

BY-LAW 03-2019

BEING A BY-LAW RESPECTING THE RESPONSIBLE OWNERSHIP OF DOGS

WHEREAS Section 172(1) of the Nova Scotia Municipal Government Act (MGA) provides Municipalities with the power to make by-laws, for Municipal purposes, respecting the health, well-being, safety and protection of persons; the safety and protection of property; the regulation of businesses and respecting nuisances, activities and things that, in the opinion of Council, may be or may cause nuisances, including noise; and,

WHEREAS Section 174(f) of the MGA provides Municipalities with the power to make by-laws respecting wild and domestic animals and activities in relation to them; and,

WHEREAS Section 175 of the MGA provides Municipalities with the power to make by-laws specifically pertaining to dogs; and,

WHEREAS Section 176 of the MGA provides Peace Officers with the power to make application for a warrant to search and seize a dangerous dog; and,

WHEREAS the Municipality of the County of Antigonish does not subscribe to nor endorse Breed Specific Legislation in relation to its Dog By-law;

NOW THERE BE IT ENACTED AS FOLLOWS:

INTERPRETATION

1. Short Title

1.1. This by-law shall be known, and may be cited as, the *“Dog By-Law”*.

2. Purpose

2.1. The purpose of this By-law is to provide for responsible ownership and orderly control of dogs in the Municipality.

3. Definitions

In this By-Law:

3.1. *“Attack”* means an assault resulting in bleeding, bone breakage, sprains, or serious bruising.

3.2. *“Bite”* means a wound to the skin causing it to puncture or break.

3.3. *“Clerk”* means the Clerk of the Municipality.

3.4. *“Council”* means the Council of the Municipality.

3.5. *“Dog”* means any dog, male or female, of any age.

- 3.6. “Dogs Running At Large” means any dog that is off the premises occupied by the owner without being under the continuous restraint and control of some person is deemed to be running at large for the purposes of this By-law.
- a) A dog that is tethered on a tether of sufficient length to permit the dog to leave the property boundaries of the premises occupied by the owner is deemed to be running at large.
 - b) A dog shall be deemed to run at large where it is on any private property or premises without the permission of the owner or occupant thereof.
- 3.7. “Dog Control Officer” means a person appointed or authorized by the Municipality to enforce this by-law, a by-law enforcement officer appointed under the Police Act, or a peace officer.
- 3.8. “Domestic Animal” includes pets and farm animals.
- 3.9. “Extraordinary Expense” means any expense incurred by the staff of the Municipality of the County of Antigonish in relation to a dog except for the provision of food and shelter.
- 3.10. “Guide Dog” - see “Service Animal”.
- 3.11. “Leash” means a device used by a person to restrict movement of a dog which is adequate for the effective control by the accompanying human of the movements of the dog;
- 3.12. “Municipality” means the Municipality of the County of Antigonish.
- 3.13. “Municipal Staff” means the Municipality’s Dog Control Officer or a person appointed by the Clerk or Council to act on the Municipality’s behalf for the purposes of this By-law, whose duties shall include acting as the Municipal Pound Keeper.
- 3.14. “Muzzled” means covered with a device of sufficient strength, placed over the mouth of a dog, to prevent it from biting, but which is appropriate to ensure that the dog’s ability to breathe is not impaired.
- 3.15. “Organized hunt” means a controlled, organized pursuit of game or fowl using trained dogs, by duly licensed hunters.
- 3.16. “Owner” means any person who owns, possesses, has the care of, has control of, or harbours a dog and, where the person is a minor, includes a person responsible for the custody of the minor.
- 3.17. “Service Animal” means an animal trained by a recognized school for service as a guide dog for the blind or visually impaired, a guide dog for the deaf or hearing impaired, or a special skills dog for other persons in need and includes an animal used in therapy, registered with a recognized organization for that purpose.
- 3.18. Any term not defined herein shall have that meaning given in the *Municipal Government Act*, or in any replacement or successor legislation that empowers the Municipality to enact a by-law regulating dogs.

4. Headings

- 4.1. The headings used in this by-law are inserted for reference purposes only and are not to be considered or taken into account in construing the by-law.

RESPONSIBILITIES OF OWNERS

5. Responsible Dog Ownership

- 5.1. The owner of a dog shall ensure, while the dog is off the property occupied by the owner that the dog is under control by means of either a harness or a leash.
- 5.2. The owner of a dog shall ensure that the dog is not running at large anywhere in the Municipality.
- 5.3. An unleashed and unharnessed dog that is under continuous human restraint and control shall not be deemed to be running at large if at the time the dog is:
- a) Participating in an organized hunt, organized dog exhibition or dog field trials;
 - b) Participating in a search and rescue operation or law enforcement operation;
 - c) Assisting a person with a disability, provided the dog is trained for such purposes; or
 - d) Working on a farm.
- 5.4. The owner of a dog shall ensure that the dog:
- a) Does not, without provocation, attack, chase, bite or injure any other domestic animal or person;
 - b) Does not, without provocation, damage any property; and,
 - c) Does not disturb the quiet of the neighbourhood by howling, barking or in any other manner, as outlined in Section 17.2.
- 5.5. Every owner of a dog that defecates on public or private property other than the property of its owner shall immediately remove the feces. Failure to remove the feces shall constitute a nuisance and every owner who causes such nuisance is guilty of an offence.
- a) This requirement does not apply to a handler of a service dog, where the handler is not reasonably able to remove the feces left by such dog due to a physical disability or impediment.
- 5.6. Obedience training of unleashed dogs conducted off the property occupied, or owned, by the owner of the dog may be permitted by the Dog Control Officer provided certain provisions, as outlined in the Dog Control Policy, are met.
- 5.7. Any person who fails to maintain and control a dog as required by this section commits an offence and is subject to the penalties prescribed in section 18.

DOG CONTROL AND POUND

6. Dog Control Officer and Pound

6.1. The Council of the Municipality may hereby authorize:

- a) The establishment, maintenance and operation of facilities for the impounding of dogs at such place or places and upon such premises, as the Council may determine, by resolution.
- b) The making of an agreement with such persons, firms, societies or corporations as may be fit for the purpose of maintaining and operating a pound, for regulating the conduct of the pound, and providing for the collection, distribution and payment of revenue and expenditures derived from the operation of the Pound.

6.2. Municipal staff shall be responsible for the enforcement of this By-law.

7. Impounding Dogs

7.1. The Dog Control Officer, without notice or complaint against the Owner of a dog, may capture and impound any dog in circumstances where the Dog Control Officer reasonably believes the dog:

- a) Is running at large contrary to this By-law;
- b) Without provocation, has attacked, bitten, or injured any other domestic animal or person, or damaged any property contrary to this By-law; or,
- c) Is fierce or dangerous; is rabid or appears to be rabid or exhibits symptoms of canine madness.

7.2. Notwithstanding subsection 7.1, a Dog Control Officer, without notice or complaint against the Owner of a dog, may apply for a warrant to seize any dog where the Dog Control Officer is investigating a report and the Dog Control Officer reasonably believes a person is harbouring, keeping, or an under care, control, or direction a dog that:

- a) Is fierce or dangerous;
- b) Is rabid or appears to be rabid;
- c) Exhibits symptoms of canine madness; or,
- d) Persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise.

7.3. The Dog Control Officer may pass over the land of any person while pursuing a dog under this By-law but this section is not to be construed to provide immunity against the action for actual damage to the property of any person.

8. Procedure After Impounding

8.1. The Dog Control Officer, upon seizure or impoundment of a dog at large, shall make every effort to inform the dog owner(s), if known, that the dog has been seized and impounded,

including review of information from tags, tattoos, or microchips. Details on the steps of notifying the owner of a dog's impoundment are detailed in the Dog Control Policy.

- 8.2. Notwithstanding subsection 8.1, if a dog is missing, the onus is on the Owner of the dog to ascertain whether the dog has been impounded, by personally visiting the pound or calling the pound within the time limit provided in this By-law.

9. Rabid or Diseased Dogs

- 9.1. A Dog Control Officer may, without notice to or complaint against the owner, impound a dog that is, or appears to be, rabid or exhibiting symptoms of canine madness. Such dogs shall be held for ten (10) days, in accordance with the Nova Scotia Rabies Response Plan.
- 9.2. When a dog is impounded under this clause, the Dog Control Officer shall consult with a veterinarian, or other qualified person, to confirm that the dog is in fact rabid or suffering from canine madness and, if so, the dog shall be humanely euthanized.
- 9.3. If a dog impounded under this clause is found not to be rabid or suffering canine madness, it shall be dealt with under section 8.

10. Reclaiming and Releasing Dogs

- 10.1. If the owner claims the dog and proves ownership, within the given timeframe, and pays the Dog Impound fee, the Dog Control Officer shall deliver the dog to the owner at the Pound.
- 10.2. Where a dog has been impounded and deemed fierce or dangerous, or where the Dog Control Officer is not satisfied that releasing a dog under subsection would be conducive to public safety, the officer may require the owner to provide him with a written description of measures that will be taken to ensure that the dog is properly controlled, and an undertaking to carry out those measures.
 - a) The Dog Control Officer must be satisfied that a fierce or dangerous dog has been registered in accordance with this By-law if they have deemed that measure necessary, and that a suitable pen or enclosure has been prepared for the dog in accordance with Section 13.
 - b) Upon receipt of a description of work and undertaking and/or following an inspection to ensure that measures are in place, as well as the payment of any seizure and impoundment fees, the Dog Control Officer may release the dog.
- 10.3. An owner who fails to comply with an undertaking given under subsection 10.2 commits an offence, and the dog shall be seized and impounded and dealt with under section 15.
- 10.4. Notwithstanding the foregoing, the owner of any dog that has been impounded either pursuant to this By-law, any previous by-law, or the warrant provisions contained in the Municipal Government Act, for its third infraction of running at large or persistently disturbing the quiet of the neighbourhood by barking, howling, or in any other manner contrary to this By-law within the space of twenty-four (24) months may not be permitted

to redeem such dog at the discretion of the Dog Control Officer. The dog may be surrendered to the local SPCA or dealt with under section 11.2.

11. Euthanizing a Dog

11.1. The Dog Control Officer, without notice to or complaint against the Owner, may request the assistance of enforcement officers to euthanize on sight any dog that is fierce or dangerous, is running at large and eluding capture, or is rabid or appears to be rabid, if:

- a) The dog poses an immediate danger to a person or a domestic animal or to property of persons other than the Owner; and,
- b) It is not reasonably possible to safely capture the dog.

11.2. Where an impounded dog;

- a) Has not been claimed, and the required fees paid, within three (3) business days of seizure;
- b) Has not been released under subsections 10.2 or 10.4; or
- c) Has been seized and impounded under subsection 10.3

and any application for review under Section 16 in respect of the dog has been heard and rejected, a Dog Control Officer, or any person authorized by a Dog Control Officer may surrender the dog to the local SPCA or humanely euthanize the dog.

11.3. In cases where a dog is to be euthanized that:

- a) Is rabid or appears to be rabid; or,
- b) Without provocation has attacked or bitten any other domestic animal or person

and no current rabies vaccination certificate is in effect for the dog, the dog must first be kept under quarantine and observation for a period of ten (10) days in accordance with the Nova Scotia Rabies Response Plan (2016).

11.4. Where a dog is euthanized under this by-law, the means used shall be humane.

DOGS THAT BITE OR ATTACK

12. Fierce or Dangerous Dogs

12.1. A dog is fierce and dangerous within the meaning of this By-law if:

- a) The dog has bitten a person or domestic animal;
- b) The dog has approached any person in a vicious or terrorizing manner in an apparent attitude of attack;
- c) The dog has a known propensity, tendency, or disposition to attack, to cause injury to, or otherwise endanger the safety of human beings or domestic animals;
- d) Without provocation has injured or damaged any property;

- e) The dog is owned or harboured in whole or in part for the purpose of dog fighting; or,
- f) The dog is trained for dog fighting.

12.2. Any person who owns, harbours, keeps or has under care, control and direction a dog that is fierce or dangerous within the meaning of this By-law commits an offence, unless there is a circumstance that excuses the aggressive behaviour of a dog, such as:

- a) The dog, at the time of the aggressive behaviour, was acting in defense of itself or a person;
- b) The dog, or its young, immediately prior to the aggressive behaviour, was being abused or tormented by the person or domestic animal attacked or injured;
- c) The dog was acting as a professionally trained guard dog while lawfully engaged for law enforcement or guard duties;
- d) The attack or bite was inflicted upon or sustained by a person who was committing one or more of the following:
 - I. A willful trespass or other tort;
 - II. A criminal act upon the premises occupied by the owner of the dog; or,
 - III. A trespass contrary to Provincial or Federal Legislation.

12.3. Where an Animal Control Officer has reason to believe that a dog has attacked a person or another animal, and the owner of the dog has been identified, the Animal Control Officer may do any one or combination of the following enforcement actions:

- a) Impound the dog for a period of no less than ten (10) days, as a means of quarantine to ensure that the dog is not suffering from rabies;
- b) Issue the owner a notice to muzzle the dog;
- c) Issue the owner a notice to microchip the dog;
- d) Classify the dog as a “Fierce or Dangerous” dog and require that it be registered; or
- e) Provide the owner of notice of their intent to have the dog euthanized.

12.4. The owner of a “Fierce or Dangerous” dog shall ensure that:

- a) Such dog does not, without provocation:
 - i. Chase a person or other domestic animals; or,
 - ii. Injure a person or other domestic animals; or,
 - iii. Bite a person or other domestic animals.
- b) Such a dog does not damage or destroy public or private property.

13. Containing Fierce or Dangerous Dogs

13.1. When such a dog is on the property of the owner:

- a) Either such dog is confined indoors and under the control of a person over the age of eighteen (18) years; or,
- b) When such dog is outdoors it is in a locked pen or other structure, constructed to prevent the escape of the fierce or dangerous dog and capable of preventing entry of any person not in control of the dog (e.g. unsupervised children), in accordance with the requirements noted in the Dog Control Policy.

13.2. At all times, when off the property of the owner, such dog is securely:

- a) Muzzled; and,
- b) Harnessed or leashed on a lead with a length not exceeding one (1) metre, so as to prevent the dog from chasing, injuring or biting humans or other domestic animals, as well as preventing damage to public or private property; and,
- c) Under the control of a person over the age of eighteen (18) years.

14. Registering Fierce and Dangerous Dogs

14.1. If the Dog Control Officer deems registration as a “fierce or dangerous” dog as the most appropriate course of action, the owner shall, within 30 days of receiving notification of that classification in writing from the Dog Control Officer, register the dog with the Municipality.

14.2. The Clerk, upon receipt of a completed application, shall keep the registration on file.

14.3. The owner of every registered dog shall advise the Clerk:

- a) Of any change in the information provided in the application to register;
- b) Of the death or the permanent removal of the dog from the Municipality.

14.4. A dog that is fierce or dangerous within the meaning of subsection 12.1, and which is not maintained or controlled in accordance with subsection 13.2 may be seized and impounded by the dog control officer.

15. Offence

15.1. Any person who fails to maintain and control a dog as required by sections 12 through 14 commits an offence and is subject to the penalties prescribed in section 19.

16. Appealing a Fierce or Dangerous Dog Classification

16.1. The owner of a dog, or any person authorized in writing by the owner, may apply to the Clerk for a review of the following matters under this by-law;

- a) Whether a dog that has been seized under subsection 12.3 falls within the exceptions set out therein; or,
- b) Whether a dog falls within the definition of a fierce or dangerous dog under section 12.1.

16.2. Any review shall be undertaken following the procedures outlined in the Dog Control Policy.

DOGS CAUSING DISTURBANCE

17. Forms of “Disturbance”

17.1. No dog shall be permitted to persistently disturb the quiet of a neighbourhood by barking, howling or otherwise making noise to a degree beyond what the Dog Control Officer determines to be normal.

17.2. In determining what is “normal” in the context of this section, the Dog Control Officer shall consider one or more, but not limited to, the following factors:

- a) The time of day that the dog is reported as disruptive;
- b) The frequency and duration of the reported disruptive behaviour; and,
- c) The proximity of neighbours and population density of the neighbourhood.

17.3. The owner of a dog which persistently disturbs the quiet of a neighbourhood within the meaning of this part commits an offence under this By-law. If the Dog Control Officer determines, upon reasonable grounds, that a dog is being disruptive, as defined in this section, the Dog Control Officer shall give a written warning to the dog owner before taking any other action under this By-law, which may include:

- a) Seizing and impounding a dog that disturbs the quiet of a neighbourhood within the meaning of this part.
- b) The penalties prescribed in section 18.

PENALTIES

18. Penalties

18.1. Any person who contravenes any provision of this By-law is punishable on summary conviction and is liable to a penalty as set out by Policy of Council in Schedule “A” of this By-law.

18.2. Any person in default of payment may be subject to further legal action, however the Municipality may, at its sole discretion, issue a written warning for a first offence rather than immediately imposing a fine.

18.3. In addition to the prosecution of any offence under this By-law, the Municipality may elect to charge the cost of impounding or the destruction of a dog, or the cremation and transportation of the remains of the dog to the owner’s property and collect such charge as a first lien on the owner’s property.

18.4. A person convicted of an offence under this by-law shall be liable to pay a fine of not more than \$10,000 and not less than \$300 and, in default of payment, shall be liable to serve a term of imprisonment for a period not exceeding 30 days.

18.5. A person who has contravened any part of this by-law may offer to pay to the Municipality a fee, in addition to any impound or release fees, as per the policy, to avoid prosecution and, if the Municipality agrees to accept that payment, and the payment is made, that person will not be prosecuted for the contravention. (Schedule "A")

Repeal

19. All former by-laws passed by the Council of the Municipality in respect of the control, registration and regulation of dogs are hereby repealed and this By-law substituted therefore.
20. Notwithstanding section 19, this repeal shall not affect any investigation, fee, debt or charges incurred before such repeal or any procedure for enforcing the same completed or pending at the time of repeal, nor shall it repeal, defeat, disturb or prejudicially affect any matter or thing whatsoever completed, existing, or pending at the time of repeal.

CERTIFICATION PAGE

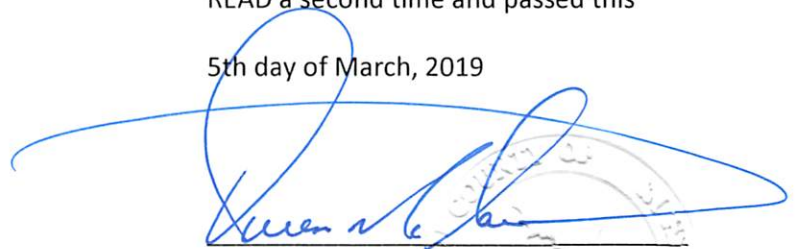
By-law 03-2019; Being a By-Law Respecting the Control and Regulation of Dogs

READ a first time this

15th day of January, 2019

READ a second time and passed this

5th day of March, 2019



Warden



Clerk

Notice of Adoption Published March 20, 2019

FORM "A"

Application to Register a Fierce or Dangerous Dog

Name of Applicant: _____

Address: _____

Telephone Number: _____

Particulars of Dog: _____

Breed : _____

Physical description, including approximate weight, colouring and any distinguishing characteristics.

A current photograph of the dog must be attached.

Dog Name (if any) : _____

Dog Age (if known) : _____

Location where dog is to be kept: _____

I confirm that I now have, or will have within 14 days of registration, a pen or enclosure for the dog at the location at which it will be kept that conforms to the requirements of the Dog By-Law of the Municipality of the County of Antigonish.

I confirm that all of the information entered in this application is true and accurate.

Date: _____

Applicant

Registered this _____ day of _____, 20__.

Clerk

FORM "B"

Application to Appeal a Fierce or Dangerous Dog Classification

I hereby apply for a review in regard to a dog under the following provision of the Dog By-Law of the Municipality of the County of Antigonish:

- Subsection 12.1 - Whether the dog is fierce or dangerous as defined in the By-law

- Subsection 12.2 - Whether the dog that has attacked or bitten is within the exceptions provided in the By-law

Provide, and affix as a schedule, a brief account of the basis for the application, attaching copies of any documents or other material upon which you intend to rely.

Signature of Owner or Owner's authorized representative

Name (please print)

Date