

**MUNICIPALITY OF THE DISTRICT OF CLARE**

DOG BY-LAW NO. 12-2016

Amendment 12-01-2016

# MUNICIPALITY OF THE DISTRICT OF CLARE

## DOG BY-LAW NO. 12-2016

**BE IT ENACTED** by the Council of the Municipality of the District of Clare under the authority of the *Municipal Government Act*, R.S.N.S. 1998, c.18, as amended, including Sections 3, 172, 174, 175, 176, 177, 178 and 179, as follows:

### Title

1. This By-Law is entitled the “Dog By-Law No. 12-2016”.

### Definitions

2. In this By-Law:

- (1) “Animal Control Officer” means that individual appointed by the Municipality of the District of Clare as being responsible for the enforcement of this By-Law, or any constable or peace officer;
- (2) “CAO” means the Chief Administrative Officer of the Municipality of the District of Clare;
- (3) “Council” means the Municipal Council of the Municipality of the District of Clare;
- (4) “humanely euthanize” means putting an animal to death or allowing it to die as by withholding extreme medical measures, using the most humane method available, and is meant to replace “destroy” as it is used in sections 174-178 of the *Municipal Government Act*, R.S.N.S. 1998, c 18, as amended.
- (5) “dog” means a dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;
- (6) “domestic animal” includes pets and farm animals;
- (7) “extraordinary expense” means any expense incurred by Municipal Staff in relation to a dog except for provision of food and shelter;

(8) “extreme medical measures” means major life-saving interventions as determined by a veterinarian.

(9) “fierce or dangerous dog” means any dog:

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

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

(c) 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;

(d) that is owned or harboured in whole or in part for the purpose of dog fighting; or

(e) that is 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 in law enforcement.

(10) “mitigating factor” means a circumstance which excuses the aggressive behaviour of a dog where:

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

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

(11) “Municipal Staff” means the Municipality’s Animal 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.

(12) “microchip” means an implant inserted in an animal by a veterinarian for the purpose of identification of the animal’s owner.

(13) “owner”, as it refers to the owner of a dog, is any person who possesses, has the care of, has the control of, or harbours a dog, and where the person is a minor, includes a person responsible for the custody of the minor.

(14) “peace officer” means a police officer, police constable, bailiff, constable, or other person employed by the Municipality of the District of Clare for the preservation and maintenance of the public peace;

(15) “pound” means the premises utilized by Municipal Staff to keep strays and other dogs recovered by the Animal Control Officer during the discharge of his or her duties;

- (16) “Pound Keeper” means any person who is appointed as the Pound Keeper for the Municipality and this person may or may not be the same person as the Animal Control Officer;
- (17) “Municipality” means the Municipality of the District of Clare and “Municipal” means affiliated with the Municipality of the District of Clare.
- (18) “tag” means a label attached to an animal by a collar for the purpose of identification of the animal’s owner.

### **Registration**

3. Every owner of a dog may register their dog by tag or microchip.
4. A one-time registration fee, as set by policy of Council in Schedule A of this By-Law, may be collected during the lifetime of the dog while under the same owner.
5. (1) A person shall be at least nineteen (19) years of age to register a dog with the Municipality.
- (2) Where the person is a minor, a person responsible for the custody of the minor may register a dog with the Municipality.
6. In order to register a dog, an owner shall pay a registration fee, as set out by policy of Council in Schedule A, for each spayed or neutered dog and for each non-spayed or non-neutered dog and shall supply Municipal Staff with the following:
- (1) Name, civic address, mailing address and telephone number of the owner;
- (2) Name, age, and breed of the dog;
- (3) Description of the dog including whether the dog is male or female;
- (4) Identification information such as microchip implants, tattoos or other special markings; and
- (5) Alternate telephone number.
7. (1) The owner of every dog shall keep on the dog a tag, either:
- (a) issued for that dog by Municipal Staff at the time of registration; or
- (b) providing complete contact information for the owner;
- and such tag shall be kept securely fixed on the dog at all times.
- (2) Dogs that are microchipped are exempt from wearing a tag.

### **Dog Control and Pound**

8. The Municipality shall be responsible for the enforcement of this By-Law, and specifically shall have full discretion to appoint any of its employees or officers to collect any Impounding Fees, Daily Pound Fees and any other additional penalties, fines, charges, or registration fees as are authorized in this By-Law and as may be set by resolution of Council in Schedules A and B of this By-Law.
9. The Municipality shall appoint an Animal Control Officer, who shall:
  - (1) ensure compliance with and take enforcement action as required under this By-Law; and
  - (2) ensure any necessary veterinary attention is provided to a dog seized while at large before the dog is impounded.
10. The Municipality shall appoint a Pound Keeper, who shall:
  - (1) be responsible for the operation of a pound or other suitable location for impounding dogs;
  - (2) provide adequate food, clean water and proper care as required by the *Animal Protection Act*, R.S.N.S. 2008, c. 33, for impounded dogs;
  - (3) keep the pound or other suitable location where dogs may be impounded in a reasonable state of cleanliness;
  - (4) keep suitable pound premises or other suitable location where dogs are impounded neat and tidy in appearance; and
  - (5) ensure any necessary veterinary attention to an impounded dog is provided.

### **Dog Running At Large**

11. Any dog which is:
  - (1) off the premises occupied by the owner and not on a leash or a harness and under the continuous restraint and control of a person; or
  - (2) 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.
12. An unleashed or 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 as an area in which dogs are permitted to be without a leash subject to such limitations as are posted.

### **Responsibilities of Owners**

13. Every owner of a dog:

- (1) whose dog runs at large;
- (2) whose dog is not wearing a tag as required under section 7(1) of this By-Law, and not microchipped in accordance with section 7(2) of this By-Law;
- (3) whose dog repeatedly disturbs the quiet of the neighbourhood by barking, howling or otherwise;
- (4) who harbours, keeps, or has under care, control or direction a dog that is fierce or dangerous or is rabid or appears to be rabid; or
- (5) 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 that is not the owner's private property;

is guilty of an offence under this By-Law, and subject to penalties in accordance with Schedule B of this By-Law.

### **Impounding**

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

- (1) runs at large;
- (2) is demonstrating fierce or dangerous behaviour; or
- (3) is rabid or appears to be rabid.

15. An Impounding Fee, as set by the Municipality in Schedule B, shall be payable by any person seeking to redeem an impounded dog.

16. Subject to Sections 17 to 20 of this By-Law, except in the case where a dog is impounded for demonstrating fierce or dangerous behaviour 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 of all fines, penalties and fees to the Municipality.

17. 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.
18. Any dog which is not fierce or dangerous or is not rabid, and which has not been redeemed by its owner at the expiry of a period of 5 days after being impounded:
  - (1) may be surrendered to a recognized animal rescue group or registered animal training program; or
  - (2) if surrender to a recognized animal rescue group is not possible or practical, the dog shall be humanely euthanized.
19. Whenever the 5 days 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**

20. (1) The Animal Control Officer shall check for a tag or microchip on every dog captured under this By-Law, and if either is found, the Animal Control Officer shall make reasonable attempts to contact the owner of the dog using the tag number on the records of the Municipality or contact information as provided on the tag.  
  
(2) 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 Animal Control Officer, the Pound Keeper nor the Municipality shall incur any liability in the event of failure to give notice to the owner, if the owner has not made inquiry of the Animal Control Officer to determine whether the dog was impounded.

#### **Dangerous Dogs**

21. The Animal Control Officer, with the assistance of a peace officer, without notice to or complaint against the owner, may humanely euthanize on sight any dog if the dog poses an immediate danger to a person or a domestic animal or to property of persons other than the owner; and it is not reasonably possible to safely capture the dog.

22. (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, or that repeatedly disturbs the quiet of a neighbourhood by barking, howling or otherwise contrary to this by-law, 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 peace officer is unable to seize the dog in safety, the peace officer may humanely euthanize the dog.

#### **Additional penalty**

23. (1) At the trial of a charge laid against the owner of a dog that is fierce or dangerous, that repeatedly disturbs the quiet of a neighbourhood by barking, howling or otherwise or that runs at large, contrary to this by-law, in addition to the penalty, the judge may order:

- (a) that the dog be humanely euthanized or otherwise dealt with; and
- (b) that the owner pay any costs incurred by the Municipality related to the dog, including costs related to the seizure, impounding, or humane euthanization of the dog.

(2) In any trial as outlined in section 23(1), it is not necessary to prove:

- (a) that the dog previously attacked or injured a domestic animal, person or property;
- (b) that the dog had a propensity to injure or to damage a domestic animal, person or property; or
- (c) That the defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage.

#### **Rabid Animals**

24. A person may humanely euthanize 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.

#### **Proof at Trial**

25. 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.



### **Impounded Dog**

26. Where a dog has been captured, Municipal Staff may humanely euthanize the dog if the dog:

(1) has been examined and assessed by a veterinarian to be fierce or dangerous; or

(2) has been examined and assessed by a veterinarian to be rabid, or appears to be rabid;

provided that the owner has been given the opportunity to make written representations to the Municipality in respect of the dog in accordance with sections 27 and 28.

27. (1) If a dog has been captured to which section 26 applies and the dog has a collar with a current tag issued by the Municipality or a tag by which the Municipality could ascertain the owner's name and address, or a micro-chip, the Municipality shall send a notice to the owner by registered mail, including:

(a) the date and time when the dog will be humanely euthanized, provided that the date of destruction shall not be any less than ten (10) days from the date of mailing of the notice; and

(b) notice that the owner may make written representations to the Municipality respecting the euthanization of the dog by delivering to the Municipality such written representations no less than three (3) days prior to the scheduled date of euthanization of the dog.

(2) If a dog has been captured to which section 26 applies and the dog does not have a tag issued by the Municipality or a tag by which the Municipality could ascertain the owner's name and address, the Municipality is not required to send a notice to the owner, but shall not euthanize the dog until at least 5 days after it has been captured to permit the owner an opportunity to make representations respecting the euthanization of the dog, or to register and redeem the dog.

(3) If a dog has been captured to which section 26 applies, and the dog has bitten a person or an animal, it must be impounded for 10 days at the owner's expense.

28. Where written representations have been provided by an owner to the Municipality pursuant to section 27, the CAO or designate shall consider the written representations of the owner.

(1) If Municipal Staff or the CAO, after reviewing the written representations of the owner and the assessment by a veterinarian concludes that the dog:

(a) is fierce or dangerous; or

(b) is rabid or appears to be rabid;

Municipal Staff may have the dog humanely euthanized, and shall notify the owner by registered mail prior to or immediately following the euthanization of the dog. The notice must include written reasons for the decision to humanely euthanize the dog.

(2) If Municipal Staff or the CAO decides not to humanely euthanize the dog, the dog shall be impounded and dealt with in accordance with sections 14 through 19 of this By-Law, at the owner's expense.

**Penalty**

- 29. 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 B of this By-Law.
- 30. 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.
- 31. In addition to the prosecution of any offence under this By-Law, the Municipality may elect to charge the cost of the impounding or the destruction of a dog, or the cremation of the remains of the dog to the owner's property and collect such charge as a first lien on the owner's property.

**Repeal**

- 32. By-Law Number 12 of the Municipality of the District of Clare entitled "Dog By-Law" is hereby repealed and replaced by this By-Law, Dog By-Law No. 12-2016.

**THIS IS TO CERTIFY** that the foregoing is a true and correct copy of the Dog By-Law adopted and in full force in the Municipality of the District of Clare.

DATED at Little Brook, Nova Scotia this 10<sup>th</sup> day of November, 2016.



  
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Stéphane Cyr,  
Chief Administrative Officer

**Chief Administrative Officer's Annotation for Official By-Law Book**

Date of First reading	September 21 <sup>st</sup> , 2016
Date of First Publication	October 6 <sup>th</sup> , 2016
Date of Hearing of Public Objections	October 26 <sup>th</sup> , 2016
Date of Second Reading and Enactment	October 26 <sup>th</sup> , 2016
Date of Final Publication Following Second Reading	December 15, 2016
Date sent to Nova Scotia Department of Municipal Affairs	December 16, 2016

SCHEDULE A of this By-Law shall be established by Policy of Council and may be amended  
by  
Motion of Council

### **SCHEDULE A – REGISTRATION FEES**

#### **Registration Fee**

1(a) A one (1) time Registration Fee of \$10 (includes dog tag), if needed, during the lifetime of the dog while under the same owner.

(b) Replacement of dog tag will be at cost.

SCHEDULE B of this By-Law shall be established by Policy of Council and may be amended by Motion of Council.

**SCHEDULE B – PENALTIES/FEES**

<b>SECTION</b>	<b>OFFENCE</b>	<b>PENALTY</b>
13(1)	Dog running at large	\$200
13(2)	Dog is not wearing a tag and not micro chipped	\$200
13(3)	Dog repeatedly disturbing the quiet of the neighbourhood by barking, howling or otherwise	\$200
13(4)	Harbouring, keeping or having under care, control or direction a dog that is fierce or dangerous, or is rabid or appears to be rabid	\$200
13(5)	Failure 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 that is not the owner's private property	\$200
15	Impounding Fee	\$200