

BY-LAW NO. 285-22-2223
Of the Waywayseecappo First Nation

Being a By-Law Respecting the Control of Animals on the Waywayseecappo First Nation Reserve Lands

WHEREAS the Council of the Waywayseecappo 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 Waywayseecappo First Nation is empowered to make such By-Laws, and any matter ancillary thereto pursuant to paragraphs 81(1)(e), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. 1-5; such as previous By-Laws as attached to this By-Law;

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

AND WHEREAS the Council of the Waywayseecappo First Nation is of the opinion that uncontrolled ownership and the 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 Waywayseecappo First Nation hereby makes the following By-Law;

Short title

1.1 This By-Law may be cited as "Waywayseecappo First Nation Animal Control By-Law".

Interpretation

2.1 In this By-Law, including the recitals, unless the content otherwise requires:

"*Animal*" means an animal, other than a Dog or cat 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.

"*Community Safety 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 Special or Band Constable, 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 Waywayseecappo First Nation;

"*Dangerous Dog*" means any Dog which meets any one or more of the following conditions:

- i. Is a Dog that is used primarily to guard property;
- ii. A Dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- iii. A Dog, that while At Large, has attacked, bitten or killed or caused injury to an Animal,
- iv. A Dog, that while At Large, has aggressively pursued or harassed a person;
- v. A Dog, that while At Large, has aggressively pursued or harassed an Animal;
- vi. 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
- vii. A Dog that has been deemed dangerous, vicious or similar under a law or By-Law of any other First Nation or municipality in the Province of Manitoba.

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

"*Enclosed*" 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 Community Safety Officer or Pound Keeper as provided in this By-Law;

"*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;

"*Pound Keeper*" 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 Waywayseecappo First Nation Reserve Lands, including the administration office of the Waywayseecappo First Nation;

"*Reserve*" means the reserve lands of the Waywayseecappo First Nation and any other reserve lands under the authority of Council;

"*Special Permission*" means written authorization from Council for an Owner to possess, own or care for more than one (1) Dog.

Administration

3.1 The Council may appoint a person to act as the Community Safety Officer and any assistants to the Community Safety Officer as the Council deems necessary.

3.2 The Community Safety 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) Enforces the provisions set in this By-Law;
- c) Act as Pound Keeper; 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 one (1) Dog 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 one (1) Dog.

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, indoors or have the Dog cabled or tethered for use as a dog run.

4.5 A Dog need not to 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 use is to use best efforts to confine and house the Dog for the duration in which the Dog is in heat.

4.7 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.

4.8 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.

4.9 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, sanitary and humane living environment for the Dog, and
- e) Utilize veterinary clinic days when provided by the Council to have their Dog(s) spayed, neutered, and vaccinations updated if necessary.

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

4.11 In addition to the general requirements that apply to Dogs under this By-Law, any Owner of a Dangerous Dog must:

- a) Ensure that, while on the owner's property, the Dangerous Dog is either kept securely confined indoors or is kept in a securely enclosed and locked pen, structure or yard which:
 - i. Prevents the Dangerous Dog from escaping and young children from entering;
 - ii. Is at least ten feet wide and five feet deep;
 - iii. Provides adequate protection from the elements for the Dangerous Dog;
- b) Clearly post signs to that effect at any premises where the Dangerous Dog regularly resides; specifically:
 - i. At the end of any driveway or access to the property;
 - ii. At each entrance to the property; and
 - iii. Any building in which a Dangerous Dog is kept.
- c) Ensure that, in addition to the requirements under subsection 4.11, the Dangerous Dog wears a Muzzle if it is not confined as required under subsection 4.4.

4.12 Any Dog deemed a Dangerous Dog by Council, must immediately be spayed or neutered.

4.13 No person shall breed a Dangerous Dog without a license issued by Council or abandon a Dangerous Dog, other than a pound operated by or on behalf of the waywayseeccappo First Nation.

Other Animals

5.1 No person shall own, possess or have care and control or more than one (1) cat at any time or in any place or premises on reserve lands.

5.2 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.

5.3 No Owner of an Animal shall allow or permit that Animal to be At Large.

5.4 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.

5.5 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 matter that amounts to cruelty; and
- d) Utilize veterinary clinic days when provided by the Council to have their Animal(s) spayed, neutered, and vaccinations updated if necessary.

5.6 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 Community Safety Officer may seize and impound any Dog or Animal At Large on the reserve lands.

6.2 If reasonably possible, the Community Safety Officer will, in a timely manner, notify the Owner, of the impoundment of the Dog or Animal.

6.3 The Community Safety Officer or Pound Keeper may detain any Dog or Animal seized on reserve lands until the following amounts are paid to Waywayseecappo First Nation:

- a) Actual costs incurred by Waywayseecappo 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 Waywayseecappo First Nation under subsection 6.7 herein; and
- c) Any penalties or fees established under this By-Law by the Council from time to time.

6.4 The Owner of a Dog that has been impounded under this By-Law and that is eligible to be redeemed may redeem it if he or she can demonstrate to the satisfaction of a designated employee that he or she is the Owner of the Dog.

6.5 In order of redeem an impounded Dog, its owner must:

- a) Pay all applicable fees;
- b) Pay the monetary penalty imposed in section 6.3 {Monetary penalty for the cost of capturing Animals}; and,

c) If the Dog requires a license, obtain a license for the Dog.

6.6 An Owner must sign a receipt for any Dog or Animal prior to the release of the Dog or Animal from the Pound.

6.7 The Community Safety Officer or Pound Keeper may request the attendance of a veterinarian to the Pound, if in the view of the Community Safety Office or Pound Keeper, the Dog or Animal is suffering from any illness, injury, disease or sickness or for any other valid reason as deemed necessary by the Community Safety Officer or the Pound Keeper, acting in good faith.

6.8 If five (5) days after the Community Safety Officer or Pound Keeper 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 Community Safety Officer or Pound Keeper may:

- a) Sell the Dog or Animal; or
- b) Have the Dog or Animal destroyed in a humane manner; or
- c) Have the Dog or Animal placed for adoption.

6.9 If more than one Dog or Animal has been Impounded and:

a) The Owner thereof is known, then the Community Safety Officer or Pound Keeper, 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 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, and then the Community Safety Officer or Pound Keeper, as the case may be, may sell all the Dogs or Animals Impounded.

6.10 The Community Safety 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.

6.11 If, in the reasonable opinion of the Community Safety Officer or Pound Keeper, 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 reason, then the Community Safety Officer or Pound Keeper, as the case may be, may cause the Dog or Animal to be destroyed.

6.12 No Owner or person will be allowed to reclaim, purchase or adopt a Dog or Animal that has been determined under subsection 6.11, to need to be destroyed.

6.13 , Any person or Community Safety Officer is permitted to kill or destroy a Dog or Animal that is At Large and in the act of pursuing, attacking, injuring, damaging, killing or destroying:

- a) A person;
- b) Another Dog or Animal that is tethered or in an enclosure;
- c) Domestic livestock.

6.14 Any person or Community Safety Officer who must kill or destroy a Dog or Animal pursuant to section 6.13 shall immediately report the incident to the Band Council and notify the Dog's owner.

6.15 No damages or compensation are recoverable against the Waywayseecappo First Nation, Council, Community Safety Officer or any member, contractor, agent, or employee of Waywayseecappo 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 (30) days, or to both pursuant to s. 81(1)(r) of the *Indian Act*.

Notices

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

Waywayseecappo First Nation

PO Box 9

Waywayseecappo, MB ROJ 1S0

8.2 Notice from the Waywayseecappo 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*.

Coming Into Force

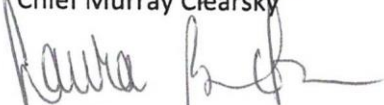
10.1 This By-Law shall come into force upon it being first published pursuant to the *Indian Act*.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Waywayseecappo First Nation this 11th day of January, 2023.

voting in favour of the By-Law are the following members of the Council.



Chief Murray Clearsky



Councillor Laura Brandon



Councillor Tim Cloud



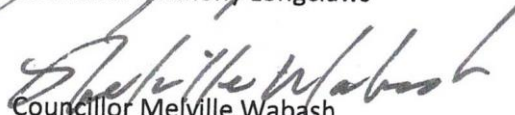
Councillor Joseph Gambler



Councillor Anthony Longclaws



Councillor Paul Mentuck Jr



Councillor Melville Wabash

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

The quorum of the Council is four (4) members.

The number of members of the Council present at the meeting: 7