



Tsartlip First Nation
P.O. Box 70, #1 Boat Ramp Road
Brentwood Bay, BC V8M 1R3
Phone 250.652.3988 - Fax 250.652.3788



TSARTLIP FIRST NATION
ANIMAL CONTROL BYLAW, NO. 2021-01

A BYLAW RESPECTING THE CONTROL OF ANIMALS
FOR THE
TSARTLIP FIRST NATION

WHEREAS:

The Tsartlip First Nation Council deems it advisable, necessary, expedient and in the best interests of Tsartlip and all residents and occupants of the Reserve to establish a bylaw concerning the control of Dogs and Animals and to provide for the health and safety of all residents of Tsartlip Lands.

The Tsartlip First Nation Council has deemed it necessary to regulate the care and control of Dogs and Animals, to prevent nuisance and trespass by Dogs and Animals on Tsartlip Lands.

The Tsartlip First Nation Council has authority to regulate the care and control of Dogs and Animals, and provide for the health and safety of all residents of Tsartlip Lands pursuant to section 81(1)(e) of the *Indian Act* (Canada).

The Tsartlip First Nation Council is of the opinion that the uncontrolled ownership and running at large of Dogs and Animals may be detrimental to the health and safety and a nuisance to the residents of Tsartlip Lands.

NOW THEREFORE the Tsartlip First Nation Council enacts as a bylaw the following:

1 SHORT TITLE

1.1 This Bylaw may be cited as the "Animal Control Bylaw No. 2021-01".

2 DEFINITIONS

2.1 In this Bylaw, including the recitals, unless the content otherwise requires:

- (a) **"Aggressive Behavior"** means any behavior by a dog that demonstrates a threat or harm directed at a person or Animal and includes snarling, barking, biting, chasing, snapping, and attacking behavior;
- (b) **"Aggressive Dog"** means a dog that:
 - i) has without justifiable provocation displayed Aggressive Behavior toward a person or Animal; or

- ii) has without justifiable provocation caused injury to a person or Animal;
- (c) **"Animal"** means an animal, other than a Dog that is tame or kept, or that has been and is being sufficiently tamed or kept, to serve some purpose for the use of humans;
- (d) **"Animal Control Officer"** means the Person appointed by or contracted by Council from time to time for the purpose of administering, applying, and enforcing this Bylaw, and includes any person that may be delegated such responsibilities;
- (e) **"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;
- (f) **"Council"** means the governing Council of the Tsartlip First Nation elected pursuant to section 74 of the Indian Act;
- (g) **"Dog"** means both male and female of the species *Canis domesticus* apparently over the age of four months and includes Aggressive Dogs;
- (h) **"Enclosure"** 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;
- (i) **"Impounded"** means seized, delivered, received, or taken into the Pound, or into the custody of the Animal Control Officer or Pound keeper as provided in this Bylaw;
- (j) **"Muzzle"** means a humane basket-style fastening or covering device that is strong enough and well-fitted enough to prevent the dog from biting, without interfering with the breathing, panting or vision of the dog or with the dog's ability to drink;
- (k) **"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;
- (l) **"Pound"** means any premises maintained and operated for the purpose of keeping Dogs or Animals Impounded under this Bylaw;
- (m) **"Pound keeper"** means the individual 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 this Bylaw:
 - i) the maintenance and operations of a Pound;
 - ii) to seize, keep or destroy Dogs or Animals;
- (n) **"Public Notice"** means written notice posted on the Tsartlip First Nation website and at the main administration office of the Tsartlip First Nation;
- (o) **"Tsartlip First Nation"** means the body of people formerly known as a "Band" under section 2 of the Indian Act and for whose use and benefit in common Tsartlip Lands have been set apart by Her Majesty the Queen; and
- (p) **"Tsartlip Lands"** as it relates to this Bylaw means West Saanich Indian Reserve No. 1.

3 ADMINISTRATION

- 3.1 The Council may appoint a person to act as an Animal Control Officer and any assistants to the Animal Control Officer as the Council deems necessary.
- 3.2 The Animal Control Officer is authorized and directed to administer and enforce this Bylaw. The Animal Control Officer may delegate the performance of his or her duties under this Bylaw.
- 3.3 Council may from time to time enter into agreement with an individual or an authorized agent of any corporation, society, governmental body, or other such organization to:
- a) Carry out the provisions set in the Bylaw;
 - b) Enforce the provisions set in this Bylaw;
 - c) Act as a Pound keeper; and
 - d) Maintain and operate a Pound.
- 3.4 Council may, by a resolution, establish a charge or fees payable in respect of any matter administered under this Bylaw.

4 DOGS

- 4.1 Every Owner of a Dog is responsible for the care and control of the Dog and must:
- a) Provide sufficient food and water for the Dog's humane survival;
 - b) Provide a clean and sanitary living environment for the Dog;
 - c) Refrain from punishing or abusing the Dog unnecessarily, or in a manner that amounts to cruelty; and
 - d) Ensure that the Dog does not become a nuisance.
- 4.2 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 Tsartlip Lands.
- 4.3 No Owner of a Dog shall allow or permit the Dog to be at large or to be elsewhere other than the premises of the Owner unless the Dog is under direct control of the Owner.
- 4.4 A Dog need not be confined as required in subsection 5.3, 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 activities.
- 4.5 The Owner of a Dog is responsible and liable for all damages caused by that Dog to any person, or personal or real property.
- 4.6 The Owner of a dog shall, when the dog 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 Dog on the said property.

- 4.7 No person shall own, possess, or have care and control of more than six animals of which a maximum of four (4) can be Dogs at any time or in any place or premises on Tsartlip Lands.
- 4.8 If a person wishes to own, possess or have care and control of more than six animals for farm or agricultural purposes (e.g., raising chickens or cows), that person may apply in writing to Council for approval to have more than six animals. Notwithstanding sections 4.7 and 6.4 of this Bylaw, Council may grant exemptions to sections 4.7 and 6.4 on a case-by-case basis. Any exemption granted by Council under this section will be made by resolution and may be subject to conditions.
- 4.9 Every Owner of a female Dog which is in heat shall not permit the Dog to interact with intact Dogs (regardless of sex or age) and shall always have the Dog on a leash within control of Owner for the time in which the Dog is in heat.

5 AGGRESSIVE DOGS

- 5.1 If an Animal Control Officer receives a credible complaint that a Dog has exhibited Aggressive Behavior, the Animal Control Officer may issue the Owner of the Dog written notice of that complaint, such written notice to include the following:
- a) The date, place and circumstances of the events alleged;
 - b) A written warning that either:
 - i. if the Dog that is the subject of the complaint is found to have exhibited Aggressive Behavior more than once, the Dog could be deemed to be an Aggressive Dog; or
 - ii. notwithstanding paragraph b) above, if a Dog exhibits serious aggressive behavior at first instance, including, but not limited to, causing injury to another person or Animal, an Animal Control Officer may immediately deem the Dog to be an Aggressive Dog without any prior warning and provide written notice thereof to the Owner; and
 - c) A copy of this Bylaw.
- 5.2 Where the Owner of a Dog has received a notice in the form set out in section 5.1(b)(i) above and an Animal Control Officer receives more than one credible complaint that the Dog has exhibited Aggressive Behavior, the Dog may be deemed to be an Aggressive Dog. If an Animal Control Officer deems a Dog to be an Aggressive Dog, the Animal Control Officer will issue a written notice to the Owner of that Dog advising the Owner that their Dog has been deemed an Aggressive Dog and of the requirements of this bylaw.
- 5.3 In addition to the general requirements that apply to Dogs under this Bylaw, any Owner of an Aggressive Dog must:
- a) Clearly post signs to that effect at any premises where the Aggressive Dog regularly resides;
 - b) Keep the Aggressive Dog in an Enclosure; and
 - c) If walking the dog, keep the Aggressive Dog on a secure leash and wearing a muzzle if it is not confined in an Enclosure.

- 5.4 Any person is permitted to destroy a Dog or Animal that is at large and in the act of pursuing, attacking, injuring, damaging, killing, or destroying a person, or another Dog or Animal.
- 5.5 A person or Animal Control Officer who kills a Dog or Animal pursuant to section 5.4, shall immediately report the incident to Council or the Animal Control Officer and notify the Dog or Animal's Owner.

6 OTHER ANIMALS

- 6.1 Every Owner of an Animal is responsible for the care and control of the Animal and must:
 - a) Provide sufficient food and water for the Animal's humane survival;
 - b) Refrain from punishing or abusing the Animal unnecessarily or in a manner that amounts to cruelty;
 - c) Provide a clean and sanitary living environment for the Animal; and
 - d) Ensure that the Animal does not become a nuisance.
- 6.2 No Owner of an Animal shall allow or permit the Animal to be at large, or elsewhere other than the premises of the Owner unless the Animal is under direct control of the Owner.
- 6.3 The Owner of an Animal is responsible and liable for all damages caused by that Animal to any other person, personal or real property.
- 6.4 No person shall own, possess, or have care and control of more than six animals of which four (4) can be Dogs at any time or in any place or premises on Tsartlip Lands
- 6.5 .The Council may prohibit the keeping of an Animal on any area of Tsartlip Lands for health and safety reasons, provided it gives Public Notice of such prohibition.

7 SEIZURE AND RELEASE OF ANIMALS

- 7.1 The Animal Control Officer may seize and impound any Dog or Animal at large on Tsartlip Lands.
- 7.2 If reasonably possible, the Animal Control Officer will, in a timely manner, notify the Owner, of the impoundment of the Dog or the Animal.
- 7.3 If, in the view of the Animal Control Officer or Pound keeper, a Dog or Animal is suffering from an illness, injury, or for any other valid reason as deemed necessary by the Animal Control Officer or the Pound keeper, acting in good faith, the Animal Control Officer or the Pound-keeper may request the attendance of a veterinarian to the Pound. The Owner will be responsible for all costs of the Veterinarian. If Tsartlip First Nation pays for any veterinarian costs, Tsartlip First Nation may recover these costs from the Owner.
- 7.4 If, in the reasonable opinion of the Animal Control Officer or the Pound keeper, a Dog or Animal seized under this Bylaw is so severely injured or diseased, that the Dog or Animal needs to be destroyed for humane or health and safety reasons, then the Animal Control Officer or Pound keeper may cause the Dog or Animal to be destroyed.

- 7.5 An Owner has seven business days from the date they are provided notice that their Dog or Animal has been seized, to reclaim his or her Dog or Animal from an Animal Control Officer or the Pound.
- 7.6 If seven business days after the Animal Control 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, the Animal Control Officer or Pound keeper, may:
- a) Surrender the Dog or Animal to the BC SPCA or
 - b) Have the Dog or Animal destroyed in a humane manner.
- 7.7 The Animal Control Officer or Pound keeper may detain any Dog or Animal seized on Tsartlip Lands until the following amounts are paid to Tsartlip First Nation:
- a) All actual costs incurred by Tsartlip First Nation in administering this Bylaw with respect to the Dog or Animal, including costs for impounding, boarding, and transporting the Dog or Animal seized from Tsartlip Lands;
 - b) Any veterinarian fees incurred by Tsartlip First Nation under section 7.3; and
 - c) Any penalties or fees established under this Bylaw by Tsartlip Council from time to time.
- 7.8 An Owner must sign a receipt for any Dog or Animal prior to the release of the Dog or Animal from the Pound.

8 DISPOSAL OF ANIMALS

- 8.1 No damages or compensation are recoverable against the Tsartlip First Nation, or any member, contractor, agent, or employee of the Tsartlip First Nation, as a result of a Dog or Animal being destroyed under provisions of the Bylaw.
- 8.2 No Owner or person will be allowed to reclaim, purchase, or adopt a Dog or Animal that has been determined under this Bylaw to need to be destroyed.

9 OFFENCES AND PENALTIES

- 9.1 Every person who contravenes any part of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine of not more than one thousand dollars or to imprisonment of a term not exceeding thirty days pursuant to s.81(1)(r) of the *Indian Act*.

10 FEES, FORMS AND REGULATIONS

- 10.1 Council may by resolution establish, correct, revise or update the terms of any applicable fee schedules, forms, protocols or other related documentation that complement and support this Bylaw, and will make a copy of these available for viewing at the administrative offices of Tsartlip First Nation.

11 NOTICES

- 11.1 Any notice to the Tsartlip First Nation shall be made in writing to the Tsartlip First Nation and emailed to admin@tsartlip.com, or mailed, postage pre-paid or personally delivered to:

Tsartlip First Nation
PO Box 70, #1 Boat Ramp Rd
Brentwood Bay, BC V8M 1R3

- 11.2 Notice from the Tsartlip 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.

12 GENERAL

- 12.1 Words within this Bylaw importing the male gender include the female gender and vice versa, and words importing the singular number include the plural number and vice versa
- 12.2 This Bylaw shall be given such fair, large, and liberal construction and interpretation as best ensures the attainment of its objectives.
- 12.3 Head notes, marginal notes and provision headings form no part of this Bylaw but shall be construed as being inserted for convenience of reference only.
- 12.4 A finding by a court of competent jurisdiction that a section or provision of this Bylaw is ultra vires, void, or invalid, shall not affect or bear upon the validity or invalidity of any other section or part of this Bylaw, or this Bylaw as a whole.
- 12.5 Where a provision in this Bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- 12.6 Any section of this Bylaw, including any schedules, may be amended by a Bylaw adopted by Council, and approved in accordance with the Indian Act.
- 12.7 Tsartlip First Nation, present or past Council, the Animal Control Officer or employees, servants or agents of the Tsartlip First Nation or Council are not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Bylaw or any other law, or from the neglect or failure, for any reason or in any manner, to enforce this Bylaw or any other law.

12.8 This Bylaw comes into force on the date it is passed by band council resolution.

THE ABOVE BYLAW IS HEREBY APPROVED AND PASSED by a majority of the Tsartlip First Nation Council at a duly convened meeting of the Tsartlip First Nation held at the Tsartlip Administration Office at #1 Boat Ramp Road, Brentwood Bay, BC, this _____ day of _____, 20_____.

A QUORUM of COUNCIL consists of FIVE (5) Council members.

Chief Don Tom

Councillor Gordon Elliott Sr.

Councillor Verna Ellsworth

Councillor Howard Morris

Councillor Joseph Seward

Councillor Curtis Olsen

Councillor Joni Olsen

Councillor Paul Sam

Councillor Simon Smith Jr.

Councillor Philip Tom