The Corporation of the

Town of Penetanguishene

By-law 2011-51 as amended
Town of Penetanguishene Dog Licensing and Control By-law

OFFICE CONSOLIDATION – WORKING COPY

By-law 2011-51, as amended by By-laws:
2012-54, 2013-52

Revised September 29, 2013

The following consolidation is an electronic reproduction made available for information only. This is not an official version of the By-law(s). The Town of Penetanguishene does not warrant the accuracy of consolidated versions.

This consolidation cannot be distributed or used for commercial purposes. Any other distribution must repeat this disclaimer.

Official versions of all By-laws can be obtained from the Clerk's Office by calling (705) 549-7453.

THE CORPORATION OF THE TOWN OF PENETANGUISHENE

BY-LAW NUMBER 2011-51

Being a By-law to Provide for the Licensing, Regulating and for the Control of Dogs within The Corporation of the Town of Penetanguishene and to Repeal By-laws 2002-112 as amended by By-laws 2004-35 and 2010-31

WHEREAS pursuant to section 9 of the Municipal Act, 2001 S.O. 2001, chapter 25 a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to section 8. (1) of the Municipal Act, 2001 S.O. 2001, chapter 25 the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to Section 11. (3) of the Municipal Act, 2001, SO 2001, Chapter 25, a single-tier municipality may pass By-laws respecting the health, safety and well-being of persons, protection of persons and property, including consumer protection and animals;

AND WHEREAS pursuant to Section 103. (1) of the Municipal Act, 2001, SO 2001, Chapter 25, if a municipality passes a By-law regulating or prohibiting with respect to the being at large or trespassing of animals, it may provide for, (a) the seizure and impounding of animals being at large or trespassing contrary to the by-law; and (b) the sale of impounded animals, (i) if they are not claimed within a reasonable time, (ii) if the expenses of the municipality respecting the impounding of the animals are not paid, or (iii) at such time and in such manner as is provided in the By-law;

AND WHEREAS pursuant to Section 391. (1) of the Municipal Act, 2001, SO 2001, Chapter 25, the municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS sections 425, 426 and 429 of the Municipal Act, 2001 S.O. 2001, chapter 25, states a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is

exercising a power or performing a duty under this Act or under a By-law passed under this Act and a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act;

AND WHEREAS section 436 of the Municipal Act, 2001 S.O. 2001, chapter 25, provides that the municipality has the power to pass By-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a By-law, direction, order, or condition of license;

AND WHEREAS section 435, 437 and 438 of the Municipal Act, 2001 S.O. 2001, chapter 25, set out additional powers and restrictions in regard to the power of entry;

AND WHEREAS section 446 of the Municipal Act, 2001 S.O. 2001, chapter 25 authorizes the municipality that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, the municipality may enter upon land at any reasonable time, the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

NOW THEREFORE the Council of the Town of Penetanguishene hereby enacts as follows:

1. DEFINITIONS

In this By-law:

1.1 **"Animal Control Officer"** means an Animal Control Officer appointed by By-law of the Town.

1.2 **"Appeal Committee**" means the Finance & Corporate Services Section of the Council of the Town of Penetanguishene or such other committee as Council may designate from time to time for this purpose.

1.3 **"Beach Area"** means the sand area between the waters edge and vegetation growth unless otherwise posted.

1.4 **"Council**" means the Council of The Corporation of the Town of Penetanguishene.

1.5 **"Dog**" means a male or female dog over the age of twelve (12) weeks.

1.6 **"Dog Beach"** means a posted beach and adjacent area within the water designated for the purposes of swimming by domesticated animals.

1.7 **"Dwelling unit**" means a room or suite of two (2) or more rooms designed or intended for use by any person or persons in which sanitary conveniences are provided and in which facilities are provided for cooking or the installation of cooking equipment, which shall include any real property associated with such dwelling unit.

1.8 **"Kennel"** shall mean:

a) A place where more than two (2) dogs are kept for the purposes of show, training or breeding, or;

b) A place where more than two (2) dogs are kept and cared for on behalf of the owner of the dogs;

c) A place where more than two (2) working dogs are kept.

1.9 **"Owner of a dog**" includes:

a) A person who possesses or harbours a dog;

b) Where the person who possesses a dog is a minor, the person responsible for the custody of the minor.

1.10 **"Officer"** means a Municipal Law Enforcement Officer or such other officer as may be appointed by Council from time to time for the enforcement of this By-law.

1.11 **"Person"** means all transients, owners, tenants and occupiers of lands within the Town and shall include any individual, association, firm, partnership, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to who the context can apply according to law.

1.12 **"Physically disabled person"** means a person who is permanently confined to or restricted to the use of a mobility aid such as a wheelchair, crutches, or braces.

1.13 **"Shall"** mean imperative or must.

1.14 **"Swimming Area"** means the roped in area within the water designated for the purpose of swimming and includes the shore line within the designated area.

1.15 **"Town"** means The Corporation of the Town of Penetanguishene and includes, where the context permits, its duly authorized officers, contractors, employees and agents.

1.16 "**Visually impaired person"** means a person that is blind, partially sighted or possesses vision of less than 6/60 on a Snellen Acuity Test in his better eye after the best possible correction or has a field vision of acuity of less than 20 degrees.

1.17 **"Working dog"** means any breed of dog developed or trained to do useful work, such as herding animals, pulling wagons or sleds, guarding or hunting and is engaged in said purpose.

2. WORD USAGE

2.1 As used in this By-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

2.2 The headings and subheadings used in this By-law shall not form a part of the By-law, but shall be deemed to be inserted for convenience of reference only.

3. LIMIT OF TWO (2) DOGS

3.1 No more than two (2) dogs shall be harboured, at any one time, in a dwelling unit, which shall include any real property associated with such dwelling unit within the Town.

3.2 Notwithstanding Section 3.1, no more than two (2) dogs shall be harboured, at any one time, in any structure used for commercial, industrial or institutional purposes within the Town.

3.3 Section 3.1 and 3.2 does not apply to:

(i) The operation of a kennel licensed under the provisions of this By-law and operated for the purposes of breeding or boarding dogs;

(ii) An animal hospital owned and operated by a veterinarian licensed by the Ontario Veterinarian Association;

(iii) A pet store licensed in accordance with the provisions of the municipal By-laws;

(iv) A shelter or pound of the Ontario Society for the Prevention of Cruelty to Animals.

(v) Dogs under the age of twelve (12) weeks;

(vi) Persons possessing more than the limit prior to January 29, 1997, but as each dog dies or is disposed of, the provisions of this By-law shall apply.

4. LICENSING OF DOGS

4.1 Every owner of a dog shall ensure that each dog owned by him is licensed by the Town for each calendar year.

4.2 The use of micro chips does not eliminate the requirements to obtain a license from the Town.

4.3 Every owner of a dog shall cause the dog to be licensed by the Town for each calendar year, before the 28th day of February of that year, unless the dog came into his possession or care after that date.

4.4 Every owner of a dog, immediately after the dog comes into his possession or care, shall, if the dog does not have a tag for the current calendar year, cause such dog to be licensed by the Town.

4.5 Upon application for a license, the owner shall produce a current certificate signed by a practicing veterinarian that the dog has been inoculated with an anti-rabies vaccination.

4.6 Notwithstanding Section 4.1 to 4.5 the owner of a guide dog or a police work dog, is not required to cause such to be licensed by the Town upon producing satisfactory evidence that the dog is a guide dog, or a police work dog.

4.7 Except as provided herein, no person shall harbour a dog or dogs within the Town unless such dog has affixed to it at all times a current dog tag issued under this By-law.

4.8 Notwithstanding Section 4.7, working dogs shall not be required to have a dog tag affixed while actually engaged in said purpose provided the Owner of said dog can produce a current license upon the request of an Officer.

4.9 No person shall use a dog tag for a dog other than the dog for which the dog tag was issued.

4.10 The annual license fees are as provided for in Schedule “A” to this By-law.

5. EXPIRATION OF LICENSES

5.1 A license issued pursuant to this By-law, shall expire on the 31st day of December in the year for which it was issued.

6. KENNEL LICENSING

6.1 A kennel operator with a kennel license is not required to apply for a license pursuant to this By-law in respect of dogs harboured at the kennel.

6.2 No person or persons shall keep more than two (2) dogs over twelve (12) weeks of age at one location unless a kennel license is obtained.

6.3 Prior to the issuance of a kennel license, the Animal Control Officer shall conduct an inspection and be satisfied that the premises are suitable for the purpose of a kennel and in compliance with the requirements set out herein.

6.4 Every person who holds a kennel license or applies for a kennel license shall comply with the following requirements:

(i) The kennel shall be in a separate building.

(ii) The kennel building and its location must conform to the Zoning By-law and the Ontario Building Code.

(iii) The kennel building shall have a floor of concrete or other impermeable material and such floor shall be thoroughly cleaned daily, or more often if necessary.

(iv) The kennel building shall have electric lighting, windows that may be opened for proper ventilation, a heating system sufficient to adequately heat the building, hot and cold running water and a food preparation area.

(v) Where dogs are permitted to use an outside area, there shall be constructed around such area a fence having a height of at least four feet (4'); the wall of an adjacent building may be included as part of such fenced in area.

(vi) Where a clipping and grooming service is performed, such clipping and grooming shall be carried out in the kennel building only.

(vii) While the license is in force he/she shall keep the license continuously exposed in a conspicuous place in the interior of the premises for which the license is obtained.

(viii) At all times, the kennel operator shall maintain the premises in a sanitary, well ventilated clean condition, and free from offensive odours.

(ix) The operator shall keep the dogs in sanitary, well bedded, well ventilated, naturally lighted, clean quarters at a healthful temperature at all times.

(x) The operator shall feed and give water to the dogs periodically each day and keep same in a clean, healthy condition free from vermin and disease.

(xi) On receipt of an application for any renewal of a kennel license or at any time during the period when the kennel is in operation, an officer may at any reasonable time enter upon the premises of the license holder to inspect any place where dogs are kept, pursuant to this By-law.

(xii) If the kennel is found not to conform under the requirements set out herein, an officer may direct that the dogs be seized and impounded by the animal control officer appointed by the Town and may revoke the license issued to the kennel.

(xiii) The annual kennel license fee shall be as provided for in Schedule "A" to this By-law.

6.5 The requirement set out in Section 6.4(i) shall not apply to any kennel that existed prior to January 1, 2002, provided the kennel is located in a Rural Zone as per the Town's Zoning By-law.

7. DOGS RUNNING AT LARGE

7.1 No owner of a dog shall permit his dog to run at large within the boundaries of the Town.

7.2 For the purpose of this By-law, a dog shall be deemed to be running at large when found in any place other than the premises of the owner of the dog and not under the control of a capable and responsible person.

7.3 A dog shall be deemed to be under the control of a capable and responsible person if it is on a leash which leash is in the hands of an individual able to restrain the dog and/or maintain control over the dog.

7.4 Notwithstanding Section sections 7.1 to 7.3, dogs are permitted to run at large within the confines of an established dog park, or dog beach provided by the Town in accordance with the provisions and regulations posted at said facility.

7.5 A dog running at large may be seized by any person, who shall forthwith deliver the dog to an Animal Control Officer.

7.6 Any dog running at large may be seized and impounded, and may be sold or destroyed by the Town.

7.7 No owner of a dog, whether or not the dog is on a leash, shall allow the dog to enter into or upon any building or structure which is owned or controlled by the Town.

7.8 Where any dog is running at large and:

(i) Represents a threat to the safety of any person or animal, or

(ii) Is severely injured,

an Animal Control Officer or Police Officer may destroy such dog and no damages or compensation shall be recoverable by the owner as a result of any such action.

8. REMOVAL OF DOG EXCREMENT

8.1 Every owner of a dog shall remove forthwith any excrement left by his dog on any property and shall dispose of such excrement in a sanitary manner.

8.2 Notwithstanding Section 8.1, proof that the owner is either a visually impaired person or a physically disabled person shall constitute a defense to the prosecution of such an offence.

9. MUZZLING AND LEASHING OF DOGS

9.1 After any dog has bitten a person or domestic animal, the owner shall ensure that such dog is muzzled and leashed at all times when outside of the residence of the owner.

9.2 The owner of any dog required to be muzzled or leashed may request a hearing before the Appeal Committee who may exempt the owner from the muzzling or leashing, or both.

9.3 Any order issued by the Ontario Court of Justice under the Dog Owner's

Liability Act subsequent to an order issued under this By-law or any regulation as prescribed under said act shall take precedence.

9.4 After a dog has bitten a person or domestic animal, the Animal Control Officer may issue an order to muzzle or leash, setting out the control requirements.

9.5 Any person who fails to comply with an order issued under this section is guilty of an offence.

10. FEES PAYABLE AFTER IMPOUNDING

10.1 The Animal Control Officer, on satisfactory identification, may release an impounded animal to the owner on payment of the fees as set out in Schedule "B", plus the cost of any damages, fines, expenses, veterinary care and the cost of any vaccination or immunization.

10.2 Any dog impounded and not wearing a tag for the current year, may at the discretion of the Town, be given an inoculation to provide temporary immunization against distemper or any other contagious or infectious disease.

10.3 Any dog impounded and not wearing a tag for the current year, prior to the release of said dog, the owner must:

(i) Provide satisfactory evidence that said dog has been licensed for the current year or;

(ii) Purchase a license for the current year.

10.4 The Animal Control Officer is hereby authorized to charge the fees for services as set out in Schedule "B."

10.5 Where a dog has been impounded and has not been destroyed, the Animal Control Officer shall release possession of the dog to its owner where:

(i) The owner attends at the pound and claims possession of the dog within three (3) days, excluding the day in which the dog was impounded and statutory holidays and Sundays and;

(ii) Pursuant to the fees provided for in Schedule "B" to this By-law, the owner pays to the Animal Control a seizure/pound fee, in addition to a daily maintenance fee for each day the dog has been in the pound

commencing the day the dog is seized and including the day the dog is removed from the pound.

10.6 Notwithstanding Section 10.5, if the Animal Control Officer seizes and impounds any female dog found to be running at large while in heat, said dog shall be held at the pound at the discretion of the Animal Control Officer, until no longer in heat, but in any case no longer than twenty-one (21) days.

11. DISPOSAL OF DOGS:

11.1 Where a dog has been seized while found running at large and impounded and the owner has not claimed the dog within three (3) days, excluding the day on which the dog was seized, statutory holidays, and Sundays, or having attended at the pound to claim the dog but not paid the prescribed seizure/pound and maintenance fees, the Animal Control Officer may sell the dog for such price as he deems fit, destroy the dog in a humane manner, or otherwise dispose of the dog as the Officer in his discretion deems fit, and no damages or compensation shall be recoverable by the owner as a result of any such action.

12. SEVERABILITY

12.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.

12.2 Where the provisions of this By-law conflict with the provisions of any other By-law or Act, the more restrictive provisions shall apply.

13. SCHEDULES

13.1 Schedule A, B, attached hereto shall form part of this By-law.

14. ENFORCEMENT AND POWERS OF ENTRY

14.1 An Officer as defined in the By-law is hereby vested with the authority to enforce this By-law.

14.2 An Officer may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(i) The provisions of this By-law;

(ii) A direction or notice issued under this By-law.

14.3 Where an inspection is conducted by the Town, an Officer may:

(i) Require the production for inspection of documents or things relevant to the inspection;

(ii) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(iii) Require information from any person concerning a matter related to the inspection including their name, address, phone number and identification;

14.4 Every Owner or Person occupying the property shall permit an Officer to inspect any land for the purposes as set out in this By-law. An Officer may be accompanied by a person under the Officer's direction.

14.5 Power of entry may be exercised by an Officer as defined in this By-law.

15. PENALTY PROVISIONS

15.1 Every person who contravenes the provisions of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty that shall not exceed $100, 000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

15.2 For the purpose of continuous offences, every person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a By-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding $10, 000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

15.3 Despite the Section 15.2 and the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended, the total of all daily fines for the offence is not limited to $100, 000.

15.4 For the purpose of multiple offences, every person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a By-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding $10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

15.5 Despite Section 15.4 and the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended, the total of all daily fines for the offence is not limited to $100, 000.

15.6 Every person who fails to comply with a notice made under this By-law is guilty of an offence.

15.7 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.

15.8 Any Person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended, shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.

15.9 Every person who contravenes any section of this by-law under a part l or part ll ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act R.S.O 1990, Chapter P.33 as amended.

15.10 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

16. REPEAL

16.1 That By-laws 2002-112, 2004-35 and 2010-31 are hereby repealed in their entirety.

16.2 That any By-law or By-laws, or parts of any By-law or By-laws that are inconsistent with this By-law are hereby deemed repealed.

17. SHORT FORM TITLE

17.1 That this By-law shall be referred to as the “Dog Licensing and Control By-law”.

18. EFFECTIVE DATE

18.1 This By-law shall come into full force and effect upon receipt of the approval of the set fine schedules as issued by the Regional Senior Judge of the Ontario Court of Justice, Central East Region.

BY-LAW read a first, second and third time and finally passed by Council on the 13th day of July, 2011.

_____
MAYOR Gerry Marshall

_____
CLERK Holly Bryce

SCHEDULE "A"

BY-LAW NUMBER 2011-51

Being a By-law to Provide for the Licensing, Regulating and for the Control of Dogs within The Corporation of the Town of Penetanguishene and to Repeal By-laws 2002-112 as amended by By-laws 2004-35 and 2010-31

Annual Fees for Dog Licenses

	January 1st to February 28th of any given year	**March 1st to December 31st of any given year**
Each Dog	$15.00	$30.00
Replacement Tags	$5.00	$5.00
Kennel Fee	$100.00	$135.00

Note: If a dog comes into possession of a person after the 28th day of February and it does not have a tag for the current calendar year, the license fee shall be based on the January 1st to February 28th rate.

SCHEDULE "B"

BY-LAW NUMBER 2011-51

Being a By-law to Provide for the Licensing, Regulating and for the Control of Dogs within The Corporation of the Town of Penetanguishene and to Repeal By-laws 2002-112 as amended by By-laws 2004-35 and 2010-31

Seizure/Pound Fee	$40.00
Daily Maintenance Fee	$5.00/day for the first 3 days
	$10.00/day after 3 days

THE CORPORATION OF THE TOWN OF PENETANGUISHENE

Part 1 Provincial Offences Act

BY-LAW NUMBER 2011-51

Being a By-law to Provide for the Licensing, Regulating and for the Control of Dogs within the Town of Penetanguishene

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Harbour more than two dogs in a dwelling unit.	Section 3.1	$105.00
2.	Harbour more than two dogs in a structure used for commercial purposes.	Section 3.2	$105.00
3.	Harbour more than two dogs in a structure used for industrial purposes.	Section 3.2	$105.00
4.	Harbour more than two dogs in a structure used for institutional purposes.	Section 3.2	$105.00
5.	Fail to license dog for current year.	Section 4.1	$105.00
6.	Harbour dog without a tag affixed.	Section 4.7	$105.00
7.	Use tag for a dog not being the licensed dog.	Section 4.9	$105.00
8.	Keep more than two dogs- no kennel license.	Section 6.2	$250.00
9.	Permit dog to run at large.	Section 7.1	$105.00
10.	Allow dog to enter Town owned building.	Section 7.7	$105.00
11.	Fail to remove dog excrement from property.	Section 8.1	$105.00
12.	Fail to ensure dog muzzled.	Section 9.1	$250.00
13.	Fail to comply with order to muzzle or leash.	Section 9.5	$300.00

NOTE: The penalty provision for the offences indicated above is Section 15 of By-law # 2011-51, as amended.