



## TOWN OF PORT HAWKESBURY DOG BY-LAW

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### TITLE

1. This By-Law is entitled the "Dog By-Law".

### DEFINITIONS

2. In this By-Law:

- (1) "CAO" means the Chief Administrative Officer for the Town of Port Hawkesbury;

- (2) "destroy" means kill;

- (3) "dog" means any dog, male or female, or any animal that is the result of the breeding of a dog with any other animal;

- (4) "domestic animal" includes pets and farm animals;

- (5) "extraordinary expense" means any expense incurred by the Town Staff in relation to a dog, except for provision of food and shelter;

- (6) "fierce or dangerous dog" means any dog:

- (a) that is a wolf-dog hybrid;

- (b) that, in the absence of a mitigating factor as defined herein, has attacked or injured a person;

- (c) that, in the absence of a mitigating factor as defined herein, has injured a domestic animal;

- (d) 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;

- (e) that, in the absence of a mitigating factor as defined herein, demonstrates a propensity to be aggressive;

- (f) owned or harboured in whole or in part for the purpose of dog fighting; or

- (g) trained for fighting;

provided that no dog shall be deemed fierce or dangerous if it is a professionally trained guard dog while lawfully engaged in law enforcement.

(7) "mitigating factor" means a circumstance which excuses the aggressive behaviour of a dog where:

(a) the dog, at the time of aggressive behaviour, attacked or injured any trespasser on property occupied by its owner;

(b) the dog, immediately prior to the aggressive behaviour, was being abused or tormented by the person attacked or injured;

(8) "muzzle" means a humane covering device of sufficient strength placed over a dog's mouth to prevent it from biting;

(9) "Town Staff" means the Town of Port Hawkesbury's Dog Control Officer or a person appointed by the Chief Administrative Officer or Council to act on the Town's behalf for the purposes of this By-Law, and includes the Pound Keeper;

(10) "neighbourhood" means one or more persons;

(11) "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; and

(12) "wolf-dog hybrid" means any animal which results from the breeding of a dog and a wolf that is or has been advertised or held out for sale as such.

## **REGISTRATION**

3. On or before the 31<sup>st</sup> day of January in each year, the owner of any dog shall register such dog with the Town Staff and obtain from the Town Staff a tag for such dog.

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

5. In order to register a dog, an owner shall pay an Annual Registration Fee for each spayed or neutered dog and for each non-spayed or non-neutered dog and shall supply the Town Staff with the following:

(a) Name, civic address, mailing address and telephone number of the owner;

(b) Name and breed of the dog;

(c) Description of the dog including whether the dog is male or female, spayed or non-spayed, neutered or non-neutered, as the case may be;

and, at the discretion of the owner, the following additional information may be supplied:

(d) A photograph of the dog;

(e) Identification information such as micro-chip implants, tattoos or other special markings;

(f) The name of the veterinary clinic frequented by the dog and veterinary file Id number.

6. Registration shall be effective until the 31<sup>st</sup> day of January in the year following the year of registration.

7. The Annual Registration Fee shall be reduced by 50% in the year of acquisition where the owner acquires ownership of the dog after June 30<sup>th</sup>.

8. 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.

9. (a) The owner of every dog shall keep on the dog a collar with the metal tag issued for that dog by Town 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.

(b) Where the metal tag issued pursuant to this By-Law has been lost, destroyed or mutilated, the owner shall acquire for the remainder of the current licensing year, a replacement tag, upon providing proof of purchase of a valid dog license and upon payment of the prescribed fee.

10. The owner of a dog shall deliver in writing to the Town 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**

11. Town Staff shall be responsible for the enforcement of this By-Law.

12. Council shall appoint a Pound Keeper who shall:

- (a) collect on behalf of the Town of Port Hawkesbury 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;
- (b) be responsible for the operation of the pound;
- (c) provide adequate food and water to impounded dogs;
- (d) keep the pound in a reasonable state of cleanliness; and
- (e) keep the pound premises neat and tidy in appearance.

**DOGS RUNNING AT LARGE**

13. Any dog which is

- (a) off the premises occupied by the owner without being under the continuous restraint and control of a person; or
- (b) 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 for the purposes of this By-Law.

14. 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:

- (a) participating in an organized hunt, dog exhibition event 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 purpose;
- (d) within a municipal public park where the area is designated by signage as an area in which dogs are permitted to be without a leash subject to such limitations as are posted; or
- (e) within the land owned by a person who has given prior consent to the dog being off the leash.

## **FIERCE OR DANGEROUS DOGS**

15. The owner of a fierce or dangerous dog must not permit the dog to be in a place other than the owner's property

(a) unless the dog is on a leash no longer than one meter and in the control of a person who is responsible and capable of controlling the dog; and

(b) unless the dog is wearing a proper muzzle.

16. The Town Staff has the power and authority hereunder, upon reasonable grounds, to make the determination that any dog is a fierce or dangerous dog.

17. Where the Town Staff has reason to believe that a dog has attacked a person or another domestic animal, or has the propensity to do so, the Town Staff may:

(a) classify the dog as a fierce or dangerous dog;

(b) issue the owner a notice to muzzle the dog;

(c) order the owner to 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

(d) muzzle, securely leash and ensure the dog is under the control of a person who is responsible and capable of controlling the dog, when the dog is off the property of the owner.

18. When the Town Staff determines that a dog is a fierce or dangerous dog, the Town Staff, if he/she determines in his/her discretion, that the dangerous dog poses an immediate and significant threat to public safety, may, after consultation with the CAO, destroy the fierce or dangerous dog, without permitting the owner to claim it.

## **RESPONSIBILITIES OF OWNERS**

19. Every owner of a dog

(a) whose dog runs at large;

(b) whose dog is not wearing a tag required by this By-Law

(c) whose dog is not registered pursuant to this By-Law;

(d) whose dog persistently disturbs the quiet of the neighborhood by barking, howling or otherwise;

(e) who neglects or refuses to provide a written statement required by this By-Law;

(f) 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 owner's property;

(g) who fails to properly control a fierce or dangerous dog pursuant to section 15;

(h) who fails to comply with any order issued by Town Staff pursuant to section 17;

is in contravention of this By-Law.

#### **IMPOUNDING**

20. Town Staff may, without notice to or complaint against the owner, impound any dog that:

(a) runs at large contrary to this By-Law;

(b) is not wearing a tag required by this By-Law;

(c) is not registered pursuant to this By-Law;

(d) is fierce or dangerous;

(e) is rabid or appears to be rabid; or

(f) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise.

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

22. Subject to sections 23 to 26 of this By-Law, except in the case where a dog is impounded for being fierce or dangerous, or is rabid, 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 Staff in relation to the dog.

23. 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.

24. Any dog which has not been redeemed by its owner at the expiry of a period of 72 hours after being impounded may be:

(a) given away;

(b) sold; or

(c) destroyed;

by the Pound Keeper and, if sold, the proceeds shall belong to the Town of Port Hawkesbury.

25. 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**

26. 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 two attempts to contact the registered owner of the dog using the tag number on the records of the Town 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 Town of Port Hawkesbury 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.

#### **DESTROYING**

27. Town Staff may, without notice to or complaint against the owner, destroy 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; or

(b) the dog poses an immediate and significant threat to the public safety; and

(c) it is not reasonably possible to safely capture the dog.

28. Where a dog has been captured, Town Staff may destroy the dog, after consultation with the CAO, if the dog:

(a) was running at large and two previous written warnings have been given to the owner that the dog has been running at large;

(b) is fierce or dangerous; or

(c) is rabid or appears to be rabid;

provided that the owner has been given the opportunity to make written representations to the CAO in respect of the dog in accordance with sections 30 and 31.

29. If the Town Staff destroys the dog, the Town Staff will arrange for the disposal of the remains and will make reasonable efforts to inform the dog owner that the dog has been destroyed. The owner of the dog will be responsible for all Extraordinary Expenses related to the destruction/disposal.

30. (a) If a dog has been captured to which section 28 applies and the dog has a current tag issued by the Town of Port Hawkesbury or any tag by which the Town Staff could ascertain the owner's name and address, the Town Staff send a notice to the owner by registered mail including:

(i) the date and time when the dog will be destroyed, provided that the date of destruction shall not be less than 7 days from the date of mailing of the notice; and

(ii) notice that the owner may make written representations to the CAO respecting the destruction of the dog by delivering to the CAO written representations three (3) days prior to the scheduled date of destruction of the dog.

(b) If a dog has been captured to which section 28 applies and the dog does not have a tag issued by the Town of Port Hawkesbury or a tag by which the Town Staff could ascertain the owner's name and address, the Town Staff is not required to send a notice to the owner, but shall not destroy the dog until at least 72 hours after it has been captured to permit the owner an opportunity to make representations respecting the destruction of the dog.

31. Where written representations have been provided by an owner to the Town of Port Hawkesbury pursuant to section 30, Town Staff shall consider the representations and if the Town Staff concludes that the dog:

(a) was running at large and two previous written warnings have been given to the owner that the dog has been running at large;

(b) is fierce or dangerous; or

(c) is rabid or appears to be rabid;

Town Staff may destroy the dog, and shall notify the owner by registered mail prior to or immediately following the destruction of the dog. The notice must include written reasons for the decision to destroy the dog.

32. If, following consideration of the owner's written representations, Town Staff decides not to destroy the dog, the dog shall be impounded and dealt with in accordance with sections 20 through 25 of this By-Law.

#### **ENFORCEMENT**

33. No owner shall do anything, or fail to do anything, where that action or omission, as the case may be, results in a violation of this By-Law.

34. This By-Law may be enforced, at the discretion of the Town of Port Hawkesbury:

(a) in accordance with the procedures set out in the *Municipal Government Act*; or

(b) by means of a summary offence ticket under the *Municipal Government Act*.

35. The *Summary Proceedings Act*, where applicable, shall apply to proceedings under this By-Law.

36. The Town Staff may enter, at all reasonable times, upon any property subject to this By-Law in order to ascertain whether this By-Law is being obeyed.

#### **PENALTY**

37. Every person who contravenes any part of this By-Law is guilty of an offense and is subject to the provisions of the *Summary Proceedings Act*.

38. Each day an offense continues shall be a separate offense.

39. The penalties prescribed are as follows:

(a) with respect to the first contravention and/or impoundment in any consecutive 12 month period, payment of \$ 60.00;

(b) with respect to the second contravention and/or impoundment in any consecutive 12 month period, payment of \$ 100.00;

(c) with respect to the third contravention and/or impoundment in any consecutive 12 month period, payment of \$ 150.00;

(d) with respect to any subsequent contravention and/or impoundment within any consecutive 12 month period, payment of a sum not less than \$ 300.00 and not more than \$ 500.00.

40. Any contravention of any provision of this By-Law, in the preceding twelve months by any person charged, shall be counted as a previous contravention for the purpose of the preceding paragraphs.

41. If payment is not made in accordance with these procedures, the fine is recoverable under the *Summary Proceedings Act*.

#### **COSTS**

42. In all cases, the Town of Port Hawkesbury shall have the right to recover from the owner of the dog the costs incurred by the Town in applying this By-Law to the owner's dog.

43. In all cases, the costs of the Town of Port Hawkesbury shall include the actual payments made by the Town of Port Hawkesbury, together with its reasonable administrative charges.

#### **FEES**

44. Any and all fees referred to in this By-Law are set out in Schedule "A" attached hereto and may be amended from time to time pursuant to the Town of Port Hawkesbury's User Fee Policy.

#### **INTERPRETATION**

45. This By-law shall be read with all changes in gender and number, as may be the appropriate.

46. Any part of this By-Law found to be illegal shall be severed from the balance of the By-Law.

#### **REPEAL**

47. The Dog By-law for the Town of Port Hawkesbury approved by Town Council on August 5, 1997 and approved by the Minister of Housing and Municipal Affairs, with amendment, on January 27, 1998 is hereby repealed.

## **SCHEDULE "A"**

### **DOG LICENSE FEES**

1. Dog License fees shall be:
  - a) \$ 25.00 for each spayed/neutered dog;
  - b) \$ 50.00 for each non-spayed/non-neutered dog;
  - c) \$ 15.00 for a tag replacement.

Each license fee shall be payable to the Town of Port Hawkesbury annually.

### **DOG IMPOUND FEES**

2. A dog owner may reclaim their impounded dog upon proving ownership and upon paying to the Pound Keeper the following impound fees, maintenance fees and any overdue dog license fees pursuant to Schedule "A".
  - a) An impoundment fee in respect of a Licensed Dog:
    - i) First Impoundment - \$ 30.00
    - ii) Second Impoundment - \$ 70.00
    - iii) Third and subsequent Impoundments - \$ 100.00
  - b) An impoundment fee in respect to an Unlicensed Dog - \$100.00.
  - c) A maintenance fee in respect of each day or part of a day on the impoundment period - \$ 15.00.

Annotation for Official By-Law Book

Date of first reading: March 5, 2013  
Date of advertisement of Notice of Intent to Consider: March 13, 2013  
Date of second reading: April 2, 2013  
\*Date of advertisement of Passage of By-Law: April 10, 2013  
Date of mailing to Minister of certified copy of By-law: April 11, 2013

I certify that this DOG BY-LAW was adopted by Council and published as indicated above.



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Chief Administrative Officer

\*Effective Date of the By-Law unless otherwise specified in the text of the By-Law