

**By-law No. 02-2007-2021
Of the Madawaska Maliseet First Nation Band**

**Being a By-law Respecting the Care and
Control of Animals on the Reserve**

WHEREAS section 81, paragraph (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;

AND WHEREAS the Community and the Band Council for the Madawaska Maliseet First Nation has deemed it advisable, for the health and safety of the residents of the reserve, and to avoid any nuisance to such residents, to pass a by-law to regulate the running at large of dogs; and controlling all other animals within the reserve limits;

NOW THEREFORE the Council of the Madawaska Maliseet First Nation Band hereby enacts this Animal Control By-law, Number 02-2007-2021, as follows:

PART 1 - GENERAL

Short Title

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

Interpretation

2. In this by-law

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

"*animal control officer*" means an animal control officer, appointed pursuant to section 6 or any by-law enforcement officer, including a police officer; or a person employed by the band council for the purpose of enforcing the provisions of this by-law;

"*animal register*" means the register kept by the animal control officer for the purpose of the registration of all dogs and other animals on the reserve;

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

"*band*" means the Madawaska Maliseet First Nation Band, as defined by Section 2 of the *Indian Act*;

"*cat*" means any cat, male or female;

"*council*" means the Council of the Madawaska Maliseet First Nation Band, as defined in the *Indian Act*;

"*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 unit or any building used or intended to be used for human habitation and in which normal domestic functions may be carried on;

"*livestock*" means any domestic fowl (including chickens, geese, ducks, turkeys, guinea fowl, etc.), horse, donkey, mule, bull, ox, cow or other cattle, goat, swine, sheep, llama, mink, fox, emu or ostrich, or the young thereof, or any other animal that the Band Council, in its unfettered discretion, deems to be livestock;

"*muzzle*" means to secure a dog's mouth in such a fashion that it cannot bite anything;

"*nuisance*" means any damages that may be associated with monetary costs and is to be determined by the bylaw enforcement officer.

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

"*prohibited animals*" means the animals identified in Schedule "A";

"*reserve*" means all reserves in the possession of the Madawaska Maliseet First Nation Band;

"*vicious dog*" includes:

- (a) any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
- (b) any dog that an animal control officer, upon reasonable and probable grounds, believes to be a vicious dog;
- (c) any dog which has been the cause of a 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. This by-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this by-law.

4. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.

Application

5. This by-law applies to all owners of domestic animals residing or visiting on the reserve, as well as all livestock and all wild animals.

PART II – ADMINISTRATION

Animal Control Officer

6. (1) The Council may appoint, by band council resolution, one or more animal control officers to provide for the administration and enforcement of this by-law and more specifically to receive registrations for all animals and to issue identification tags to the owners of dogs under this by-law.

(2) The Council may, in the band council resolution, provide for reasonable remuneration to be paid to the animal control officers.

Registration and Identification of Animals

7. (1) Every person keeping one or more dogs shall register them and have an identification tag placed around the neck of each dog.

(2) Every person keeping any animal other than a dog shall also register each animal.

(3) The application for registration and identification tag shall be filed with the animal control officer and it will include:

(a) the applicant's name;

(b) the applicant's address;

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

(d) the total number of animals in the household;

(e) a record that the animal is immunized against rabies in the case of dogs or cats, noting the date of such immunization and the name of the person immunizing the animal; and

(f) any other information deemed by the animal control officer to be necessary for the proper administration of the by-law.

8. The Council may determine appropriate charges for the registration and issuance of identification tags.

9. The animal control officer shall issue the identification tag upon registration of any dog and payment of any applicable fee and, if necessary, proof that the animal has been immunized against rabies.

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

11. The registration and identification tag will be valid for three full years from the date of issuance. There shall be annual check-ups to all on reserve residences by the Administration office, coordinated by the animal control officer.

Immunization and Sterilization of Animals

12. All animals on the reserve must be immunized in accordance with generally accepted veterinary standards.

12.1. All cats and dogs must be spayed or neutered within six (6) months of obtaining ownership of the cat or dog. Approved breeders shall be exempted from this section.

Rabies

13. The owner of any animal exposed to rabies shall, on demand by the band council, surrender such animal to the band council to be held by the animal control officer in quarantine for a period of 14 days and such animal shall not be released from such quarantine without the written permission of a certified veterinarian. All costs will be the responsibility of the owner.

14. Upon demand of the band council, the owner of any animal shall forthwith surrender to the animal control officer any animal which has bitten any person or which has been exposed to rabies to be held in quarantine at the discretion of a certified veterinarian. All costs will be the responsibility of the owner.

15. Any animal found to be infected with rabies shall be destroyed by its owner or by the animal control officer at the owner's expense.

Limitation on Animals Per Dwelling

16. (1) There is no set limitation on how many domestic animals shall be kept, harboured or possessed in any dwelling, provided that:

(a) the owner does not breach any of the provisions of this by-law or any housing or apartment rental policies; and

(b) the owner has the appropriate housing space; and

(c) the owner provides adequate care to all animals kept, harboured or possessed in any dwelling.

(2) Notwithstanding subsection 16(1), the Council may limit the number of animals per dwelling to ensure the health and safety of the community.

Livestock

17. No person shall keep livestock within the reserve boundaries without first applying to do so to the animal control officer, and shall be granted permission as long as:

- (a) A proper livestock facility is proven;
- (b) The property on which the livestock is kept is suitable for such livestock, and maintained on continuous basis; and
- (c) Permission to maintain livestock will be on an annual basis.

18. No owner of livestock shall permit any livestock to run at large on the reserve.

19. For the purposes of this by-law, livestock shall be deemed to be running at large if found in any place other than the premises of the owner of the livestock and not under the control of any person.

20. The owner of any livestock found running at large shall be liable for all damages caused by such livestock and for the expenses, if any incurred as a result of the livestock running at large.

Prohibited Animals

21. No person shall keep on the reserve either on a temporary or permanent basis, any prohibited animal as set out in Schedule "A", unless they request and receive a valid Band Council Resolution.

Responsibility to Care for Animals

22. Every person who keeps an animal within the Reserve shall ensure that such animal is not kept under conditions where an accumulation of fecal matter, odour, insect infestations or rodent attractants disturb or are likely to disturb the enjoyment, comfort, convenience of a person or may endanger the health of any person or animal.

General Prohibitions

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

(2) A dog need not be tethered or penned up as provided in subsection 23(1) if the dog:

- (a) is held on a leash by a person capable of restraining the dog's movements;
- (b) is being used by a person for the purpose of hunting, working or training.
- (3) No owner shall allow a female animal in heat to remain in any public place unless the animal is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.
- (4) The owner of an animal with the exception of cats who fails to take all necessary measures to ensure that such animal is under control or supervision or in the possession of the owner at all times, upon any property on the reserve, is guilty of an offence.
- (5) The owner of an animal which 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.
- (6) The owner of an animal shall, when the animal 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 animal on the said property.
24. No owner shall allow their animal to remain unfed or without water whereby it either amounts to cruelty or causes the animal to become a nuisance.
25. No person shall punish or abuse an animal in a manner which is cruel or unnecessary.
26. No owner of a dog shall permit such dog to cause damage to another person or another person's property or otherwise create a nuisance or disturbance by barking, howling, yelping, growling or fighting.
27. No owner of a cat shall permit such cat to cause damage to another person or another person's property or otherwise create a nuisance or disturbance by meowing, howling, growling or fighting.

Prohibitions Within Specific Areas of the Reserve

28. (1) The Council may at any time prohibit the keeping of animals within any area of the reserve.
- (2) Notice of any prohibition made by council pursuant to subsection 28(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.
- (3) No person may establish, own or operate an establishment or facility for the boarding, breeding or treatment of animals within the limits of the reserve, without first applying to do so to the animal control officer, and shall be granted permission as long as:

- (a) A proper breeding facility is proven; and
- (b) The property on which the breeding and keeping of animals are maintained on continuous basis; and
- (c) Knowledge of breeding practices, safety and health concerns are proven; and
- (d) Permission to maintain breeding will be on an annual basis.

Vicious Dogs

- 29.** Anyone owning a vicious dog or aggressive dog must post a clearly visible sign notifying the public.
- 30.** At all times, a vicious dog must be muzzled and kept on a leash whenever it is in a public place.
- 31.** On private property, a vicious dog shall be kept on a secure leash or in a restricted area which shall be constructed so as to prevent any escape by the dog and/or to prevent the entry of children.

Impounding and Seizure

- 32. (1)** No owner shall permit his animal to be at large on the reserve;
- (2)** An animal found at large on the reserve may be impounded for not less than three (3) days and, after notifying the owner, may thereafter be humanely destroyed or otherwise disposed of, unless in the meantime such animal has been claimed by its owner and the costs incurred for the impounding of the animal have been paid.
- 33. (1)** An animal control officer may seize an animal from any person whom he has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this by-law.
- (2)** If an animal is apprehended because it has inflicted an unprovoked attack upon an animal or human person, the animal control officer shall impound the animal for such period of time as specified by a veterinary surgeon.
- (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 three (3) days after the date of seizure, and;
 - (b)** the owner pays to the animal control officer all expenses incurred in securing, caring for and feeding the animal;
 - (c)** the owner has obtained the necessary registration identification tag from the animal

control officer before the animal is released;

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

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

(6) Whereby, an animal is seized which is injured or should be destroyed without delay for humane reasons 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 animals and no damages or compensation may be recovered on account of such action.

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

(8) A written report of each such incident, as described in this section, shall be filed with the band council by the animal control officer.

Animal Destroyed if Unable to Seize

34. (1) Where the animal control officer, after reasonable effort, is unable to seize an animal that is running at large, contrary to the provisions of this by-law, the officer may destroy the animal.

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

Protection From Vicious Dogs

35. (1) A person or animal control officer may kill, if necessary, a vicious dog which is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:

- (a) a person;
- (b) another dog that is tethered;
- (c) a food cache, harness or other equipment; or

(d) domestic livestock.

(2) A person or animal control officer who must kill a vicious dog, pursuant to section 35(1), shall immediately report the incident to the Band Council or animal control officer and notify the dogs' owner.

(3) No damages or compensation may be recovered as a result of killing a dog by a person or animal control officer who is required to do so pursuant to section 35(1).

Complaints & Dispute Resolution

36. Should a person wish to make a formal complaint against the owner of an animal pursuant to this bylaw, the complaint must be in writing and provide adequate proof of any action of contravening this bylaw. The written complaint must detail the actions (date; time and location) under complaint and the appropriate section that is being contravened in this bylaw. The complaint must also provide proof of the identity of the animal by either photo or video. In addition, the complaint must be signed by the person complaining; the "complainant".

37. Should a person not wish to make a formal complaint but would still like to notify the animal control officer of an animal contravening the bylaw, they may make an anonymous request to have the animal control officer notify the owner.

38. Should the anonymous complaint not be resolved by the animal control officer, then the animal control officer may ask the complainant and the owner to try mediation or dispute resolution.

Penalty


39. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable to payment of the penalties specified in Schedule "B".

Fines

40. All fines will be placed in a fund to be used to assist in covering costs to enforce this bylaw.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Madawaska Maliseet First Nation this 31st day of May, 2021.

Voting in favour of the By-Law are the following members of the Council:


Chief Patricia Bernard


Councillor Diane Pelletier



Councillor Donna Wallace-Bourgeault


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

The quorum of the Council is 3 members.

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

Therefore, the Madawaska Maliseet First Nation's By Law No. 02-2007-2021 Being a By Law Respecting the Care and Control of Animals on Reserve is now in effect.


Chief / Councillor


Witness

SCHEDULE "A"
PROHIBITED ANIMALS

1. All protected or endangered animals
2. All dogs other than domesticated dogs
3. All cats other than domesticated cats
4. All bears
5. All fur bearing animals of the family Mustelidae, except the domestic ferret
6. All raccoons
7. All carnivorous mammals of the family Viverridae
8. All bats
9. All non-human primates
10. All squirrels
11. Wild or Predatory Birds
12. Arachnida and Chilopod
13. All venomous spiders
14. All large rodents
15. All even-toed ungulates
16. All odd-toed ungulates
17. All marsupials
18. Sea mammals
19. All elephants
20. All hyrax
21. All pangolin
22. All sloth and armadillo
23. All insectivorous mammals
24. Gliding lemur
25. All other venomous or poisonous animals

SCHEDULE "B"

PENALTIES

Infraction	1 st Offence	2 nd Offence	3 rd Offence	Final Offence
Fail to register animal	Written Warning	\$100.00	\$500.00	Seize animal
Permit animal to run at large	Written Warning	\$100.00	\$500.00	Seize animal
Fail to remove defecation	Written Warning	\$100.00	\$500.00	Seize animal
Permit animal to cause a nuisance	Written Warning	\$100.00	\$500.00	Seize animal
Damage public or private property	Written Warning plus Cost of damages	\$100.00 plus Cost of damages	\$500.00 plus Cost of damages	Seize animal plus Cost of damages
Interfere with enforcement	\$100.00	\$500.00	\$1000.00	Seize animal
Keeping unapproved livestock or prohibited animals	Written Warning	\$100.00	\$100.00	Seize animal
Fail to spay or neuter cat or dog	Written Warning	\$100.00	\$100.00	Seize animal

NOTATIONS:

1. Should the time span between offences exceed 12 months (1 year), then the latest offence shall be considered a new offence.

2. All Offences will be posted in a public place, outlining:

1. The Infraction;
2. Which offence 1st, 2nd, 3rd or Final;
3. The Owner;
4. The Animal; and
5. The date of the offence.

3. Penalties shall be imposed upon each animal that causes an offence.

Therefore, if an owner has 2 animals that breach an infraction for the second time, the penalty will be \$200.00 total.