or disturb, or tend to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighborhood or of persons in the vicinity

6.0 Violation of By-Law

- 6.1 (a) Except as otherwise provided in this By-Law, any person who violates any provision of this By-Law or who suffers or permits any act or thing to be done in contravention of this By-Law, or who refuses, or omits or neglects to fulfill, observe, carry-out or perform any duty or obligation imposed by this By-Law shall be liable on summary conviction to a fine not exceeding One Thousand Dollars (\$1000.00) or to imprisonment for not more than 30 days or both.
- (b) The Band Council may also seek injunctive reliefs as prescribed under section 81(2) and (3) of the Indian Act.
- (c) For the purposes of proceeding under this By-Law, a owner of a dog or a person responsible for the animal shall be deemed to be the owner or person otherwise responsible for any infraction of any provision of this By-Law, in the absence of any evidence to the contrary.

7.0 TRANSITIONAL

- 7.1 This by-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

8.0 REPEAL

8.1 This By-Law No. _____ enacted on the _____ day of _____, 20____, and being a By-Law to regulate the care and control of animals on the reserves and hereby repeal any previous animal control by-law.

8.2 This By-Law shall come into force and take effect on and after the date of final passing hereof.

Read a first, second, and third time on the ____ day of _____ 20____.

Reconsidered, finally passed and adopted on the ____ day of _____, 20____.

SCHEDULE A TO BY-LAW NO. 2018-01

LICENCE FEES

EFFECTIVE _____

The We Wai Kai Nation will enter into a contract with the City of Campbell River to administer all dog tags and licensing fees.

1. For a neutered male in respect of which the applicant produces a certificate of neutering signed by a veterinarian or which is marked in a manner satisfactory to the Pound keeper so as to indicate that it has a neutering, or a female dog in respect of which the applicant produces a certificate of ovaria- hysterectomy signed by a veterinarian or which is marked in a manner satisfactory to the Pound keeper so as to indicate that it has an ovari hysterectomy, a fee of \$20.00

2. For a male or female dog other than one described in Section 1 of Schedule "A", a fee of \$40.00

3. For a replacement license or license tag, a fee of \$10.00

4. For an early payment discount under section 12 \$10.00

SCHEDULE "B" TO BY-LAW NO. 2018-01

FEEES AND CHARGES FOR SEIZURE AND IMPOUNDMENT FEEDING, PICK-UP AND DESTRUCTION OF ANIMALS.

EFFECTIVE: _____

1. Fees for seizure and impoundment of any animal:

(a)

- (i) For the first seizure and impoundment
Within the previous twelve months..... \$50.00

- (ii) For the second seizure and impoundment Within the \$100.00
previous twelve months

- (iii) For the third and each subsequent seizure
and impoundment within the previous twelve months \$150.00

(b) **Unlicensed Dogs**

- (i) For failure to produce a valid license \$50.00

(c) **Animals other than Dogs and Cats**

- (i) For the first seizure and impoundment Within the \$50.00
previous twelve months

and in addition thereto the actual costs incurred
in capturing and transporting such animal to the Pound.

- (ii) For the second and each subsequent impoundment
Within the previous twelve months \$100.00

and in addition thereto the actual costs incurred in
capturing and transporting such animal to the
Pound.

- (iii) For the third and each subsequent seizure and \$150.00
impoundment within previous twelve months

SCHEDULE "B" TO BY-LAW NO. 2018-01

2. Feeding charges for each day or part thereof that an animal is in the Pound
- | | |
|--|----------|
| (a) Dogs | \$ 15.00 |
| (b) Cats | \$ 15.00 |
| (c) Animals other than dogs or cats, the actual cost of feeding. | |
3. For any animal delivered to the Pound by the owner
- | | |
|--|----------|
| (a) Adult cat | \$ 10.00 |
| (b) Mother and Kittens | \$ 20.00 |
| (c) Litter of Kittens | \$ 15.00 |
| (d) Kitten | \$ 10.00 |
| (e) Adult Dog | \$ 20.00 |
| (f) Mother and 2 - 4 Puppies | \$ 50.00 |
| (g) Mother and 1 Puppy | \$ 35.00 |
| (h) 2 -4 Puppies | \$ 30.00 |
| (i) 6- 8 Puppies | \$ 60.00 |
| (j) 1 Puppy | \$ 15.00 |
| (k) Animals other than dogs or cats, the actual cost of destruction and disposal | |
4. For the removal of the carcass of a dog or cat from a public street on We Wai Kai Nation lands. \$ 5.00
5. For an animal found at large, not impounded \$75.00
6. Adoption
- | | |
|--|----------|
| (a) (i) Unaltered dog or puppy | \$ 70.00 |
| (a) (ii) Altered dog or puppy | \$ 20.00 |
| (b) (i) Unaltered female cat or kitten | \$ 30.00 |
| (b) (ii) Altered female cat or kitten | \$ 5.00 |
| (b) (iii) Unaltered male cat or kitten | \$ 25.00 |
| (b) (iv) Altered cat or kitten | \$ 5.00 |
7. For an animal found in a park or public place where prohibited under Sections 5.4 to 5.11 \$ 35.00

SCHEDULE "B" TO BY-LAW NO. 2018-01

8. Failure to immediately remove any solid excrement from a park \$40.00

SCHEDULE "C" TO BY-LAW NO. 2018-01

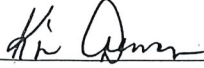
<u>Offence</u>	<u>Section</u>	<u>Fine</u>
o Unlicensed dog	4.1	50.00
o No license tag on dog	4.10	50.00
o Removal of license tag	4.12	50.00
o Animal at large	5.1	75.00
o Unleashed dog	5.2	75.00
o Vicious dog	5.3	150.00
o Noisy dog	5.3	100.00
o Unleashed dog in park	5.4	75.00
o Dog excrement not removed from park	5.5	50.00
o Dog excrement not in impermeable bag	5.6	50.00
o Dog excrement not deposited in litter receptacle	5.6	50.00
o Animal within 50 feet of playground apparatus	5.8	75.00
o Dog in Park during special event	5.10	75.00
o Interfere with Pound keeper's duties	5.23	150.00
o Interfere with Peace Officer's duties	5.23	150.00
o Remove animal from Pound keeper's custody	5.24	150.00
o Remove animal from Pound	5.24	150.00
o Feed pigeons/birds on public property	5.25	50.00
o Feed pigeons/birds on private property	5.25	50.00
o Keep pigeons that cause nuisance	5.25	100.00
o Keep pigeons that disturb	5.25	100.00

THIS BY-LAW IS HEREBY made at a duly convened meeting of the chief and Council of the We Wai Kai Nation this 26th day of November, 2018.

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



Chief Brian Assu



Councillor Kim Duncan

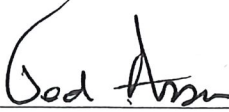


Councillor Jonathan Chickite

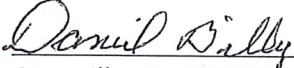


Councillor Ronnie Chickite

Councillor Cindy Inrig




Councillor Ted Assu



Councillor Daniel Billy



Councillor Keith Wilson



Councillor Ted Lewis