

# **Animal Care and Control Bylaw 2018-03**

Being a by-law of the Enoch Cree Nation with a purpose of establishing and enforcing animal care and control within the Enoch Cree Nation nation no. 440.

WHEREAS the Enoch Cree Nation has and continues to exercise and inherent Aboriginal and Treaty Right of Self-government that is recognized and affirmed by Section 35 of the Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11 and is protected by Treaty No. 6, 1977; and,

WHEREAS Enoch Cree Nation strives to ensure that matters related to domestic animals, including dogs, are carried out in a conscientious, respectful and prompt manner; and,

WHEREAS PURSUANT TO Section 81 of the Indian Act, R.S.C. 1985, c I-5 (the "Indian Act"), a council may make by-laws not consistent with the Indian Act and regulations made thereunder, for any or all of the purposes set out in paragraphs 81(1)(a), (c), (d), (e), (q) or (r) therein; and

NOW THEREFORE, council of the Enoch Cree Nation, duly assembled, enacts as follows:

## **PARTS OF THIS BY-LAW**

PART I	TITLE, DEFINITIONS AND INTERPRETATION
PART II	REGULATION OF DOGS
PART III	REGULATION OF DANGEROUS DOGS
PART IV	BASIC CARE AND OTHER PROVISIONS
PART V	ADMINISTRATION AND ENFORCEMENT
PART VI	PENALTY PROVISIONS
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## PART I – TITLE, DEFINITIONS AND INTERPRETATION

### SHORT TITLE

1.01 This By-law will be known as the “Animal Care and Control By-law”, or within this document, the “By-law.”

### DEFINITIONS

1.02 In this By-law, unless the context otherwise requires:

- (a) **“Abandoned”** means any animal that is:
  - (i) left for more than 24 hours without adequate food, water or shelter;
  - (ii) left at an Animal Control Facility without any notice and known owner
  - (iii) found on Premises which have been vacated by the Owner; or
  - (iv) found At Large on more than three (3) occasions;
- (b) **“Animal”** means any animal, including a bird, reptile, and amphibian;
- (c) **“Animal Control Facility”** means the Animal Control Facility designated by Enoch Cree Nation which may include animal control facilities located off the Enoch Cree Nation, for the impounding, assessment and/or re-homing of Animals as set out in this By-law;
- (d) **“At Large”** means a animal which is off the Owner’s property and is not restrained by a leash and under control, or which is otherwise not under the immediate, effective and continuous control of the Owner;
- (e) **“By-law”** means this Animal Care and Control By-law;
- (f) **“Council”** means the Council of Enoch Cree Nation, comprised of the Chief and Councillors, duly elected from time to time in accordance with the Enoch Cree Nation Election Code;
- (g) **“Dangerous Dog”** means a Dog which has been determined to be a Dangerous Dog pursuant to Section 5 of this By-law;
- (h) **“Dog”** means any domesticated dog, and includes a Dangerous Dog;
- (i) **“In distress”** means that an animal is deprived of basic care, including adequate food, water, shelter, ventilation, space, required veterinary care, and reasonable protection from injurious heat or cold; or, is injured, sick, in pain or suffering; or, abused or subjected to undue hardship, deprivation or neglect.
- (j) **“Leash”** means a lead, rope, tether, or a device of like material that is utilized for the purpose of restraining or controlling an animal;
- (k) **“Muzzle”** means a humane, commercially available, fastening or covering device that is designed for bite prevention which, when placed over the mouth and nose of an animal, has adequate strength to effect

that purpose while still allowing the muzzled animal to pant, drink and engage in otherwise normal animal behavior while wearing the device;

- (l) **“Off Leash Area”** means an area designated by the Council Land Use Bylaw where the presence of a Dog is permitted without the need for the Dog to be restrained by a Leash;
- (m) **“Owner”** means a person who is identified as a animal’s owner through a licence or permanent identification, and for greater certainty, also includes a person residing within or attending at the Enoch Cree Nation, who;
  - (i) has the care, custody, possession or control of a animal, either temporarily or permanently;
  - (ii) is in actual or apparent possession or control of premises where a animal apparently resides;
  - (iii) claims or asserts any legitimate proprietary interest in a animal;
  - (iv) allows a animal to remain on his/her property; or
  - (v) reclaims or receives a animal from the custody of any Animal Control Facility
- (n) **“Owners Property”** means any premises which are leased or occupied by animal owner or person;
- (o) **“Bylaw Officer”** means a member of the Royal Canadian Mounted Police, member of a municipal police service, or officer appointed by Council
- (p) **“Person”** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or legal entity or representative;
- (q) **“Premises”** means any parcel or lot of land or a portion thereof
- (r) **“Registered Veterinarian”** as defined by Veterinary Profession Act R.S.A. 2000 Chapter V-2;
- (s) **“Secure Enclosure”** means a building, pen or fenced area which is secured and constructed in such a manner that it will not allow an enclosed animal to jump, climb, dig out of, or otherwise escape from it, nor allow unauthorized individuals to enter into the area, unless the unauthorized individual forces his/her way inside the enclosure, and which conforms with the following minimum requirements:
  - (i) the Secure Enclosure shall have secure sides;
  - (ii) the Secure Enclosure must provide the animal with adequate shelter from the elements including heat, cold, sun, rain and wind;
  - (iii) the size of the Secure Enclosure shall be adequate enough to allow the animal full biological function
- (t) **“Spayed” or “Neutered”** means the surgical removal of the reproductive organs of a dog by a Registered Veterinarian while the Dog is under anesthetic;
- (u) **“Stray Animal”** means a animal that is abandoned or has no identifiable owner;
- (v) **“Tether”** means a rope, cable or similar restraining device of a prescribed length that prevents an animal from moving away from a localized area, and the words “tethered”, and “tethering”, shall refer to the

use of the device;

- (w) **“Threatening Behavior”** means, that a Dog, without provocation:
  - (i) aggressively barks, growls, snaps at, lunges at, chases, attacks, or bites another domestic animal, bicycle, motor vehicle or other vehicle, or
  - (ii) aggressively barks, growls, snaps at, lunges at, or chases a person, except circumstances where a person is trespassing on the owner’s property or near the Owner’s residence;
- (x) **“Under Control”** means that the animal is under the effective control of the Owner, where effectiveness is indicated by factors including the animal’s responding promptly to voice, sound or sign commands;

## PART II – REGULATION OF DOGS

### 2. AT LARGE

- 2.01 The Owner of an animal shall ensure that the animal is not At Large.
- 2.02 If a animal is found to be At Large, the Owner of the animal must take reasonable precautions to either:
  - (a) secure the animal in a manner intended to prevent it from escaping the Owner’s Property, Motor Vehicle, secure Enclosure or other form of confinement; or
  - (b) provide direct, effective, and continuous control of the dog at all times
- 2.03 No Person shall cause a animal to be at Large in Enoch Cree Nation by:
  - (a) untying, loosening or otherwise freeing a animal which has been tethered or otherwise restrained in accordance with the relevant provisions of this by-law; or
  - (b) opening the door or window of a motor vehicle or building, or opening any closing mechanism or barrier which forms part of a fenced area, or Secure Enclosure, in which a animal has been confined.

### 3. DOG OFF OWNER’S PROPERTY

- 3.03 The Owner of an animal shall, at all times when the animal is off the Owner’s Property, ensure that the animal is:
  - (a) under control; and
  - (b) restrained by a leash that effectively keeps other people and animals safe from threatening behavior
- 3.04 When a Dog is within an Off Leash Area, the Dog need not be restrained on a Leash, provided that the Dog is Under Control at all times; the owner, shall, however, carry a Leash for their Dog
- 3.05 If a Dog is off the Owner’s Property but is assisting the owner with the transportation or herding of livestock, the Dog need not be restrained on a Leash, provided that the Dog is under control at all times.

#### **4. PROPERTY DAMAGE AND THREATENING BEHAVIOR**

- 4.01 The Owner of a animal shall ensure that the animal does not:
- (a) damage any private or public property;
  - (b) exhibit Threatening Behavior.
- 4.02 A animal Owner whose animal exhibits threatening Behavior, as contemplated by this by-law, is guilty of an offense.
- 4.03 Section 4.01 does not apply to a animal exhibiting Threatening Behavior:
- (a) when the animal is not physically able to act on their Threatening Behavior because the animal is securely tethered, confined within a building, Motor Vehicle or Secure Enclosure.

### **PART III – REGULATION OF DANGEROUS DOGS**

#### **5. DANGEROUS DOG PROVISIONS**

- 5.01 An Bylaw Officer may identify a Dog as a Dangerous Dog if:
- (a) the Bylaw Officer determines, on reasonable grounds, that:
    - (i) the Dog has a clear propensity, tendency or disposition to attack other Domestic Animals or humans, without provocation; and/or,
    - (ii) the Dog has inflicted a Serious Injury upon another Domestic Animal or human;
- 5.02 If an Bylaw Officer identifies a Dog as a Dangerous Dog, the Bylaw Officer:
- (a) shall provide the Owner, if an owner can be identified, with Written Notice that the Dog has been identified as a Dangerous Dog;
  - (b) Seize, capture, restrain or impound the dog
  - (c) may require the Dog to be identified, spayed or neutered and/or vaccinated at the owner's expense;
  - (d) may direct the Owner to keep the Dog in accordance with such conditions as the Bylaw Officer deems appropriate to secure the health and safety of Enoch Cree Nation residents
- 5.03 Within ten (10) days of receipt of a written notice issued pursuant to Section 5.02, the Owner may file a written notice of appeal of the Bylaw Officer's decision to Council, setting out the reasons for the appeal.
- 5.04 Upon receipt of a written notice of appeal pursuant to Section 5.03 council shall, within thirty (30) days, either:
- (a) Appoint the Ethics Commission and forward a copy of the notice of appeal to the Ethics Commission; or, alternatively,
  - (b) refer the dispute to Restorative Justice Board and forward a copy of the notice to the owner .
- 5.05 The Ethics Commission shall hear the appeal, or alternatively, the Restorative Justice Board shall mediate the dispute, within thirty (30) days of the receipt of notice, or referral, under s. 5.04, respectively.
- 5.06 After reviewing the appeal, and hearing evidence from witnesses, including the Owner, the Bylaw Officer, and anyone else having relevant information, the Ethics Commission or, alternatively, the Restorative Justice Board,

- (a) may either confirm, vary, substitute or cancel Bylaw Officer's decision; and,
- (b) shall issue their decision, in writing, to Council, the Owner, and the bylaw officer, within thirty (30) days of the hearing, or the mediation, being closed.

5.07 Should a dog be seized, as per Section 5.02, the Bylaw Officer may either:

- (a) upon being satisfied that the release of the Dog will not pose a risk to the health and safety of Enoch Cree Nation residents, release the Dog to its Owner,
- (b) take steps to rehabilitate and/or rehome the Dog; or,
- (c) subject to section 5.08, recommend that the Dog be humanely euthanized;

5.08 Should a dog be seized and recommended for euthanasia by the seizing Bylaw officer, the Bylaw Officer must:

- (a) provide the Owner, if an owner can be identified, written notice of their recommendation that the Dog be euthanized,
- (b) provide the Owner, along with notice of the Bylaw Officer's intention to appear before a Justice to obtain an order that the Dog be destroyed

5.09 Where a Dog has been captured and impounded under this part, the Bylaw Officer shall

- (a) Shall notify the local Animal Control Facility and the Owner of the decision in writing; and,
- (b) shall ensure that the Dog is impounded in a humane manner

5.10 Sections 5.03, 5.04, 5.05 and 5.06 do not apply where:

- (a) a Dog has inflicted life-threatening injuries upon another domestic animal or a person;
- (b) a Dog has caused the death of a domestic animal or person; or
- (c) a Dog has an infectious disease or is a vector of a contagious biohazard
- (d) the Bylaw Officer believes, on reasonable grounds, that a Dog is an immediate danger to the community at large

5.11 Sections 5.03, 5.04, 5.05, and 5.06 do not apply if a Dangerous Dog is captured or impounded and an Owner in respect of the Dog cannot be identified

## **6. DANGEROUS DOG ON OWNER'S PROPERTY**

6.01 A Dangerous Dog shall, at all times when the Dog is on the Owner's Property, be:

- (a) indoors; or
- (b) in a secure enclosure.

6.02 Within ten (10) days of a Dog being declared a Dangerous Dog by the Bylaw Officer, the Owner of the Dog is required to display a sign issued by Animal Care and Control, at each entrance to the Owner's Property and to the Secure Enclosure.

## **7. DANGEROUS DOG OFF OWNER'S PROPERTY**

7.01 The Owner of a Dangerous Dog shall, at all times when the Dog is off the Owner's Property, ensure that the Dog is:

- (a) under control;
- (b) wearing a Muzzle; and,
- (c) held on a Leash not exceeding one meter in length.

- 7.02 Dangerous Dogs are not allowed in off Leash areas, school yards, parks, or at public events.
- 7.03 The Owner of a Dangerous Dog shall notify the Bylaw Officer immediately if the Dog is At Large and shall take all reasonable steps to locate the Dog and bring the Dog under Control.
- 7.04 If a Dangerous Dog is located off of the Owner's Property and poses an immediate threat to the health and safety of a person or a domestic animal, a Bylaw officer may terminate the life of the Dog in a safe and humane manner.

## **8. RECLASSIFICATION OF A DANGEROUS DOG**

- 8.01 An Owner may apply to Council for a revocation of a Dangerous Dog designation made under this By-law if the Owner of the Dangerous Dog has not contravened any provisions of, or been convicted of, any offences under this By-law for a continuous period of not less than three (3) years

## **PART IV – BASIC CARE AND OTHER PROVISIONS**

### **9. STRAY & AT LARGE ANIMAL**

- 9.01 A Person who finds or takes control of any Stray animal shall notify, and relinquish the animal to, a bylaw officer

### **10. FALSE INFORMATION**

- 10.01 No Person shall provide false or misleading information to Enoch Cree Nation, Council, local Bylaw Officers, or their designates.
- 10.02 No Person shall contravene any term or condition contained in a written agreement entered into by that Person with Enoch Cree Nation pursuant to this By-law.

### **11. BASIC CARE OF ANIMALS**

- 11.01 An Owner of an animal shall
- (b) ensure that their animal receives sufficient
    - (i) food and water;
    - (ii) shelter, including shelter from injurious heat or cold;
    - (iii) space and ventilation,
    - (iv) exercise; and
    - (v) veterinary care when the animal is wounded or ill
  - (c) shall ensure that the area of the owner's property where the animal is kept is maintained in a clean, sanitary and inoffensive condition; and,

(d) shall ensure the animal is kept safe during weather extremes

11.02 An Owner of an animal must not abandon the animal.

## **12. IMPOUNDMENT OF ANIMALS**

12.01 A Bylaw officer may retain an impounded animal if it's required to secure the health and safety of Enoch Cree Nation residents.

12.02 The Bylaw officer may only adopt out, re-home, or humanely euthanize an impounded animal if:

(a) In the case of a animal being retained in the Animal Control Facility;

(i) where a dog has been identified as a Dangerous dog and the owner was unable to appeal as per sections 5.03, 5.04, 5.05 and 5.06; and

(ii) where an animal does not have identification, and if the name and address of the Owner cannot be ascertained

(b) in the case of a Dog seized under Section 5.02

(c) The Owner of the animal and the bylaw officer come to a written agreement.

12.03 Any Person seeking to reclaim an animal must provide the impounding animal Control Facility with sufficient proof of ownership of the animal.

12.04 The bylaw officer may work with an animal welfare organization to adopt out, or re-home any unclaimed animals which have been in the animal control facility

## **PART V – ADMINISTRATION AND ENFORCEMENT**

### **13. SPECIFIC POWERS OF THE BYLAW OFFICER**

13.01 The bylaw officer or his/her designate is responsible for the administration and enforcement of this By-law.

13.02 Where a bylaw officer is appointed by Enoch Cree Nation, he/she has the following powers under this By-law, keeping in mind that the bylaw officer shall be permitted to delegate the performance of their duties as deemed necessary, and in their discretion.

13.03 Without restricting any other power, duty or function granted by this By-law, the Bylaw Officer may:

(a) carry out or direct whatever inspections of are reasonably required to determine compliance with this By-law;

(b) delegate any of their powers under this By-law to any Enoch Cree Nation employee, contractor, or any organization as he/she deems appropriate, provided that the bylaw officer shall, at all times, remain accountable for ensuring that the power and duties under this By-law are carried out properly;

(c) establish forms for the purposes of this By-law;

- 13.04 Where the Owner can be located, the Bylaw Officer shall, within forty eight (48) hours of ascertaining the name of the Owner, contact the Owner and notify him or her that the animal has been impounded.
- 13.05 Where the animal Owner cannot be located, the impounding Bylaw Officer shall, within seventy two (72) hours of the date upon which the animal has been impounded, post notices describing the animal, for at least five (5) days.
- 13.06 No Person shall interfere with a Bylaw Officer who is exercising their powers and duties under this By-law.
- 13.07 No Person, whether or not he/she is the Owner of a Dog which is being or has been pursued or captured, shall:
- (a) Lure animal Dog to enter a house, building or other place where the animal may be safe from capture;
  - (b) falsely represent him/herself as being in charge or control of an animal so as to establish that the animal is not At Large; or
  - (c) Free an animal is being kept for impoundment or otherwise allow the animal to escape impoundment.

## PART VI -PENALTY PROVISIONS

### 14. OFFENCE

- 14.01 Any Person who contravenes any provision of this By-law is guilty of an offence.

### 15. RESTRICTIONS ON OWNERSHIP

- 15.01 If a Bylaw Officer is of the opinion that an animal owner has demonstrated a substantial breach of this by-law, the Bylaw Officer may issue a Notice to the owner suspending their ability to acquire, own, or house animals for a set period of time until certain conditions are met.
- 15.02 A “substantial breach” under this section means that an animal owner has demonstrated:
- (a) a pattern of conduct demonstrating an unwillingness or inability to comply with this by-law, as evidenced by repeated violations; or
  - (b) a one-time violation of a provision of this by-law that involves life threatening injury to a dog,
  - (c) evidence that the owner is training attack dogs
  - (d) The owner’s animal is believed to be in distress, as determined by a licensed veterinarian
- 15.03 Where a animal Owner has committed a substantial breach of this By-Law, the Bylaw officer shall seek
- (a) emergency veterinary care for the dog; and,
  - (b) assessment from a licensed veterinarian to determine if the animal has believed to be neglected, abused, or both
- 15.04 Where a licensed veterinarian determines that the animal has been believed to be neglected, or abused or both; a bylaw officer may:
- (i) in a case where the animal is not euthanized as a result, refuse to return the animal to the Owner; and,
  - (ii) Prohibit the Owner from taking future ownership of animals, until certain conditions prescribed by the bylaw are met; or, indefinitely.
- 15.05 Where the bylaw officer seizes an animal and refuses to return the animal to the owner on the basis of the opinion of a veterinarian under s. 16.04, the bylaw officer has the authority to rehome the animal.

- 15.06 Anyonewho is found to harbour, or cause death to an animal in order to avoid being subject to a prohibition under s. 16.03, shall not be allowed to own any animals on Enoch Cree Nation.
- 15.07 A person may appeal the decision of the bylaw made pursuant to sections 16.02, 16.03, 16.04, or a prohibition made under s 16.05, by applying to the Council for the purpose of having the decision or prohibition reviewed.

## PART VII – GENERAL

### 16. MISCELLANEOUS

- 16.01 Nothing in this By-law relieves a Person from complying with any applicable law, regulation, other by-law or any requirements of any lawful permit, order, consent or other direction.
- 16.02 Where this By-law refers to another Act, Regulation or Agency, it includes reference to any Act, Regulation or Agency that may be substituted therefor.
- 16.03 Every provision of this By-law is independent of all other provisions to the extent that if any provision of this By-law is declared invalid by a Court, all other provisions of this By-law shall remain valid and enforceable.
- 16.04 It is the intention of Council that all offences created by this By-law be interpreted to be strict liability offences.
- 16.05 Words and phrases in this By-law importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender.

### 17. CIVIL ACTION NOT AFFECTED

- 17.01 Nothing in this By-law limits the right of any person to pursue a civil claim for damages against an Owner of an animal, including damages allegedly arising from the owner's negligence and causing injuries to individuals or property.

**18. EFFECTIVE DATE**

**18.01** This By-law comes into force on the date of publication in accordance with the Indian Act.

This By-law is hereby passed at a duly convened meeting of the Council of the Enoch Cree Nation this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chief (Print name under signature)  
signature)

\_\_\_\_\_  
Councillor (print name under

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor