



WITSET First Nation

Dog By-Law

Amended & Reviewed on November 9, 2020



Monica Michell, Assistant Executive Director/Human Resources

By-Law NO 2019-001

A By-Law concerning the control of animals and to provide for the health and safety of all residents of Witset First Nation.

WHERE AS section (1) of the Indian Act empowers 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 supplementary to the exercise of powers under this section, and the imposition of a penalty for the violation of any such by-law;

AND WHERE AS the Witset First Nation (WFN) believes the uncontrolled ownership, breeding and running at large of animals may be detrimental to the health of the residents on reserve, and a nuisance to such residents:

Definitions

1. In this By-Law:

- a) "At Large" or "Running at large" means off the property occupied, or owned, by the owner of the Dog while not restrained by a leash or muzzle or under immediate, effective and continuous control of the owner;
- b) "Dog" includes any Dog, male or female member of the canine family or any animal that is the result of the breeding of a Dog and any other animal;
- c) "Dwelling" means each single unit being a fully detached home, a semi-detached home, a multiple attached home, an apartment home and any building used or intended to be used for human habitation and in which normal domestic functions may be carried on;
- d) "Extraordinary Expense" means any expense incurred by WFN Animal Control, in relation to a Dog for provision of medicine, food and shelter;
- e) "Fierce/Vicious or Dangerous Dog" means any Dog which has bitten or attacked another animal or human without provocation; common types of vicious dogs are German Shepherds, Pit Bull Terriers, Cane Corsas, Mastiffs, Rottweilers, Staffordshire Terriers, Akitas & Great Danes.
- f) "WFN Animal Control Officer" for the purpose of this By-Law shall be the Pound, Keeper, herein identified as the Witset Community Humane Society (WCHS). The
 - i. Animal Control Officers shall provide for the administration and enforcement of this By Law and more specifically receive registrations and issues identification licenses/tags under this By-Law;
- g) "Witset First Nation" means the area or areas in the Witset Indian Reserves - on the west side of Smithers of British Columbia;
- h) "Muzzle" means to secure a Dog's mouth in such a fashion that it cannot bite anything; (i)"Owner" means the owner of a Dog and any person who possesses, has the care or control of or harbors a Dog and where such a person is a minor, includes a parent, guardian or custodian of such a person;
- i) "Notwithstanding" means despite, in spite of, regardless of the proven attack perpetuated by any Dog on-reserve, happened off-reserve; (k) "Reserve" means the Witset First Nation Reserve.

Application

2. This By-Law applies to all Owners of all Dogs residing or visiting in Witset First Nation.

Registration

3. The Owner of any Dog shall register such Dog with the WFN Animal Control and obtain from WFN Animal Control a license for such Dog.

4. Subject to section 7, every Owner of a Dog shall, within ten (10) days of having become an Owner, register such Dog with WFN Animal Control and obtain from WFN Animal Control a license for such Dog.
5. To register a Dog, an Owner shall pay the annual registration fee as set by Witset Community Humane Society from time to time, in a recorded resolution and shall supply WFN Animal Control the following:
 - a. Name, civic address, mailing address and telephone number of the Owner; (b)
 - b. Name and breed of the Dog;
 - c. Description of a Dog including whether the Dog is male or female, spayed or neutered or un-neutered as the case may be;

And, at the discretion of the Owner, the following additional information may be given:

- d. A photograph of a Dog;
 - e. identification information such as micro-chip implants, tattoos or special marking; and,
 - f. The name of the veterinary clinic frequented by the Dog and veterinary file ID number.
6. Registration shall be effective until the last day of December for the then current year of registration.
7. The registration fee shall be in such amount as set by Witset First Nation.
8. The following is exempt from registration:
 - a. A Dog shall be exempt from registration and registrations fees if the Owner proves that the Dog is under the age of four months or 16 weeks old.
9. The Owner of every Dog shall keep on the Dog a collar with the license issued for the Dog by WFN Animal Control at the time of registration and such license shall always be kept securely fixed on the Dog during the-year until replacement license is issued.
10. A license issued under this By-Law shall not be transferrable from one Dog to another, or from one Owner to another unless the transfer is approved in writing by the WFN Animal Control Officer.
11. The Owner of a Dog shall deliver in writing to the WFN Administration, a statement of the number of Dogs owned or harbored or kept upon the premises occupied by the Owner within 10 days after having received notice from the WFN Administration requiring it to be provided.
12. All Dogs on the reserve must be immunized in accordance with generally accepted veterinary standards.
13. The Owner of any Dog exposed to rabies shall on demand by WFN, surrender such Dog to WFN to be held by the Animal Control Officer in quarantine for a period of 14 days and such Dog shall not be released from such quarantine without the written permission of the Medical Officer of Health.
14. Upon demand of the Witset First Nation Council, the Owner of any Dog shall forthwith surrender to the Animal Control Officer any Dog which had bitten any person, or which has been exposed to rabies to be held in quarantine at the discretion of the Medical Health Officer.
15. a) Any Dog found to be infected with rabies shall be destroyed by its Owner or by the Animal Control Officer at the Owner's Expense.

- b) No damages or compensation may be recovered because of the destruction of a Dog by the Animal Control Officer pursuant to subsection (a).

Defecation

- 16. a. The Owner of a Dog shall forthwith remove any defecation left by the Dog on any public property or private property other than the Owner's property.
- b. The owner or any other person having care or control of a Dog shall ensure that Dog feces on the Owner's property does not accumulate to such an extent that it is reasonably likely to annoy or pose a health risk to other individuals.

Limitation on Animals per Dwelling

- 17. a. No more than two dogs shall be kept, harbored or possessed in any dwelling on WFN Reserve.
- b. The provisions of subsection (1) do not apply where the Dog is less than four (4) months of age to 16 weeks.
- c. Anyone who has more than two Dogs at the coming into force and effect of this By-Law shall be entitled to keep that number of Dogs, however, they will not be allowed to replace any of the Dogs that may die or be lost or in other ways no longer be associated with the residence of the owner. The Limit of two (2) Dogs per dwelling shall apply to them when the number of existing Dogs has reached that figure.

Abuse of Domestic Animal

- 18. a. No pet Owner of a Domestic Animal shall allow his/her animal to remain unfed or without water whereby it either amounts to cruelty or causes the animal to become a nuisance;
- b. No Pet Owner shall punish, neglect or abuse an animal in a manner which is cruel or unnecessary;
- c. An Owner of a Dog must not leave a tethered Dog unsupervised on the Owner's property or on public property.
- d. A Tethered Dog must:
 - 1. have unrestricted movement within the range of the tether used to tie up the Dog;
 - 2. not be able to injure itself as a result of the tethering;
 - 3. be tethered in such a manner so that the tether does not permit the Dog to go beyond the limits of the Owner's property;
 - 4. have access to water, food, shade in the summer and shelter in winter;
 - 5. not be tethered continuously; and
 - 6. be tethered to a tether that is an appropriate length for the size of the Dog.

Provided an Owner shall under no circumstances tie up a Dog where a metal collar forms pan of the tether.

- 7. An owner of a Dog must not abandon the Dog. WFN Animal Control Officer will have the right to apprehend a Dog if there is proof of abuse or neglect.
- 8. All Cases of animal abuse will be reported to the Witsset First Nation at 250-847-2133

Spay and Neutering of Animals

- 19. All dogs or cats must be spayed or neutered by six months of age unless the owner is a Certified Animal Breeder as approved by the Animal Control Officer.

Control and Pound

- 20. WFN Administration shall be responsible for the enforcement of this By-Law. Where it has been satisfied that a Dog is not receiving proper care, treatment or shelter or is being kept on any premise's contrary to the provisions of this By-Law, the WFN Animal Control Officer is authorized to take custody of, control, impound or destroy any Dog in accordance with this By Law.

21. WFN shall appoint a Pound Keeper who shall:
- a. Collect any impounding fees, daily pound fees and any other additional charges or fees as are authorized in this By-Law and as may be set by resolution by Council;
 - b. Be responsible for the operation of the pound;
 - c. Provides adequate food and water to the impounded Dogs;
 - d. Veterinary treatment if necessary;
 - e. Keep the pound in a reasonable state of cleanliness;
 - f. Keep the pound premises neat and tidy in appearance.

Impounding

22. WFN without notice to or complaint against the Owner, will impound any Dog that:
- a. runs at large contrary to this By-Law;
 - b. is not wearing a license or tag as required by this By-Law;
 - c. is not registered pursuant to this By-Law;
 - d. is fierce or dangerous;
 - e. Persistently annoys or disturbs the peace and quiet of a neighborhood by barking, howling or otherwise.

Upon receiving a complaint from any person, the WFN By-Law Enforcement Officer is authorized to investigate, capture and impound any Domestic Animal in cases where the animal is:

- a) found causing an annoyance or disturbance in any manner specified, at any time of the day or year, whether the animal is on private property or otherwise;
 - b) found in distress or is seemingly injured;
 - c) The Pet Owner of the Domestic Animal is found to be non-compliant with this By-Law.
23. WFN Animal Control Officer, while pursuing any Dog in accordance with the performance of their duties under this By-Law, may pass over the property of any person, but this subsection is not to be construed to provide immunity against action for actual damage to the property of any person.
24. Subject to section 25 of this By-Law, except in the case where a Dog is impounded for being fierce or dangerous, or rabid or exhibits symptoms of canine madness, the owner of a Dog which has been impounded, upon proof of ownership of the Dog, may redeem the Dog after payment to the Pound Keeper of any Impounding Fees, Daily Pound Fees, along with reimbursement of any Extraordinary Expenses incurred by WFN relating to the Dog.
25. In case of redemption of a Dog which has not been registered pursuant to this By-Law, the Owner shall be required to register the Dog and pay the registration fee before being allowed to redeem the Dog.
26. (1) Any Dog which has not been redeemed by its Owner at the expiry of a period of 72 hours after being impounded may be adopted out or destroyed by the Pound Keeper and if sold, the proceeds shall belong to the Witsset First Nation.
- (2) 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).
27. Whenever the 72 hours of impounding time expires on the weekend or public holiday, the Pound Keeper shall hold such until the expiry of the first business day following the weekend or public holiday to permit the Owner to redeem the Dog.

Notice

28. Upon any Dog being impounded, the Pound Keeper shall check for a license and if a license is found, the Pound Keeper shall make at least one attempt to contact the registered Owner of the Dog using the license number on the records of Witset First Nation. Provided, however that if a Dog is missing, the onus is on the Owner of a Dog to ascertain, within the time period provided for impounding under this By-Law, whether the Dog has been impounded.

Dogs Running At Large

29. Any Dog which is off the premises occupied by the Owner without being under the apparent restraint or control of some person shall be deemed to be running at large for the purpose of this By-Law.
30. In Witset, the Owner of a Dog shall, while the Dog is off the property occupied by the Owner, keep the Dog under control by means of a harness or leash, and the Dog shall be deemed to be running at large where the Owner fails to use such apparatus.

Fierce/Vicious or Dangerous Dog

31. For the Purpose of this By-Law a Dog that is fierce/vicious or dangerous includes, but is not limited to, any Dog:
- i. that, in the absence of a mitigating factor as defined herein, has attacked or injured a person, notwithstanding time and place;
 - ii. that, in the absence of a mitigating factor as defined, has attacked or injured a domestic animal, notwithstanding time and place;
 - iii. that, in the absence of a mitigating factor as defined, demonstrates any ferocious, vicious or aggressive behavior;
 - iv. that, in the absence of a mitigating factor, an Animal Control Officer, upon reasonable and probable ground, believes to be a fierce/vicious Dog;
 - v. that, in the absence of a mitigating factor, approaches a person in an apparent attitude of attack upon streets, sidewalks, any public grounds, or places or on private property other than the property of the owner;
 - vi. owned or harbored in whole or in part for the purpose of an organized Dog fight;
 - vii. trained for dog fighting.

Provided that no Dog shall be deemed fierce/vicious or dangerous if it is a professionally trained guard Dog while lawfully engaged for law enforcement or lawfully engaged in private security.

"Mitigating Factor" means a circumstance which excuses the aggressive behavior of a Dog where:

- i. the Dog, at the time of the aggressive behavior, attacked or injured any trespasser on property occupied by its owner;
 - ii. the Dog immediately prior to the aggressive behavior was being accused or tormented by the person attacked or injured.
32. Anyone owning a fierce/vicious Dog, or aggressive Dog must post a clearly visible sign notifying the public.
33. At all times, a fierce/vicious Dog shall be kept on a secured 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.

Prohibitions within Specific Areas of the Reserve:

34. i.) The Council may at any time prohibit the keeping of Dogs within any area of the Reserve;
- ii) Notice of any prohibition made by Council pursuant to subsection (i) shall be posted in the WFN Administration office and after the date of the posting of such notice, no person shall keep or have a Dog within prohibited area;

- iii) 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 express written authorization to that effect from the WFN, by way of Band Council resolution.

General Prohibition

- 35. i.) Subject to subsection (ii), every Owner of a Dog shall always keep the Dog safely tethered or penned up;
 - ii.) A Dog must not be tethered or penned up as provided in subsection (i) if the Dog:
 - a) is held on a leash by a person capable of restraining the Dogs' movements;
 - b) is being used by a person for the purpose of hunting;
 - c) is being used by a person to work in a lawful manner;
 - d) is being used by a person as a therapy Dog; or
 - e) is used by a visually impaired person as a guide Dog.
 - iii.) 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 or his/her agent; the Owner of a Dog that fails to do so, is guilty of an offense.
 - iv.) The Owner of a Dog who fails to take all necessary measures to ensure that such Dog is always under control or supervision or in the possession of the Owner upon any property on the Reserve, is guilty of an offense.
 - v.) The Owner of a Dog which causes damage to any property including movable property, lawns, flower gardens, flower beds, bushes or plants, or other parts of property, is guilty of an offense.
 - vi.) No Owner shall allow his/her Dog to remain unfed, without water or safe shelter whereby it either amounts to cruelty or causes the Dog to become a nuisance.
 - vii) No person shall punish or abuse a Dog in a manner which is cruel or unnecessary.
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- 36. The Owner of a Dog:
 - a) Whose Dog runs at large, except as set forth in 35 (ii) above;
 - b) Whose Dog is not wearing a license required by this By-Law;
 - c) Whose Dog is not registered pursuant to this By-Law;
 - d) Whose Dog persistently annoys or disturbs the peace and/or quiet of the neighborhood by barking, howling, yelping or otherwise;
 - e) Who neglects or refuses to provide a written statement required by this By-Law;
 - f) Who fails to abide or is in contravention of sections of this By-Law dealing with fierce or dangerous Dogs;
 - g) Who fails to remove the feces of a Dog, other than a Dog that is trained to assisting a person with disability, from public property or private property other than the property owners; is guilty of an offense.

Destroyed if Unable to Seize

- 37. i.) 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, the Officer may destroy the Dog;
- ii.) No damages or compensation may be recovered because of the destruction of a Dog by the Animal Control Officer pursuant to subsection (1).

Protection from Fierce or Dangerous Dogs

- 38. i.) A person or Animal Control Officer may euthanize, if necessary, a fierce/vicious Dog which is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:
 - a) a person; or
 - b) another Dog (or cat) that is tethered.
- ii.) A person or Animal Control Officer who must euthanize a fierce/vicious Dog, pursuant to section 38 (I), shall immediately report the incident to the WFN or Animal Control Officer and notify the Dog's Owner.
- iii.) No damages or compensation may be recovered because of destroying a Dog by a person or Animal Control Officer who is required to do so pursuant to subsection 38 (1).

Disclaimer

39. The Witsset First Nation Council is not liable for any injury or damages caused by any Dog onreserve under this By-Law. The Owner or Keeper of any Dog on-reserve, shall at all times, be strictly responsible and legally for the behavior of any Dog under their care, control or otherwise, and the consequences thereof on private or public property.

Penalty

40. 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 dollars or to a prohibition of keeping a Dog for a term of period up to 24 months or to both a fine and prohibition.

THIS BY-LAW IS HEREBY reviewed and approved at a duly convened meeting of the Witsset First Nation Council on the 10th day of November, 2020.

QUORUM: 5 (FIVE)

(Only to be used when others are not available and have sent regrets, but are fully informed of the BCR)

Sandra George, *Chief Councilor*

Andrew Tom, *Councilor*

Warner William
Warner William, *Councilor*

Duane Mitchell, *Councilor*

Vern Mitchell, *Councilor*

Ian Michell, *Councilor*

Elgin Cutler
Elgin Cutler, *Councilor*

Margaret LaRose
Margaret LaRose, *Councilor*

Clement Mitchell, *Councilor*

Sheri Green
Sheri Green, *Councilor*

Lillian Lewis
Lillian Lewis, *Councilor*

Russel Lewis Jr.
Russel Lewis Jr., *Councilor*