

Dog By-Law

Title

1. This By-Law is entitled the “Dog By-Law”.

Definitions

2. In this By-Law:

- (1) “destroy” means kill;
- (2) "dog" means any dog, male or female, or any animal that is the result of the breeding of a dog with any other animal;
- (3) “domestic animal” includes pets and farm animals;
- (4) "extraordinary expense" means any expense incurred by **Town of Westville** Staff in relation to a dog except for provision of food and shelter;
- (5) “fierce or dangerous dog” has the meaning stipulated in s. **[16]** of this By-Law;
- (6) "mitigating factor" means a circumstance which excuses the aggressive behaviour of a dog where:
 - (i) the dog, immediately prior to the aggressive behaviour, was being abused or tormented by the person attacked or injured;
- (7) "**Town of Westville** Staff" means the **Municipality's** Dog Control Officer or a person appointed by the Chief Administrative Officer or Council to act on the **Municipality's** behalf for the purposes of this By-Law, and includes the Pound Keeper;
- (8) "non-rural areas" means those areas within the Town boundaries.
- (9) "owner" means the owner of a dog and any person who possesses, has the care or control of, or harbours a dog and, where such a person is a minor, includes a parent, guardian or custodian of such a person;
- (10) “wolf-dog hybrid” means any animal which results from the breeding of a dog and a wolf or that is or has been advertised or held out for sale as such;

Registration

3. On or before the **1st day of April** in each year the owner of any dog shall

register such dog with the **Town of Westville** Staff and obtain from the **Town of Westville** Staff a tag for such dog.

4. Every owner of a dog shall, within ten (10) days of having become owner, register such dog with **Town of Westville** Staff and obtain from **Town of Westville** Staff a tag for such dog.

5. In order to register a dog, an owner shall pay the registration fee of **\$15** for each spayed or neutered dog and **\$100** for each other dog and shall supply **Town of Westville** Staff with the following:

- (1) Name, civic address, mailing address and telephone number of the owner;
- (2) Name and breed of the dog;
- (3) Description of the dog including whether the dog is male or female, spayed or unspayed or neutered or unneutered as the case may be; and, at the discretion of the owner, the following additional information may be supplied:
 - (4) A photograph of the dog;
 - (5) Identification information such as micro-chip implants, tattoos or other special markings; and
 - (6) The name of the veterinary clinic frequented by the dog and veterinary file ID number.

6. Registration shall be effective until the **31st of March** in the year following the year of registration.

7. The registration fee shall be reduced by 50% in the year of acquisition where the owner acquires ownership of the dog after September 30th.

8. The following are exempt from registration:

- (1) the **Town of Westville** Staff or Pound Keeper or the SPCA shall not be required to register a stray;
- (2) a dog shall be exempt from registration and registration fees in the event the owner proves that the dog is under the age of three months; and,
- (3) if a fee of **\$40** per breeding female kept at the kennel on April 1 is paid by the owner of a kennel of pure-bred dogs that are registered with the Canadian Kennel Association by **March 31st** of that year, the owner of the kennel is exempt from any further fee in respect to dogs kept at the kennel that year. An owner of a kennel of dogs that are not members of this association will pay a fee of **\$100** per breeding female.

9. A dog that is trained to assist and assists a person with a disability is exempt from paying a registration fee but not from registration.

10. The owner of every dog shall keep on the dog a collar with the tag issued for that dog by **Town of Westville** Staff at the time of registration and such tag shall be kept securely fixed on the dog at all times during the year until a replacement tag is issued, except that such tag may be removed while the dog is being used for lawful hunting purposes in the presence and under the control of the dog's owner and wearing a collar bearing the owner's name and address.

11. The owner of a dog shall deliver in writing to the **Town of Westville** Staff a statement of the number of dogs owned or harboured, or that are kept upon the premises occupied by the owner within 10 days after having received notice requiring it to be provided.

Dog Control and Pound

12. **Town of Westville** Staff shall be responsible for the enforcement of this By-Law.

13. Council shall appoint a Pound Keeper who shall:

- (1) collect on behalf of the **The Town** any Impounding Fees, Daily Pound Fees and any other additional charges or fees as are authorized in this By-Law and as may be set by resolution of Council;
- (2) be responsible for the operation of the pound;
- (3) provide adequate food and water to impounded dogs;
- (4) keep the pound in a reasonable state of cleanliness;
- (5) keep the pound premises neat and tidy in appearance.

Dogs Running At Large

14. Any dog which 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 dog which 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.

15. In non-rural areas the owner of a dog shall, while the dog is off the premises occupied by the owner, keep the dog under control by means of a harness or leash, and the dog shall be deemed to be running at large where the owner fails to use such apparatus, except that 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:

- (1) participating in an organized hunt, dog exhibition event or dog field trials;
- (2) participating in a search and rescue operation or law-enforcement operation;
- (3) assisting a person with a disability, provided the dog is trained for such purpose; or
- (4) within a municipal public park where the area is designated by signage an area in which dogs are permitted to be without a leash subject to such

limitations as are posted.

Fierce or Dangerous Dogs

16. For purpose of this By-Law a dog that is fierce or dangerous means any dog:
- (1) that is a wolf-dog hybrid;
 - (2) that, in the absence of a mitigating factor as defined herein, has attacked a person;
 - (3) that, in the absence of a mitigating factor as defined herein, has attacked a domestic animal;
 - (4) that, in the absence of a mitigating factor as defined herein, when either unmuzzled or unleashed, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, any public grounds or places, or on private property other than the property of the owner;
 - (5) owned or harboured in whole or in part for the purpose of dog fighting; or
 - (6) trained for dog fighting;
- provided that no dog shall be deemed fierce or dangerous if it is a professionally trained guard dog while lawfully engaged for law enforcement.

Responsibilities of Owners

17. Every owner of a dog
- (1) whose dog runs at large;
 - (2) whose dog is not wearing a tag required by this By-Law;
 - (3) whose dog is not registered pursuant to this By-Law;
 - (4) whose dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise;
 - (5) who neglects or refuses to provide a written statement required by this By-Law;
 - (6) who harbours, keeps, or has under care, control or direction a dog that is fierce or dangerous;
 - (7) who fails to remove the feces of a dog, other than a dog that is trained to assist and is assisting a person with a disability, from public property or private property other than the owners;
- is in contravention of the By-Law.

Impounding

18. **Town of Westville** Staff may, without notice to or complaint against the owner, impound any dog that:
- (1) runs at large contrary to this By-Law;
 - (2) is not wearing a tag required by this By-Law;
 - (3) is not registered pursuant to this By-Law;
 - (4) is fierce or dangerous;
 - (5) is rabid or appears to be rabid or exhibits symptoms of canine madness; or
 - (6) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise.

19. An fixed Impounding Fee, and a Daily Pound Fee shall be payable by any person seeking to redeem an impounded dog.

20. Subject to Sections [21 to 24] of this By-Law, except in the case where a dog is impounded for being fierce or dangerous, or is rabid or exhibits symptoms of canine madness, the owner of a dog which has been impounded, upon proof of ownership of the dog, may redeem the dog after payment to the Pound Keeper, or making arrangement for payment satisfactory to the Pound Keeper, of the Impounding Fee and the Daily Pound Fee(s), along with reimbursement for any Extraordinary Expenses incurred by the **Town of Westville** Staff in relation to the dog.

21. In the case of redemption of a dog which has not been registered pursuant to this By-Law, the owner shall also be required to register the dog and pay the registration fee before being allowed to redeem the dog.

22. Any dog which has not been redeemed by its owner at the expiry of a period of **72 hours** after being impounded may be given away, sold or killed by the Pound Keeper and, if sold, the proceeds shall belong to the **The Town**.

23. Whenever the **72 hours** of impounding time expires on a weekend, the Pound Keeper shall hold such dog until the expiry of the first business day following the weekend to permit the owner to redeem the dog.

Notice

24. Upon any dog being impounded the Pound Keeper shall check for a tag and if a tag is found, the Pound Keeper shall make at least **one attempt** to contact the registered owner of the dog using the tag number on the records of **Town of Westville** Staff. Provided however that if a dog is missing, the onus is on the owner of the dog to ascertain within the time period provided for impounding under this By-Law, whether the dog has been impounded, and neither the Pound Keeper nor the **The Town** shall incur liability in the event of failure to give Notice to the owner, if the owner has not made inquiry of the Pound Keeper to determine whether the dog was impounded.

Dog Attacks

25. The owner of any dog that attacks any person or another animal is guilty of an offence under this By-Law.

- (1) 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) issue the owner a notice to muzzle the dog;
 - (b) issue the owner a notice to microchip the dog;
 - (c) classify the dog as a ‘dangerous dog’ in the municipal registry; or
 - (d) destroy the dog without permitting the owner to claim it and issue the owner a notice informing that the dog has been destroyed.
- (2) When a dog has been classified as a dangerous dog the owner shall:
 - (a) keep the dog securely restrained either indoors or inside an escape-proof enclosure that does not allow the dog to jump, climb or dig its way out of while it is on the property of the owner; and
 - (b) muzzle, securely leash, and ensure that the dog is under the control of a person not under 18 years of age when the dog is off the property of the owner.
- (3) Where an owner has been served with a notice pursuant to clause (a) or (b) of subsection (2), the failure of the owner to comply with any notice shall be an offence under this By-Law.
- (4) Any owner of a dog who fails to comply with subsection (3) shall be guilty of an offence under this By-Law.

Destroying

26. **Town of Westville** Staff may, without notice to or complaint against the owner, destroy on sight or after capture any dog that:

- (1) is fierce or dangerous;
- (2) is rabid or appears to be rabid or exhibits symptoms of canine madness.

27. **Town of Westville** Staff may, after [**two written warnings**] have been given to the owner that a dog has been running at large or eluding capture, kill such dog on sight or after capture.

28. **Town of Westville** Staff may, kill on sight any dog that is running at large and which he or she believes, on reasonable and probable grounds, to pose a danger to a person or a domestic animal or to property of persons other than the owner.

Penalty

29. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than **\$250.00** and not more than **\$5000**.

Application of By-Law

30. The “Dog By-law” passed by Council on June 27th, 1995 and all amendments there to be hereby repealed.

Clerk’s Annotation For Official By-Law Book

Date of first reading: June 28th, 2010

Date of advertisement of Notice of Intent to Consider: August 11, 2010

Date of second reading: August 30th, 2010

Clerk Date

Dog By-Law

Editor's Annotations

Enabling Legislation

Municipal Government Act, S.N.S. 1998, c.18

175 (1) Without limiting the generality of Section 172, a council may make bylaws

- (a) regulating the running at large of dogs, including permitting the running at large of dogs in certain places or at certain times;
- (b) imposing a registration fee upon the owner of every dog, the amount to be set by policy, for such length of time as is specified in the by-law with the power to impose a larger fee for female dogs than for male dogs, or for unspayed or unneutered dogs than for spayed or neutered dogs;
- (c) requiring tags for the identification of dogs registered under the by-law;
- (d) exempting from any registration fee a dog that is a stray dog and is harboured for up to the maximum period of time set by by-law;
- (e) defining fierce or dangerous dogs, including defining them by breed, cross-breed, partial breed or type;
- (f) regulating the keeping of fierce or dangerous dogs;
- (g) prohibiting the keeping of a dog that persistently disturbs the quiet of the neighbourhood by barking, howling, or otherwise;
- (h) authorizing the dog control officer to impound, sell, kill or otherwise dispose of dogs
- (i) that run at large contrary to the by-law,
- (ii) in respect of which the fee or tax imposed by a by-law is not paid,

(iii) that are fierce or dangerous,

(iv) that are rabid or appear to be rabid or exhibiting symptoms of canine madness,

(v) that persistently disturb the quiet of a neighbourhood by barking, howling or otherwise;

(i) requiring the owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, to remove the dog's feces from public property and from private property other than the owner's;

(j) requiring the owner of a dog to provide a written statement of the number of dogs owned, harboured or that are habitually kept upon the premises occupied by the owner.

(2) A dog that is trained to assist and assists a person with a disability is exempt from any registration fee.

(3) Where a dog tag is required by by-law, the dog tag shall bear a serial number and the year in which it is issued and a record shall be kept showing the name and address of the owner and the serial number of the tag.

(4) The owner of a kennel of purebred dogs that are registered with the

Canadian Kennel Club may, in any year, pay a fee set by council, by policy, as a tax upon the kennel for that year and upon payment of the amount, the owner of the kennel is exempt from any further fee regarding the dogs for that year.

(5) Where required by by-law to do so, the owner of a dog may enter upon private property to remove the dog's feces.

176 (1) Where a peace officer believes, on reasonable grounds, that a person is harbouring, keeping or has under care, control or direction a dog that is fierce or dangerous, rabid or appears to be rabid, that exhibits symptoms of canine madness or that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise, a justice of the peace may, by warrant, authorize and empower the person named in the warrant to

(a) enter and search the place where the dog is, at any time;
(b) open or remove any obstacle preventing access to the dog; and
(c) seize and deliver the dog to the pound and for such purpose, break, remove or undo any fastening of the dog to the premises.

(2) Where the person named in the warrant is unable to seize the dog in safety, the person may destroy the dog.

(3) The peace officer shall appear before, and satisfy, the justice of the peace of the grounds for belief before a warrant pursuant to this Section may be issued.

177 At the trial of a charge laid against the owner of a dog that is fierce or dangerous contrary to a by-law, in addition to the penalty, the judge may order that the

(a) dog be destroyed or otherwise dealt with; and
(b) owner pay any costs incurred by the municipality related to the dog, including costs related to the seizure, impounding, or destruction of the dog,

and it is not necessary to prove that the

(c) dog previously attacked or injured a domestic animal, person or property;

(d) dog had a propensity to injure or to damage a domestic animal, person or property; or

(e) defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage.

178 A person may kill or destroy a rabid dog or other rabid animal found at large and may secure and confine a dog or other animal at large and appearing to be rabid or exhibiting symptoms of canine madness.

179 Upon the trial of an action brought against the owner or harbourer of a dog for any injury caused, or damage occasioned by, such dog, it is not necessary to prove knowledge by, or notice to, the owner or harbourer of any mischievous propensity of the dog.

Important Notice

The reader is cautioned that editorial and drafting choices involve interpretation of the law. Municipal units should consult with their own legal advisors before relying upon, and applying to their own circumstances, the comments or drafts contained in this

Manual.

Comment

- The model By-Law requires registration of dogs and payment of annual licensing fees, to be set in s. [5] of the By-Law. Typically, many municipalities charge a lesser fee for registering a spayed female or neutered male, than for unaltered dogs.
- The model By-Law provides for appointment of a pound-keeper in s. [13]. This may be a contracted service-provider, rather than an employee, if the municipality wishes.
- Sections [14] defines what is meant by a dog running at large. In non-rural areas, or possibly in all areas, Council may wish to require a dog to be on a leash except when the dog is on the owner's property as illustrated in section [15], along with the sample definitions of "non-rural areas" found in subs. [1(7)].
- The model By-Law should contain a definition of a "fierce or dangerous" dog. The provisions in section [16] generally do so having regard to both the conduct of the dog and the training or purpose for which the dog is kept. Although most municipalities have not chosen to do so, it is open to Council to define by breed, cross-breed, partial breed or type, if Council wishes to proscribe completely certain breeds considered dangerous and the Model By-Law provides an illustration in regards wolf-dog hybrids. The phrase "mitigating factor" is a defined term in s. [2 (6)].
- Section [17] contains the offences of dog owners and sections [18 to 24] provide powers to impound untagged dogs or dogs otherwise offending the By-Law and provide for the owner to redeem the dog by payment of fees, within a set period, failing which the dog may be put down.