



Pauingassi First Nation

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By-law No. 2013-01 of the Pauingassi First Nation Being a By-law Respecting the Control of Animals on the Pauingassi Reserve Lands

WHEREAS the Council of the Pauingassi First Nation deems it advisable, necessary, expedient and in the best interest of the First Nation and its members and residents to establish a by-law to provide for the control of Dogs and Animals on the reserve for health and safety purposes;

AND WHEREAS the Council of the Pauingassi First Nation is empowered to make such by-law, and any matter ancillary thereto pursuant to paragraphs 81(1)(e), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5;

AND WHEREAS it is deemed to be expedient and necessary, for the benefit, comfort and safety of the inhabitants of the Pauingassi First Nation reserve, to provide for the control of Animals and to prevent nuisance by such dogs and Animals on the reserve;

AND WHEREAS the Council of the Pauingassi First Nation is of the opinion that 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 reserve lands;

NOW THEREFORE the Council of the Pauingassi First Nation hereby makes the following by-law:

Short title

1. This by-law may be cited as "Pauingassi First Nation Animal Control By-law".

Interpretation

2. In this by-law, including the recitals, unless the content otherwise requires:

"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, dairy or eggs; and
- ii. Animals that are wild by nature, kept in captivity, and whose pelts are commonly used for commercial purposes.

"*Animal Control Officer*" means any person appointed by Council or contracted by Council from time to time for the purpose of administering, applying and enforcing this By-law, and includes any assistant or any person appointed by Council to assist in carrying out the provisions herein;

"*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;

"*Council*" means the Chief and Council of the Pauingassi First Nation as defined in the *Indian Act*;

"*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 or 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 an 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 or municipality in the Province of Manitoba.

"*Dog*" means both male and female of the species *canis domesticus* apparently over the age of four months and includes a Dangerous Dog;

"*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;

"*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 By-law;

"*Minister*" means the Minister of Aboriginal Affairs and Northern Development Canada;

"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;

"Owner" when used in relation to the ownership of a 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;

"Pound" means any premises maintained and operated for the purposes of keeping Dogs or Animals Impounded under this By-law;

"Poundkeeper" means the person 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 the By-law:

- i. The maintenance and operation of a Pound; and
- ii. To seize, keep or destroy Dogs or Animals.

"Public Notice" means a written notice posted in conspicuous places on Pauingassi Reserve lands, including the administration office of the Pauingassi First Nation;

"reserve" means the reserve of the Pauingassi First Nation and includes the Pauingassi First Nation Indian Reserve;

Administration

- 3.1 The Council may appoint a person to act as the Animal Control Officer and any assistants to the Animal Control Officer as the Council deems necessary.
- 3.2 The Animal Control Officer is authorized and directed to carry out the provisions set out in this By-law.
- 3.3 The Council may from time to time enter into agreement with a person or an authorized agent of any corporation, society, governmental body or other organization to:
 - a) Carry out the provisions set in this By-law;
 - b) Enforce the provisions set in this By-law;
 - c) Act as Poundkeeper; and

d) Maintain and operate a Pound.

3.4 The Council may, by resolution, establish a charge or fees payable in respect of any matter administered under this By-law.

Dogs

- 4.1 No person shall own, possess or have care and control of more than four (4) Dogs at any time or in any place or premises on reserve lands.
- 4.2 Only with special permission of Council a person may own, possess or have care and control of more than four (4) Dogs.
- 4.3 No Owner of a Dog shall allow or permit their Dog(s) to be at large.
- 4.4 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.
- 4.5 A Dog need not be confined as required in subsection 4.4 if the Dog is:
- a) On a leash less than two meters 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 or trapping activities.
- 4.6 Every Owner of a female Dog which is in heat shall confine and house the Dog for the duration in which the Dog is in heat.
- 4.7 In addition to the general requirements that apply to Dogs under this By-law, 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 4.5, the Dangerous Dog wears a Muzzle if it is not confined as required under subsection 4.4.
- 4.8 The Owner of a Dog is responsible and liable for any and all damages caused by that Dog to any person, or personal or real property.
- 4.9 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 reserve lands.

- 4.10 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) Provide 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.
- 4.11 The Council may prohibit the keeping of any Dogs on any area of reserve lands for health and safety reasons, provided it gives Public Notice of such prohibition.

Other Animals

- 5.1 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.
- 5.2 No Owner of an Animal shall allow or permit that Animal to be at large.
- 5.3 The Owner of an Animal is responsible and liable for any and all damages caused by that Animal to any person, personal property or real property.
- 5.4 Every Owner of an Animal is responsible for the care and control of that Animal and must:
- a) Ensure that the Animal does not become a nuisance;
 - b) Provide 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.
- 5.5 The Council may prohibit the keeping of any Animals on any area of reserve lands for health and safety reasons, provided it gives Public Notice of such prohibition.

Seizure, Sale and Disposal of Animals

- 6.1 The Animal Control Officer may seize and impound any Dog or Animal at large on the reserve lands.

- 6.2 If reasonably possible, the Animal Control Officer will, in a timely manner, notify the Owner, of the impoundment of the Dog or Animal.
- 6.3 The Animal Control Officer or Poundkeeper may detain any Dog or Animal seized on reserve lands until the following amounts are paid to Pauingassi First Nation:
- a) Actual costs incurred by Pauingassi First Nation in administering this By-law with respect to the Dog or Animal, including costs for impounding, boarding, and transporting the Dog or Animal seized from reserve lands;
 - b) Any veterinarian fees incurred by Pauingassi First Nation under subsection 6.5; and
 - c) Any penalties or fees established under this By-law by the Council from time to time.
- 6.4 An Owner must sign a receipt for any Dog or Animal prior to the release of the Dog or Animal from the Pound.
- 6.5 The Animal Control Officer or 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.
- 6.6 If five (5) 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 Article 7; or
 - b) Have the Dog or Animal destroyed in a humane manner.
- 6.7 If more than one Dog or Animal has been Impounded and:
- a) The Owner thereof is known, then the Animal Control Officer or 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 subsection 6.3, 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.
- 6.8 The Animal Control Officer must give Public Notice of a sale under this By-law, describing each Dog or Animal to be sold and the date, time and location of the sale.
- 6.9 If, in the reasonable opinion of the Animal Control Officer or Poundkeeper, a Dog or Animal seized under this by-law 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.
- 6.10 No Owner or person will be allowed to reclaim, purchase or adopt a Dog or Animal that has been determined under subsection 6.9, to need to be destroyed.
- 6.11 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.
- 6.12 No damages or compensation are recoverable against the Pauingassi First Nation, Council, or any member, contractor, agent, or employee of Pauingassi First Nation, as a result of a Dog or Animal being destroyed under provisions of this By-law.

Offences and Penalties

- 7.1 Every person who violates any provision of this By-law is guilty of 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 days, or to both pursuant to s. 81(1)(r) of the *Indian Act*.

Notices

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

Pauingassi First Nation
PO Box 60
Pauingassi, MB R0B 2G0

Attn: Animal Control Officer

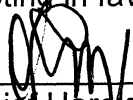
8.2 Notice from the Pauingassi First Nation to an Owner shall be in writing and mailed postage pre-paid or personally delivered to the last known address of the Owner.

General

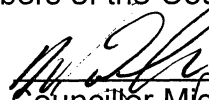
- 9.1 Words within this By-law importing the male gender include the female gender and vice versa, and words importing the singular number include the plural number and vice versa.
- 9.2 This By-law shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.
- 9.3 Head notes, marginal notes and provision headings form no part of this By-law but shall be construed as being inserted for convenience of reference only.
- 9.4 A finding by a court of competent jurisdiction that a section or provision of this By-law is *ultra vires*, void or invalid, shall not affect or bear upon the validity or invalidity of any other section or part of this By-law, or this By-law as a whole.
- 9.5 Where a provision of this By-law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- 9.6 Any section of this By-law, including any schedules, may be amended from time to time by a By-law adopted by Council and approved in accordance with the *Indian Act*.
- 9.7 This By-law shall come into force upon it not being disallowed by the Minister pursuant to subsection 82(2) of the *Indian Act*.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Band Council of the Pauingassi First Nation this 18 day of December, 2013.

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

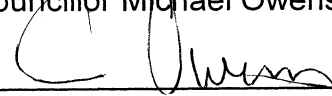


Chief Harold Crow



Councillor Michael Owens

Councillor Roddy Owens



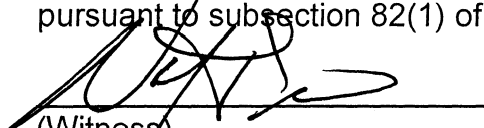
Councillor James Owens

being the majority of those members of the Band Council of the Pauingassi First Nation present at the aforesaid meeting of the council.

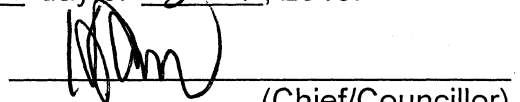
The quorum of the Band Council is three members.

Number of members of the Band Council present at the meeting: 3

I, Harold Crow Chief/~~Councillor~~ of the Pawingassi Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Aboriginal Affairs and Northern Development at the District/ Regional/Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 18 day of Dec., 2013.



(Witness)



(Chief/Councillor)