

## MOWACHAHT/MUCHALAHT FIRST NATION

### BYLAW #2-2023

#### A BYLAW TO PROVIDE FOR THE CONTROL AND LICENSING OF DOGS AND OTHER ANIMALS

- A. Mowachaht/Muchalaht First Nation has an inherent right to self-government, which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*, and which includes the right to control and license of animals on our reserve lands, including when such rights can be revoked;
- B. The Council of Chiefs of the Mowachaht/Muchalaht First Nation wish to make a bylaw governing the control and license of animals on MMFN reserve lands;
- C. The Council of Chiefs are empowered to make this bylaw pursuant to paragraphs 81(1) (c), (d) and (e) of the *Indian Act*; and
- D. The Chief and Council have an obligation to protect Mowachaht/Muchalaht First Nation members and residents, particularly Elders, children and other vulnerable community members, from animals that may cause harm or diminish the health and safety of Mowachaht/Muchalaht First Nation members, residents and the community;

**NOW THEREFORE** the Council of Chiefs at a duly convened meeting on the 1st day of November, 2023, enacts the following Bylaw:

#### 1. NAME

- 1.1 This Bylaw may be cited as the Mowachaht/Muchalaht First Nation Animal Control Bylaw.

#### 2. DEFINITIONS

**"Animal"** means any dog or domestic animal.

**"At Large"** means not being under the direct and continuous control of the Owner either by being:

- a. securely contained or tethered in or upon the property of its Owner;
- b. securely confined within a building or Enclosure; or
- c. otherwise off-Leash.

**"Basic Care"** means the provision of:

- a. adequate and appropriate food and potable water in sanitary receptacles; and
- b. shelter in an area of sufficient size and which is maintained to prevent the animal from suffering discomfort;

**“Animal Control Officer”** means the person or persons appointed by Council by Band Council Resolution to administer this bylaw, and determine whether a Dog is a Dangerous Dog.

**“Council”** means the MMFN Council of Chiefs.

**“Dangerous Dog”** means any Dog that has been designated a Dangerous Dog because it has:

- a. killed an Animal without provocation while off the Owner’s property;
- b. bitten, injured or aggressively pursued or harassed a person or Animal without provocation, on public or private property;
- c. that is attack trained; or
- d. displayed a disposition, propensity or potential to attack or injure a person or Animal; or presented a continuing threat of serious harm to humans or Animals.

**“Dog”** means any Animal of the canis familiaris species irrespective of age or sex.

**“Dog Licence”** means a licence for a dog for the current licencing year that has been paid for and that has been issued by Council.

**“Enclosure”** means a fence or structure of at least 6 feet in height, forming an enclosure adequately constructed to prevent a Dog from escaping.

**“Enforcement Officer”** means a person or persons appointed from time to time by Council or authorized by Council to enforce this Bylaw.

**“Leash”** means a device, or use of a device, made of metal, nylon or other similar strong material no more than 2 meters (6.6 feet) in length and of sufficient strength and design to restrain the size and strength of a dog for which it will be used. One end must remain securely affixed to a collar or harness securely attached to the animal with the other end held by a person capable of controlling the dog at all times.

**“Mowachaht/Muchalaht”** means Mowachaht/Muchalaht First Nation and may be referred to as MMFN.

**“Owner”** means any person:

- a. owning, possessing or harbouring a Dog or other Animal;
- b. having care and control over a Dog or other Animal; or
- c. permitting a Dog or other Animal to remain about the person’s property.

**“Pound”** means:

- a. premises or vehicles used by the Enforcement Officer to harbour and maintain animals pursuant to this bylaw; or
- b. a premise designated by contract for the impoundment, care and feeding of animals pursuant to this bylaw.

**“Reserve”** means that tract of land set apart for the use and benefit of MMFN and known as Tsaxana Indian Reserve No. 18.

**“Unlicensed”** means a Dog:

- a. for which the licence for the current year has not been obtained; or
- b. to which a licence tag is not attached.

### **3. LICENSING REQUIREMENTS**

3.1 All Dogs on the Reserve are to be spayed or neutered.

3.2 An Owner of a Dog that is four months of age or older must:

- a. obtain a licence for that Dog for the current calendar year; and
- b. must thereafter obtain a new licence for each subsequent calendar year.

3.3 No more than 2 Dogs are to be registered to each household.

- 3.4 A Dog License shall be worn only by the Dog for which it is issued and is not transferable to another Dog, or to an Owner other than the person to whom the licence was issued.
- 3.5 At the time of application, the Owner shall pay the licence fee set out in Appendix A.
- 3.6 Every Owner shall:
  - a. affix the tag to the Dog's collar or harness; and
  - b. ensure that the collar and tag are worn by the Dog.
- 3.7 License fees are non-refundable.

#### **4. RESPONSIBILITY OF OWNER**

- 4.1. Dangerous Dogs are prohibited from Reserve. Every Owner shall take effective measures to ensure that their Dog:
  - a. is not At Large
  - b. does not bite or attack a domestic animal or person; or
  - c. does not damage public or private property.
- 4.2. Every Owner shall keep their Dog Leashed when the Dog is in a public place unless that place has been designated an off-leash area.
- 4.3. Every Owner of a Dog shall always, while the dog is anywhere else than on lands or premises owned or occupied by the Owner, keep the dog leashed to prevent it from attacking another animal or human, or causing damage to public or private property.
- 4.5. Every Owner of a Dog shall at all times, while the dog is on land or premises owned or occupied by the Owner, keep the dog securely confined either indoors, on Leash, or in an Enclosure.
- 4.6. Every Owner of a female Dog in heat shall keep the Dog on the Owner's property and securely confined either indoors, or in an Enclosure, or securely Leashed and under the effective control of the Owner.
- 4.7. No person shall rescue or attempt to rescue an animal lawfully in custody of the Enforcement Officer pursuant to this bylaw. Further it is an offence to resist, obstruct or interfere with the Enforcement Officer in the performance or course of their duties.

- 4.8. No person shall keep, harbour, house or maintain on Reserve a Dangerous Dog, or permit their Dog to become a nuisance.

## **5. CARE OF ANIMALS**

- 5.1. No person shall keep an animal on the Reserve unless the animal is provided with Basic Care.
- 5.2. No person shall confine an Animal in any motor vehicle or enclosed area without providing adequate ventilation to prevent the Animal from suffering from distress, discomfort or injury due to heat.

## **6. NOTICE**

- 6.1. Where an Animal Control Officer has reason to believe that a Dog is a Dangerous Dog, the Animal Control Officer may issue and serve upon the Owner a notice in letter form stating that the Owner's Dog meets the definition of a Dangerous Dog and advising the Owner of the requirement set out in sections 4 as they apply to the Owner's Dog.
- 6.2. The notice set out in subsection 6.1 may be served on the Owner by:
- a. personally handing the notice to the Owner;
  - b. handing the notice to an adult person on the Owner's property;
  - c. posting the notice upon some part of the Owner's property and by sending a copy by regular mail;
  - d. mailing a copy by prepaid registered mail to the last known address of the Owner; or
  - e. emailing the Owner.
- 6.3. Where the notice is delivered by the methods set out in subsections 6.3 (c), (d) or (e) the notice shall be deemed to be served seven days after the notice was mailed.
- 6.4. The notice set out in section 6.1 shall include a statement advising the Owner of the Dog of the ability to appeal the determination of the Animal Control Officer.

## **7. APPEAL**

- 7.1. Owner of a Dog who has received a notice pursuant to subsection 6.1 of this Bylaw may appeal the findings of the Animal Control Officer to Council within thirty (30) days of service of the notice and Council may hold a hearing to determine the merits of the Owner's appeal.
- 7.2. Upon receipt of an application for an appeal, Council shall give the Owner of the Dog at least seven (7) days written notice of the appeal hearing.
- 7.3. After a hearing Council may confirm or reverse the findings of the Animal Control Officer.

## **8. RESPONSIBILITY OF COUNCIL**

- 8.1. The Council may contract with an organization for the keeping and impounding of Dogs.
- 8.2. MMFN staff shall keep a record for each licence issued which shall include:
  - a. the full name and address of the Owner;
  - b. the breed, colour, and sex;
  - c. the number stamped on the tag issued to the Owner; and
  - d. the amount of licence fee paid by the Owner.

## **9. SEIZURE AND IMPOUNDMENT**

- 9.1. The Enforcement Officer may seize and impound:
  - a. an Animal At Large on Reserve;
  - b. an Unlicensed Dog;
  - c. an Animal on unfenced land and not securely tethered or contained;
  - d. an Animal that the Animal Control Officer determines is subject to suffering; or,
  - e. an Animal designated under this Bylaw as a Dangerous Dog.
- 9.2. Where an Animal has been seized and impounded pursuant to subsection 9.1 (d) of this Bylaw and the Animal Control Officer determines that the Animal's suffering cannot be otherwise reasonably addressed, the Council may retain a veterinarian licensed to practice in British Columbia to humanely destroy the Animal.
- 9.3. Where an Animal has been seized under section 9.1(a)-(d), the Animal shall be impounded for a period of at least seventy-two (72) hours, excluding Sundays and statutory holidays, unless the Owner claims the Animal and takes possession of it earlier in accordance with section 9.5.
- 9.4. A Dangerous Dog shall not be returned to Reserve, and may be euthanized humanely.
- 9.5. The Owner, or the Owner's agent, may take possession of an impounded Animal, other than a Dangerous Dog, upon payment to the Council of:
  - a. the appropriate license fee if the Animal is an Unlicensed Dog;
  - b. Impoundment fees that have accrued; and
  - c. any veterinarian fees incurred by MMFN while the Animal is at the pound.
- 9.6. Where an Owner fails to claim and take possession of an Animal within the seventy-two (72) hour time period set out in section 9.3, the Animal may be humanely destroyed, sold, or otherwise disposed of.
- 9.7. Where a dog seized and impounded is injured or ill and is treated by a veterinarian, MMFN shall, in addition to any impoundment fees, be entitled to charge the person claiming the animal for the cost of the treatment.

## **10. ENFORCEMENT**

- 10.1. This Bylaw may be enforced by the Enforcement Officer and any other person or class of persons designated by the Council by Band Council Resolution.

## Appendix A

### **License Fees**

Dog license: \$50 per calendar year.

### **Impoundment Fees**

For any Dog: \$250