

QW'ÓQW'EL SMÉYETH SLEWÓYELH

**Shxw'ówhámél First Nation
Animal Control and Protection Law, 2018**

(a law to provide for the control and protection of animals within Shxw'ówhámél Lands)

TABLE OF CONTENTS

PART 1 – NAME.....	2
PART 2 – PURPOSE AND APPLICATION.....	2
PART 3 – INTERPRETATION.....	3
PART 4 – NUMBER OF PETS PER HOUSEHOLD.....	6
PART 5 – ANIMAL POPULATION CONTROL.....	6
PART 6 – LICENSING.....	6
PART 7 – ANIMAL CONTROL.....	8
PART 8 – AGGRESSIVE OR DANGEROUS ANIMALS.....	8
PART 9 – ANIMAL CARE.....	9
PART 10 – SEIZURE AND IMPOUNDMENT.....	12
PART 11 – ADOPTION.....	14
PART 12 – CARCASS REMOVAL.....	14
PART 13 – ORDER TO DESTROY AN ANIMAL.....	14
PART 14 – DESTROYING AND DISPOSING OF ANIMALS.....	14
PART 15 – DISEASED ANIMALS.....	14
PART 16 – ENFORCEMENT AND OFFENCES.....	15
PART 17 – IMMUNITY.....	17
PART 18 – AMENDMENT.....	18
PART 19 – GENERAL PROVISIONS.....	18

WHEREAS:

- A. We, the Shxw'ōwhámél First Nation (“**Shxw'ōwhámél**”), being a member of the Tiyt Tribe have and maintain Indigenous Title, Rights and interests to our lands and resources within S'ólh T'émèxw, our Stó:lō Territory;
- B. Our Indigenous Title, Rights and interests are expressed in our Halq'eméylem language as: “*S'ólh T'émèxw te ikw'el'ó. Xólhmet te mékw'stám it kwelát*”, meaning “This is our land. We have to take care of everything that belongs to us”;
- C. *Tómiyeqw* – meaning, at all times we have a responsibility to our past seven generations and seven generations into the future;
- D. We have a unique relationship with our *Sxexó:mes*, including our lands and resources, which is expressed in our *Sxwōxwiyá:m*, *Sqwélqwel* and *Shxwelí*, which together help define our Indigenous Title, Rights and interests;
- E. We have 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*;
- F. We have taken back our unextinguished right to control and manage our Shxw'ōwhámél Lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and have enacted the *Shxw'ōwhámél First Nation Land Code*, verified on October 23, 2014 (the “**Land Code**”);
- G. Pursuant to the Land Code, our Si:yá:m Council is authorized to pass various laws relating to lands, including laws relating to animal control and protection;
- H. Si:yá:m Council has the authority and obligation to provide for the safety and well-being of our community, including the safety, well-being and treatment of animals on Shxw'ōwhámél Lands; and
- I. Previously, Shxw'ōwhámél had more stringent customs and protocols on the permissible number of pets that a member could have, but, pursuant to this Law, Si:yá:m Council has approved an increase in the number of pets that members may have on Shxw'ōwhámél Lands,

NOW THEREFORE BE IT RESOLVED THAT this *Smeyeth Slewóyelh*, the *Shxw'ōwhámél First Nation Animal Control and Protection Law, 2018*, (the “**Law**”) is hereby enacted as a law of the Shxw'ōwhámél First Nation.

PART 1 – NAME

1.1 Short Name. This Law may be cited as the *Shxw'ōwhámél Animal Law*.

PART 2 – PURPOSE AND APPLICATION

2.1 Purpose. The purpose of this Law is to protect the welfare of animals residing on Shxw'ōwhámél Lands and to provide for the safety and well-being of Shxw'ōwhámél residents.

2.2 Application. This Law applies to all Shxw'ōwhámél Lands, as defined in the Land Code.

2.3 Authority.

- (a) The Lands Department is responsible for implementing this Law and will have all powers necessary to give effect to this Law.
- (b) From time to time, the Lands Department may contract, or may direct Shxw'ōwhámél to contract, with enforcement and animal protection services, including the B.C. Society for the Prevention of Cruelty to Animals, to enforce this Law or to take custody of animals whose conduct violates this Law. The Lands Department may also delegate any part of its authority under this Law to other Persons.
- (c) The Lands Department may, from time to time, refer to Council for guidance and advice on the implementation of this Law.

2.4 Non-Derogation. No provision of this Law, or any communication, negotiations or engagements carried out pursuant to it, does, or may be deemed to, prejudice, limit, abrogate or derogate from any of Shxw'ōwhámél's Indigenous Title, Rights or interests.

PART 3 – INTERPRETATION

3.1 Land Code Definitions. Capitalized words not defined in this Law have the same definitions as in the Land Code.

3.2 Definitions. For the purpose of this Law, the following definitions apply:

“Aggressive Animal” means an animal that meets any one or more of the following conditions:

- (a) an animal that has, with or without provocation, attacked, bitten or caused injury to a Person or has demonstrated a propensity, tendency or disposition to do so;
- (b) an animal that, while running at large, has bitten, killed or caused injury to a domestic animal;
- (c) an animal that, while running at large, has aggressively pursued or harassed a Person, a vehicle or a domestic animal;
- (d) an animal with a known propensity to attack or injure a Person without provocation;
- (e) an animal owned or harboured primarily, or in part, for the purpose of animal fighting or an animal trained for animal fighting;
- (f) a Dangerous Animal; and
- (g) an animal that has been found to be dangerous or aggressive by the Lands Department, an Animal Control Officer, a designate under this Law, another local government or a court;

“Altered Animal” means an animal that has been spayed or neutered;

“Animal Control Officer” means a Person appointed or engaged by the Lands Department, from time to time, to administer and/or enforce the provisions of this Law, and includes any deputy Animal Control Officer, officers of the Royal Canadian Mounted Police, or any other peace officer with jurisdiction to enforce laws on Shxw’ōwhámél Lands;

“Assistance Dog” means a dog specifically trained to assist a Person with disabilities in the performance of daily activities;

“at large” means an animal that is unrestrained or uncontained, or is not in the control of a Responsible Person, but, for greater certainty, a dog without a leash located in a designated “off leash” area within a park is not running “at large” for the purpose of this Law if that dog is otherwise under the immediate charge and control of a Responsible Person;

“Council” means the appointed Si:yám Council of the Shxw’ōwhámél First Nation Leadership Governing Body, as defined in *Shxw’ōwhámél First Nation Governance Policy*, ratified on January 24, 2018;

“Dangerous Animal” means an animal that:

- (a) has killed or seriously injured a Person;
- (b) has killed or seriously injured a Domestic Animal; or
- (c) that an Animal Control Officer has reasonable grounds to believe is likely to kill or seriously injure a Person;

“Domestic Animal” means an animal that has been or is being sufficiently tamed or kept to serve some purpose for the use of people;

“Enclosure” means a house, building, fenced area or structure in which one or more animal(s) is/are kept that:

- (a) is sufficient for the health and safety of such animal(s);
- (b) prevents the entry of unauthorized Persons and children; and
- (c) prevents escape of the animal(s);

“Exotic Animal” means any animal listed under Schedule D”, whether bred in the wild or in captivity, and includes any hybrid of such animals with domestic species;

“Humane Destruction” or **“Humanely Destroy”** refers to when, under the supervision of an Animal Control Officer, an animal is either killed instantly or rendered insensible until death ensues, without pain, suffering or distress;

“Impound” means seize, deliver, receive, take into or hold in custody;

“Lands Department” means the Lands Department of Shxw’ōwhámél;

“Leash” means a rope, chain, cord, leather strap or other device by which an animal may be led or controlled;

“Licence year” means the period between April 1 of one year and March 31 of the following year;

“Livestock” means horses, donkeys, mules, emus, llamas, ostrich, swine, sheep, goats, or cattle and any other bovine species;

“Member” means a member of Shxw’ōwhámél;

“Nuisance Animal” means an animal:

- (a) that has been impounded three (3) times within the previous twenty-four (24) months;
- (b) whose Owner has been found liable for three (3) or more tickets issued by an Animal Control Officer within the previous twenty-four (24) months; or
- (c) that has been responsible for an aggregate of three (3) or more impounds or tickets within the previous twenty-four (24) months;

“Owner” means any Person who is a minimum of eighteen (18) years of age and:

- (a) to whom a licence for a dog or cat has been issued pursuant to this Law; or
- (b) who owns, is in possession of, or has the care and control of any animal;

“Person” includes an individual, society, corporation, partnership or party, whether acting by themselves or by an agent or employee, and the successors, assigns and personal or other legal representatives of such Person to whom the context legally applies;

“Pet” means any domesticated animal over the age of four (4) months, other than Livestock or poultry, kept within a residence or on real property other than for commercial purposes;

“Public Place” includes, but is not limited to, any highway, boulevard, park or other real property owned, held or administered by Shxw’ōwhámél;

“Qwi:qwelstóm”, the Halq’eméylem word to describe “justice”, is an underlying principle of Stó:lō forms of mediation and dispute resolution whose goal is “to make things right”;

“Responsible Person” or **“Person Responsible”** means, in relation to any animal, a Person who:

- (a) is the Owner of such animal; or
- (b) is keeping, harboring, or sheltering such animal;

“Shxw’ōwhámél” means Shxw’ōwhámél First Nation;

“Unaltered Animal” means an animal that has not been spayed or neutered; and

“Unlicensed Animal” means a dog or cat over the age of four (4) months for which a license for the current year has not been paid, or to which the tag required by this Law is not attached.

3.3 General Interpretation.

- (a) Our *Slewóyelh*, our traditional laws, apply to the interpretation of this Law.
- (b) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided, interpreted and carried out in accordance with the culture, traditions and customs of Shxw'ówhámél, including *Qwi:qwelstóm*.
- (c) The headings of parts and sections of this Law have been inserted as a matter of convenience and for reference only, and in no way define or limit any of its provisions.
- (d) A word in the singular form may be read in the plural form if the context allows it, and a word in the plural form may be read in the singular form if the context allows it. All genders are included in any gender expressed.
- (e) The words “include”, “includes” and “including” are to be read as if they are followed by the phrase “without limitation”.
- (f) Any reference to a statute means that statute and any regulations made under it, all as amended or replaced from time to time.

3.4 Schedules. The following Schedules form part of and are integral to this Law:

- (a) Schedule “A” – Licence Fees
- (b) Schedule “B” – Impound and Boarding Fees
- (c) Schedule “C” – Miscellaneous Fees
- (d) Schedule “D” – Prohibited Exotic Animals

PART 4 – NUMBER OF PETS PER HOUSEHOLD

- 4.1 General. Subject to Part 9 and any more stringent requirements outlined in other Shxw'ówhámél laws, a Person must not keep or allow to be kept on Shxw'ówhámél Lands more than a total of four (4) Pets in one household, and such four Pets may not consist of more than two dogs and two cats over the age of four (4) months.

PART 5 – ANIMAL POPULATION CONTROL

- 5.1 General. Each Owner of a dog and/or cat must ensure that such animal is spayed or neutered as soon as reasonably possible.

PART 6 – LICENSING

- 6.1 Licence Requirement. A Person must not keep or allow to be kept any dog or cat over four (4) months of age unless a valid licence has first been obtained for that current calendar year from the Lands Department.

6.2 Licence Application.

- (a) Every Owner of a dog and/or cat must make an application to the Lands Department for a licence on the form provided by the Lands Department and pay the fee set out in Schedule A”.
- (b) Upon receipt of the application and payment of the prescribed fee (which fee will be waived for the first year that a dog or cat is licensed), the Lands Department may issue a numbered licence tag for the current licence year.
- (c) The Lands Department may reduce the prescribed fee if evidence of shots being up-to-date is filed along with the licence application.

6.3 Licence Refused. If a Person has abandoned an animal, or been responsible for the impoundment of an animal, the Lands Department may refuse to grant or renew a licence to such Person until such time as the Lands Department, in its sole discretion, believes that the Person has become capable of caring for an animal and abiding by this Law.

6.4 Expiration. Every licence and corresponding licence tag issued under this Law will expire on the 31st day of March of each year. To renew a licence and licence tag, the Owner must submit an application to the Lands Department by March 15th of each year.

6.5 Licence Tag. Every dog and/or cat Owner must ensure that a valid licence tag is displayed on the animal at all times by affixing it to the animal by a collar, harness or other suitable device.

6.6 Change of Address. Where an Owner has a change of address within the area of application for this Law, the Owner must, within thirty (30) days, notify the Lands Department and pay the applicable licence transfer fee set out in Schedule A”.

6.7 Other Jurisdictions. Where a dog or cat has been duly licensed in another municipality or regional district, that licence will be valid on Shxw’ōwhámél Lands upon registration of such animal with the Lands Department and payment of the licence transfer fee set out in Schedule A”.

6.8 Replacing Licence Tags. Where a licence tag is lost, stolen or is otherwise rendered unusable, the Owner must promptly make application to the Lands Department to replace the licence tag and pay the licence tag replacement fee set out in Schedule A”.

6.9 Age Limit. A licence must not be issued to, or in the name of, any Person under the age of eighteen (18) years.

6.10 Non-Transferable. Every licence and corresponding licence tag issued under this Law is valid only in respect of the animal for which it was issued, as described on the licence application, and is not transferable to any other animal.

PART 7 – ANIMAL CONTROL

- 7.1 Prohibited Noise. An Owner must not permit or allow his or her dog to howl or bark such that the howling or barking unreasonably disturbs Persons in the neighbourhood or vicinity:
- (a) for a period of ten (10) minutes or more; or
 - (b) in an outdoor area between the hours of 9:00 pm and 7:00 am.
- 7.2 Specific Prohibitions. An Owner must not permit or allow any dog or cat for which they are responsible to:
- (a) be at large;
 - (b) trespass on private property or within a public area defined by Shxw'ōwhámél zoning and other laws as an area where such animal is not permitted;
 - (c) be on private land where such animal is not contained, either by a fence and a gate, an Enclosure or other effective containment mechanism, unless such animal is under the immediate control of a Responsible Person;
 - (d) excluding designated off-leash areas, be in a public place unless such animal is kept on a leash not exceeding three (3) metres in length and is under the immediate control of a Responsible Person;
 - (e) attack, bite, kill or cause injury to a Person or Domestic Animal; or
 - (f) aggressively pursue or harass a Person, a vehicle or a Domestic Animal.
- 7.3 Defecation. Any Owner or Person Responsible for the care, control or custody of a dog or cat, must not permit or allow the dog or cat to defecate in a public place or private property other than property owned or occupied by the Person Responsible for the dog or cat without immediately removing the excrement and disposing of it in a sanitary manner.
- 7.4 Seizure. An Animal Control Officer may seize any dog or cat that is unlicensed or found at large or in a manner or location contrary to this Law.
- 7.5 Animals in Heat. The Owner of a female dog and/or cat must, at all times when that animal is in heat, keep it securely confined indoors or within a building or Enclosure capable of preventing the escape of that animal and the entry of other animals.

PART 8 – AGGRESSIVE OR DANGEROUS ANIMALS

- 8.1 Report on Aggressive Animals. Where, in the opinion of an Animal Control Officer, an animal has been involved in an incident in which it was an Aggressive Animal, the Animal Control Officer may submit a written report of the incident to the Lands Department.
- 8.2 Notice of Aggressive Animal. If, in the opinion of the Lands Department, grounds exist to consider the animal as an Aggressive Animal under this Law, the Lands Department will send a letter to the Owner confirming that Shxw'ōwhámél considers such animal to be an

Aggressive Animal and advising the Owner of the requirements for confining, identifying and restraining Aggressive Animals under this Law.

8.3 Right to Appeal. Where an animal has been deemed to be an Aggressive Animal pursuant to this Law, the Owner of the animal may appeal the classification, in writing to the Lands Department, within ten (10) days of receipt of the letter sent pursuant to section 8.2. The Lands Department will review the Owner's submissions, the written report of the Animal Control Officer and any other materials deemed relevant and will then determine whether Shxw'ōwhámél will continue to deem the animal an Aggressive Animal.

8.4 Requirements for Aggressive Animals. Every Owner of an Aggressive Animal must:

- (a) at all times while the animal is on the premises occupied by the Owner, keep the animal securely confined indoors or in an Enclosure;
- (b) at all times while the animal is off the premises occupied by the Owner, keep the animal:
 - (i) on a leash not exceeding three (3) metres in length;
 - (ii) under the immediate care and control of a Responsible Person; and
 - (iii) muzzled to prevent it from biting a Person or other animal;
- (c) permit Shxw'ōwhámél or its service provider, for identifying purposes, to implant a microchip into the shoulder/neck area of the Aggressive Animal and the Owner will be required to pay the corresponding microchip implant fee;
- (d) permit Shxw'ōwhámél or its service provider, for identifying purposes, to scan a previously implanted microchip on the Aggressive Animal; and
- (e) provide a photo of the animal to the Lands Department within seven (7) business days of the animal being designated an Aggressive Animal.

8.5 Humane Destruction. Where the Owner of an Aggressive Animal requests that the animal be destroyed, an Animal Control Officer may arrange to have the animal Humanely Destroyed. In such cases, the Owner must sign a form for the release of the animal to Shxw'ōwhámél for the purposes of Humane Destruction.

8.6 Dangerous Animals. In addition to the above conditions, a Dangerous Animal may also be dealt with by Shxw'ōwhámél in accordance with the provisions of this Law.

PART 9 – ANIMAL CARE

9.1 Diseases. An Owner must not keep an animal suffering from an infectious or contagious disease on any parcel of land or real property within Shxw'ōwhámél Lands unless the animal is:

- (a) kept securely confined within a building or Enclosure; and
- (b) under veterinary care for that disease.

9.2 General Care. A Person must not keep any animal within Shxw'ōwhámél Lands unless the animal is provided with:

- (a) sufficient space for the animal's well-being;
- (b) clean, potable drinking water and sufficient food;
- (c) sanitary food and water receptacles;
- (d) the opportunity for periodic exercise sufficient to maintain the animal's good health;
- (e) clean bedding material and an area maintained at a temperature warm and dry enough to prevent the animal from suffering discomfort;
- (f) up-to-date shots and flea management; and
- (g) the necessary veterinary care when the animal exhibits signs of pain, suffering or disease,

all as determined by the Lands Department, acting reasonably.

9.3 Animals Wastes. An Owner must ensure that every dog has an opportunity to go outside for exercise and to release its bowels and bladder at least twice daily and that cats or animals smaller than cats have appropriate litter boxes or similar facilities available that are frequently cleaned and daily maintained in good condition.

9.4 Shelters. A Person must not keep any animal outside for extended periods of time unless the animal is provided with shelter capable of protecting the animal from heat, cold, puddles, precipitation and the direct rays of the sun.

9.5 Enclosed Spaces. A Person must not keep any animal confined in an enclosed space, including a motor vehicle, without sufficient ventilation.

9.6 Prohibited Means of Securing Animals. A Person must not keep any animal hitched, tied or fastened to a fixed object where a choke collar or choke chain forms part of the securing apparatus or where a rope or cord is tied directly around the animal's neck.

9.7 Prohibited Confinement. A Person must not keep any animal hitched, tied or fastened to a fixed object as the primary means of confinement.

9.8 General Prohibitions. Unless otherwise authorized by applicable zoning laws or other laws, regulations or permits, a Person keeping two or more dogs on a property must not cause or permit:

- (a) more than one dog to be kept in a cage or pen unless the cage or pen is of sufficient size and height to permit each animal kept therein to move freely and easily;
- (b) dogs that are deemed Aggressive Animals to be kept with any other animals, including other dogs;
- (c) animals under the age of four (4) months to be kept with any adult animals other than their parents; and

- (d) animals under treatment for a communicable or infectious disease or suspected of having a communicable or infectious disease to be kept with any other animals.

9.9 Mothers and Litters. An Owner of a female dog that has delivered one or a litter of puppies within the past four (4) months shall ensure that the mother dog is kept in a secure area to reduce conflicts with people approaching the puppy or puppies.

9.10 Indoor and Outdoor Areas. Every Owner must include, for each individual dog, both an indoor area and an outdoor exercise area as follows:

- (a) the indoor area must comply with the following requirements:
 - (i) the indoor area must be of sufficient size for the well-being of all the humans and animals therein;
 - (ii) the building must be equipped with a heating and cooling system capable of maintaining an indoor temperature between 10 and 25 degrees Celsius;
 - (iii) every cage or pen within the indoor area must be of sufficient size and height to permit each dog to turn about freely, stand, sit and lie in a normal position;
 - (iv) the building must allow natural light and ventilation to be introduced into the interior of the indoor kennel area by windows, skylights or a combination thereof; and
 - (v) the area must be cleaned and sanitized of animal excrement at least once daily; and
- (b) the outdoor exercise area must comply with the following requirements:
 - (i) be:
 - (A) attached to the indoor kennel area;
 - (B) large enough to allow each dog being kept to break into a trot; and
 - (C) fully enclosed by a sturdy fence with a minimum height of 1.8 metres, which is capable of keeping any of the dogs from escaping; or
 - (ii) be a public area on which animals are permitted and which is accessible to the animal and its Responsible Person on a regular and daily basis.

9.11 Livestock and Poultry.

- (a) A Person must not keep or allow to be kept on any real property any Livestock or poultry or an aviary or apiary, except as permitted pursuant to all applicable laws (including zoning), and, if permitted, which number of such animals is to be determined by the Lands Department in consultation with Council.
- (b) An Owner must not permit or allow any Livestock or poultry to run at large.
- (c) An Animal Control Officer may seize any Livestock or poultry unlawfully at large.

9.12 Exotic Animals.

- (a) No Person shall possess or keep in any area, temporarily or permanently, any Exotic Animal.
- (b) An Animal Control Officer may seize any Exotic Animal on Shxw'ōwhámél Lands.

9.13 Burials.

All animals that are to be buried on Shxw'ōwhámél Lands must be buried:

- (a) on property that is owned or leased by the Owner of the deceased animal and at least 100 metres from the boundary of land owned or leased by a person other than the Owner of the deceased animal, unless the owner or leaseholder of the land has consented in writing to the disposal site being located closer to the boundary;
- (b) to a depth of 3 feet (91.44 centimeters) within soil;
- (c) at least 500 metres from any septic fields, well or other domestic water intake, stream, creek, pond, spring, river irrigation canal, dugout or other water source and the high-water mark of any water body;
- (d) at least 25 metres from the edge of any coulee or embankment;
- (e) at least 400 metres from any livestock facility, including a pasture, situated on land owned or leased by a person other than the Owner of the deceased animal;
- (f) at least 400 metres from any residence; and
- (g) at least 400 metres from any road.

PART 10 – SEIZURE AND IMPOUNDMENT

10.1 Seizure. An Animal Control Officer may seize any dog or cat that is unlicensed or that is acting contrary to this Law, and any animal held or kept in conditions contrary to this Law.

10.2 Impoundment. Where an animal is impounded pursuant to this Law:

- (a) an Animal Control Officer must make reasonable effort to determine the Owner of the animal and to notify the Owner by telephone of the impoundment and the procedure to recover the animal;
- (b) if an Animal Control Officer is not able to determine the Owner of an animal or contact the Owner of an animal by telephone, the Animal Control Officer must post a notice on the public notice board at the Shxw'ōwhámél administration office and/or on the Shxw'ōwhámél website or social media page describing the animal and stating the date of impoundment and the impoundment period;
- (c) an Animal Control Officer must make reasonable effort to contact the Owner of a dog or cat if it is wearing a licence tag by calling the most recent telephone number in the licence information for such animal;

- (d) if a dog or cat has no licence tag, the Animal Control Officer has no obligation to notify the Owner of the impoundment of such animal;
- (e) the Animal Control Officer may provide the animal with veterinary care, medication, specialty food, or other treatment required for the reasonable and proper care of the animal, and Shxw'ōwhámél may recover the actual cost of such treatment plus a 25% administrative charge as an extra fee payable by the Owner of the animal or by a person adopting the animal;
- (f) the Owner must recover the animal from the place of impound within 96 hours from the time of impoundment, by giving evidence of ownership of the animal and paying the impound fee, the daily boarding fees, and other applicable fees for the animal as prescribed in Schedule B";
- (g) the impoundment fees for an unlicensed dog or cat will be double the fees for a licensed dog or cat as set out in Schedule B", plus the cost of a licence for such animal;
- (h) the impoundment fees will increase as prescribed in Schedule B" for each impoundment of the same dog or cat in a twenty-four (24) month period;
- (i) regardless of whether a dog or cat is licensed or unlicensed, the impoundment fee for a dog or cat that is deemed an Aggressive Animal or a Nuisance Animal will be the fee set out in Schedule B"; and
- (j) Shxw'ōwhámél may provide for the adoption, transfer to another facility, or Humane Destruction of an animal that is not collected by the Owner within ninety-six (96) hours from the time of impoundment.

10.3 Use of Adoption Funds. Where an impounded animal is adopted out pursuant to this Law, any monies received by Shxw'ōwhámél from the adoption of the animal will be applied against the fees and cost of impounding, boarding and adopting out the animal and any other monies will be credited to designated account(s) of Shxw'ōwhámél.

10.4 General Prohibitions for Impounded Animals. A Person must not take, remove or release, or assist in the taking, removing or releasing, of any animal impounded by Shxw'ōwhámél without first obtaining the consent of an Animal Control Officer and paying all fees relating to the impound of the animal.

10.5 Impoundment of Aggressive Animals. The Owner of an Aggressive Animal that has been impounded pursuant to this Law, may only reclaim the animal upon application to an Animal Control Officer with the following:

- (a) evidence of Ownership of the Aggressive Animal;
- (b) payment of applicable fees set out in Schedule B"; and
- (c) delivery to an Animal Control Officer of an executed statement in the form prescribed from time to time.

PART 11 – ADOPTION

- 11.1 Adoption requirements. Every Person seeking to adopt an animal from a Shxw'ōwhámél animal control facility or designated facility must:
- (a) make application at the animal control facility on the prescribed form and pay the fee set out in Schedule C"; and
 - (b) where applicable, license a dog or cat pursuant to this Law and pay the prescribed fees set out in Schedule A".
- 11.2 Denied Adoption. Where, in the opinion of the Lands Department, an applicant for an animal adoption is not suitable, or the animal requested is not suitable for the applicant, the Lands Department may refuse to adopt out the animal and where requested by the applicant, the reason for such refusal will be given in writing.

PART 12 – CARCASS REMOVAL

- 12.1 Fees. Where an Owner of a deceased animal requests that an Animal Control Officer remove the carcass of an animal from private property, the Owner shall pay the fee set out in Schedule C" and pay the full costs and expenses of incinerating the carcass.

PART 13 – ORDER TO DESTROY AN ANIMAL

- 13.1 Destruction of Dangerous Animal. On being satisfied that an animal is a Dangerous Animal, an Animal Control Officer may have the animal Humanely Destroyed.
- 13.2 Costs. An Owner whose animal has been destroyed pursuant to this Law is liable for all costs, fees and expenses associated with the destruction of such animal, which costs, fees, expenses and any interest accrued thereon will be a debt due and owing to Shxw'ōwhámél until paid in full.
- 13.3 Consent to Euthanasia. An Owner who requests that their animal be Humanely Destroyed or otherwise disposed of by an Animal Control Officer must sign the form of Consent to Euthanasia established by the Lands Department from time to time.

PART 14 – DESTROYING AND DISPOSING OF ANIMALS

- 14.1 Method of Destruction. A Person who destroys an animal under this Law must destroy and dispose of such animal, or cause such animal to be destroyed and disposed of, in accordance with any such manners prescribed from time to time by Shxw'ōwhámél.
- 14.2 Critical Injuries. If an animal is critically injured and the Owner is not available for such a decision an Animal Control Officer may Humanely Destroy the animal.

PART 15 – DISEASED ANIMALS

- 15.1 General.

- (a) When a complaint is made to Council or the Lands Department that an animal is suffering from any disease as a result of which the animal is suffering in pain or debilitation, an Animal Control Officer may investigate the matter.
- (b) If a veterinary examination demonstrates the animal is suffering, the Animal Control Officer may order the Owner to have the animal treated or Humanely Destroyed and cremated.

PART 16 – ENFORCEMENT AND OFFENCES

- 16.1 General. No Person shall obstruct, interfere with or hinder Council, an Animal Control Officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 16.2 Right to Enter. For the purpose of this Law, an Animal Control Officer may enter any lands on Shxw'ōwhámél Lands during reasonable hours if the Animal Control Officer:
- (a) is acting under this Law to take an animal into custody or to destroy an animal;
 - (b) has reasonable grounds to believe that an animal is ownerless; or
 - (c) has reasonable grounds to believe that an animal is, or has been, running at large.
- 16.3 Right to Search. Subject to sections 16.4 to 16.7 an Animal Control Officer may, without written authorization from Council, enter and search any place, except a place that is occupied as a private dwelling, and seize an animal, if the officer believes on reasonable grounds that:
- (a) the animal is a Dangerous Animal;
 - (b) the animal presents an imminent danger to the public; and
 - (c) the purpose of seizing the animal cannot reasonably be accomplished if the Animal Control Officer is required to obtain a written authorization.
- 16.4 Considerations. Before exercising a power under section 16.3, in the case of an animal that has acted as a Dangerous Animal, the Animal Control Officer must consider whether the animal was acting while in the course of attempting to prevent a Person from committing an unlawful act.
- 16.5 Exercising Powers. An Animal Control Officer may enter a place to exercise the power under section 16.3:
- (a) with the consent of the owner or occupier of the place;
 - (b) in accordance with a written authorization from Council under section 16.7; or
 - (c) if the circumstances referred to in section 16.3 apply, in accordance with that section.
- 16.6 Police Officers. For the purposes of section 16.3, an Animal Control Officer who is not a police officer must be accompanied by a police officer.

- 16.7 Right to Seize. An Animal Control Officer may enter any premises to seize a Dangerous Animal.
- 16.8 Police Officer for Seizure. An Animal Control Officer exercising authority to enter premises under section 16.7 must be accompanied by a police officer when exercising that authority.
- 16.9 Offences. Every Person who:
- (a) violates or causes or allows any of the provisions of this Law to be violated;
 - (b) fails to comply with any of the provisions of this Law, or any other applicable law; or
 - (c) neglects or refrains from doing anything required under the provisions of this Law,
- shall be deemed to have committed an offence under this Law and shall be liable to a fine or imprisonment, or to both a fine of imprisonment, not exceeding the maximum allowed under the Land Code, and each day such violation is caused or allowed to continue constitutes a separate offence.
- 16.10 Types of Offences. Without limiting the generality of this section 16.10, it shall be an offence under this Law:
- (a) for an Owner to allow or suffer his or her animal to be running at large;
 - (b) for any Person to own a diseased animal unless it is securely confined in such Enclosure as in such manner that it does not endanger the safety of any Person or any other animal;
 - (c) for the Owner of a Dangerous Animal:
 - (i) to permit, suffer or allow the animal to be on any highway or any public place within Shxw'ōwhámél Lands or running at large unless the animal is muzzled and leashed to prevent it from biting another animal or human; or
 - (ii) to keep the animal on the premises owned or controlled by such Person unless the animal is securely confined either indoors or in an Enclosure;
 - (d) for any Owner to keep or harbour four (4) dogs and/or cats combined in contrary to sections 4.1 and 9.8;
 - (e) for any Owner to allow the accumulation of animal feces to become noxious or a health hazard, as determined by an Animal Control Officer;
 - (f) for any Person to willfully or negligently open a gate, door or other opening in a fence or Enclosure in which a Domestic Animal has been confined and thereby allow the Domestic Animal to be running at large; and
 - (g) for any Person to tease, torment or provoke a Domestic Animal.
- 16.11 Tickets
- (a) An Animal Control Officer may issue a ticket for any offence under this Law.

- (b) Any Person issued a ticket under this Law will be required to pay the amount set out in that ticket.
- (c) A Person seeking to appeal a ticket issued under this Law may apply in writing to the Lands Department.
- (d) The Lands Department may, after considering a Person's application to appeal a ticket and acting reasonably, waive the ticket, reduce the fine, or enforce the ticket.
- (e) After consideration of an application to appeal the ticket, the Lands Department will notify the applicant in writing of its decision, which decision will be final and binding.

16.12 Qwi:qwelstóm. Notwithstanding sections 16.9 and 16.11, Shxw'ōwhámél may, as directed from time to time by Council, refer the offence to Qwi:qwelstóm to determine an appropriate enforcement mechanism for a Person that commits an offence under this Law and who is willing to participate in the Qwi:qwelstóm alternative dispute process.

PART 17 – IMMUNITY

17.1 General. No action for damages lies or may be instituted against present or past Council, Shxw'ōwhámél, an Animal Control Officer, or members, employees, or agents or representatives of either Shxw'ōwhámél or Council:

- (a) for anything said or done or omitted to be said or done by that Person in the actual or required performance of the Person's duty or exercise of their authority; or
- (b) for any alleged neglect or default in the actual or required performance of the Person's duty or exercise of their authority.

17.2 No Defence. Section 17.1 does not provide a defence if:

- (a) the Person in relation to the conduct that is the subject matter of the action has been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

17.3 No Liability. None of Shxw'ōwhámél, present or past Council, or members, employees, representatives or agents of Shxw'ōwhámél or Council are 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 Law or any other Shxw'ōwhámél law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Shxw'ōwhámél law.

17.4 Limitation Period. Subject to sections 17.1 and 17.3, any actions against Shxw'ōwhámél (including its employees, representatives or agents, and Council) for the unlawful doing of anything that:

- (a) is purported to have been done under the powers conferred by this Law or any Shxw'ōwhámél law; and
- (b) might have been lawfully done if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose

- 17.5 Required Notice. Shxw'ōwhámél is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Shxw'ōwhámél within two (2) months from the date on which the damage was sustained. In case of the death of a Person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the court of appeal, believes:
- (a) there was reasonable excuse; and
 - (b) Shxw'ōwhámél has not been prejudiced in its defence by the failure or insufficiency.

PART 18 – AMENDMENT

- 18.1 General. Subject to sections 18.3 and 18.4, this Law may only be amended in the manner provided in the Land Code.
- 18.2 Regular Reviews. Shxw'ōwhámél will review and, if appropriate, amend this Law in accordance with section 18.1 every five (5) years, or whenever Council determines, in its sole discretion, that this Law should be reviewed and, if appropriate, amended.
- 18.3 Schedule Amendments. The Lands Department may, from time to time, propose an amendment to a schedule to this Law, which amendment will become effective on approval by Council.
- 18.4 Minor Amendments. Council may, from time to time, pass a resolution authorizing minor amendments to this Law for any of the following purposes:
- (a) to correct typographical or grammatical errors;
 - (b) to reference relevant, new or amended Shxw'ōwhámél law(s);
 - (c) to change the applicable entity(ies) having authority over the implementation of this Law;
 - (d) to align with an order by a court; and
 - (e) to clarify this Law where there is no reasonable dispute about the intention underlying the original provision.

PART 19 – GENERAL PROVISIONS

- 19.1 Compliance with other Laws. Where any other law or legal requirement may apply to any matter covered by this Law, compliance with this Law will not relieve the Person from also complying with the provisions of such other applicable law or legal requirement.
- 19.2 Severability. In the event that all or any part of any section of this Law are found by a court of competent jurisdiction to be invalid, such section shall be severable, and the remaining portions and sections of this Law shall remain in full force and effect.

19.3 Orders. An order made pursuant to this Law will have immediate effect.

19.4 Coming into Force. This Law will come into force and effect on the date that it is duly passed by Shxw'ōwhámél in accordance with the process outlined in the Land Code.

BE IT KNOWN that this Law is entitled the *Shxw'ōwhámél First Nation Animal Control and Protection Law, 2018* and is hereby enacted by a quorum of Council of the Shxw'ōwhámél First Nation held on November 1, 2018.

Manewens George

Paul

Chris Collins

Naomi Sturtevant

Quorum consists of 4 Council members.

SCHEDULE A

LICENCE FEES

<u>Category</u>	<u>Fee</u>
Unaltered Animal (each)	\$200.00
Altered Animal (each)	\$15.00
Nuisance Animal (each)	\$100.00
Aggressive Animal (each)	\$200.00
Licence Transfer	\$5.00
Licence Tag Replacement	\$5.00

SCHEDULE B

IMPOUND AND BOARDING FEES

A) IMPOUND FEES

Fees based on the number of impounds of the same animal in a 24-month period:

Licensed dog/cat – First Impoundment	\$40
Licensed dog/cat – Second Impoundment	\$80
Licensed dog/cat – Third Impoundment	\$140
Unlicensed dog/cat – as per subsection 10.2(g) of this Law	

Fees for Aggressive and Nuisance animals:

Aggressive Animal (unaltered)	\$1,000
Aggressive Animal (altered)	\$600
Nuisance Animal	\$500

Poultry and Livestock

Poultry	\$40
Livestock	\$100

B) DAILY BOARDING FEES

Pet animal

For first part day and first night	\$10
For each subsequent business day or part thereof	\$50

C) OTHER FEES AND CHARGES

In all cases, the actual costs of veterinary care, medication, specialty food, contract hauling for large animals, and other extenuating costs incurred by Shxw'ōwhámél, plus a 25% administration fee shall be charged, on top of any fees mentioned in sections A and B above, for any animal impounded.

SCHEDULE C

MISCELLANEOUS FEES

Adoption Fees (per dog/cat plus licence fee)	\$100.00
Carcass Removal (plus actual cost of incineration)	\$ 25.00

SCHEDULE D

PROHIBITED EXOTIC ANIMALS

The list includes all such animals of the listed family or order (unless specifically identified as an exclusion), whether bred in the wild or in captivity, and also includes all their hybrids with domestic species. The examples provided in the right-hand column are intended to act as examples only and are not to be construed as limiting the generality of the group.

	Restricted Taxa	Examples of Animals
1	<i>Non-human Primates</i>	apes, lemurs, gorillas, monkeys
2	<i>Canidae</i>	bush dogs, dingos, raccoon dogs, African wild dogs, coyotes, jackals, foxes, wolves; excludes domestic dogs
3	<i>Felidae</i>	lions, jaguars, cheetah, tigers, cougars, lynx, bobcats, ocelots, servals, leopards; excludes domestic cats
4	<i>Ungulata</i>	camels, hippopotamus, rhinoceros; excludes domestic goats, sheep, pigs, cattle, horses, llamas, alpacas, mules and donkeys
5	<i>Rodentia</i>	beavers, porcupines, squirrels, gophers; excludes domestic hamsters, guinea pigs, chinchillas, gerbils, rats, and mice
6	<i>Edentata</i>	anteaters, armadillos, sloths
7	<i>Mustelidae</i>	badgers, skunks, otters, wolverines, weasels; excludes, de-scented skunks and domestic ferrets, minks, and ermines
8	<i>Chiroptera</i>	bats
9	<i>Ursidae</i>	bears
10	<i>Viverrids</i>	civets, genets, meerkat, mongooses
11	<i>Hyaenidae</i>	hyenas
12	<i>Cetaceans</i>	dolphins, porpoises and whales
13	<i>Proboscidae</i>	elephants, including Asian and African
14	<i>Lagomorpha</i>	hares, pikas, rabbits; excludes domestic rabbits
15	<i>Insectivora</i>	hedgehogs, moles, shrews; excludes African pygmy hedgehogs
16	<i>Marsupialia</i>	kangaroos, wombats, opossums; excludes sugar gliders
17	<i>Strigiformes</i>	owls
18	<i>Crocodylia</i>	alligators, caimans, crocodiles
19	<i>Procyonids</i>	raccoons, coatis, coatimundi
20	<i>Pinnipedia</i>	seals, walrus
21	<i>Other</i>	all spiders, scorpions, insects, amphibians, lizards, turtles, snakes and other reptiles.

