

TOWN OF MAHONE BAY

Chapter # 03

DOG CONTROL BY-LAW

TITLE

1. This By-law is entitled the "Dog Control By-law".

DEFINITIONS

2. In this By-Law:
 - (1) "Animal Control Officer" means a special constable or by-law enforcement officer appointed pursuant to the *Police Act* or similar legislation and empowered by such appointment to enforce this By-law, or a police officer for the Town;
 - (2) "Chief Administrative Officer" means the Chief Administrative Officer for the Town;
 - (3) "Council" means the Council of the Town;
 - (4) "destroy" means kill;
 - (5) "Dog" means any dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;
 - (6) "Dog Registration Fee" means such fee as is set by resolution of Council, for registering a dog, such fee to be set considering the cost of maintaining and improving a registry system for Dogs and enforcing this By-law, and the Fee may:
 - a. be greater for female Dogs than for male Dogs;
 - b. be greater for unspayed or unneutered Dogs than for spayed or neutered Dogs; and
 - c. be less for initial registration of a Dog where such registration by the Owner was not required prior to June 30th of the year of registration;
 - d. be at no cost if approved by Council;
 - (7) "Extraordinary Expense" means any expense incurred by Staff in relation to an animal except for provision of food and shelter;
 - (8) "Impounding Fees" mean such fees as are set by resolution of Council for

the cost of impounding an animal by the Animal Control Officer, and the Fees may differ for different types of animals;

- (9) "Owner" of an animal includes any person who possesses, has the care of, has the control of, or harbours an animal and, where the person is a minor, includes a person with custody of the minor;
- (10) "Pound Fees" means such fees as are set by resolution of Council for the provision of food and shelter to animals harboured at the pound, and such Fees may differ for different types of animals.
- (11) "Pound Keeper" means a person appointed by Council or the Chief Administrative Officer as Pound Keeper, and a Pound Keeper is not an Owner with respect to any animals kept by him as Pound Keeper;
- (12) "Redemption Period" means that period of time which commences with the possession of an animal by the Pound Keeper and expires 72 hours later, except where the period expires when the pound is closed the period shall be extended to the expiry of the next business day;
- (13) "Registration Tag" means a tag bearing a serial number and the year in which it is issued by Staff to the Owner of a Dog upon registration of the Dog to identify the Dog, and includes a Replacement Tag issued to replace a missing tag;
- (14) "Replacement Tag Fee" means such fee as is set by resolution of Council for providing a Replacement Tag to an Owner of a Dog when a Registration Tag is lost;
- (15) "Staff" means those persons assigned by Council or the Chief Administrative Officer to administer the provisions of this By-law, and for the purposes of this By-law shall also include individuals at locations other than the Town Hall in Mahone Bay who are authorized by Council or the Chief Administrative Officer to register Dogs or issue Registration Tags, and shall also include the Pound Keeper;
- (16) "Town" means the Town of Mahone Bay.

DOG REGISTRATION

3. (1) Every Owner of a Dog shall register such Dog with Staff within 10 days of becoming the Owner and annually thereafter on or before the 20th day of January in each year and shall pay any applicable Dog Registration Fee to the Town for each Dog.
- (2) The following persons are exempt from registering a Dog and paying any applicable Dog Registration Fee, although they may choose to do so:
 - (a) a veterinarian who temporarily harbours a Dog for the sole purpose of providing it with medical care;

- (b) an Owner of a Dog that is trained to assist and assists the Owner with a disability, and such an Owner is exempt from the payment of a Dog Registration Fee for such Dog if the Owner chooses to register the Dog;
- (c) an Owner of a Dog that is less than 3 months old; and
- (d) a person who harbours a stray Dog for less than 7 days;
- (e) a owner of a Shop who temporary harbours a Dog for less than 12 hours to provide Grooming Services;

and the onus is on such persons to prove the exemption.

4. To register a Dog, the Owner shall provide to Staff 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 the breed, whether the Dog is male or female, any identifying characteristics and, when applicable, proof that the Dog has been spayed or neutered; and
- (4) applicable Dog Registration Fee.

The Owner may also provide any other information that may assist in identifying the Dog.

5. Staff shall keep a record of every Dog registered, recording the following information:

- (1) registration date;
- (2) registration number;
- (3) name of Dog;
- (4) description of the Breed of the Dog and any identifying characteristics;
- (5) name, civic address, mailing address, and telephone number of the Owner; and
- (6) any other information provided by the Owner that may assist in identifying the Dog;

and shall issue to the Owner a Registration Tag.

6. Where a Registration Tag issued by Staff to an Owner of a Dog becomes lost, the Owner shall obtain a Replacement Tag from Staff upon payment of a Replacement Tag Fee.
7. The Owner of every Dog shall keep on the Dog a collar with the Registration Tag issued for that Dog at the time of registration or a Replacement Tag, and the Tag shall be kept securely fixed on the Dog at all times during the year when off the property of the owner.
8. Where an Owner has registered a Dog and subsequently ceases to be the Owner of the Dog as a result of death, sale or transfer of the Dog, the Owner shall provide to Staff within 30 days of ceasing to be the Owner of the Dog written notice of:
 - (1) the name, civic address, mailing address, and telephone number of the person to whom the Dog was sold or transferred;
 - (2) the Dog's name and description;
 - (3) the Dog's registration number; and
 - (4) the reason for ceasing to be the Owner of the Dog.
9. The Owner of a Dog shall deliver in writing to Staff a statement of the number of Dogs owned, harboured, or that are habitually kept upon the premises occupied by the Owner, within 10 days after receiving notice from Staff requiring such information to be provided.
10. No more than four Dogs may be kept on any property.

ENFORCEMENT AND OFFENCES

11. The Animal Control Officer shall enforce this By-Law.
12. An animal runs at large in the Town when:
 - (1) the animal is off the property owned or occupied by the animal's Owner without the animal being on a leash and under the control of some person;
 - (2) the animal is tethered on a tether of sufficient length to permit the animal to leave the property owned or occupied by the animal's Owner;
 - (3) the animal is on property not owned by the animal's Owner where a sign has been erected prohibiting such an animal from being on the property; or
 - (4) the animal is on property not owned by the animal's Owner where a sign has been erected requiring such an animal to be under the control of some person by means of a harness or leash while on the property, and the animal is not under such control.

13. A Dog is fierce or dangerous if:
- (1) the Dog has bitten a person or domestic animal;
 - (2) the Dog, when either unmuzzled or unleashed, has approached any person in a vicious or terrorizing manner in an apparent attitude of attack at any place other than the property owned or occupied by the Dog's Owner;
 - (3) 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;
 - (4) the Dog is owned or harboured in whole or in part for the purpose of dog fighting; or
 - (5) the Dog is trained for dog fighting.
14. Evidence that one person is unreasonably disturbed by a Dog barking, howling or otherwise is *prima facie* evidence that the quiet of the neighbourhood is disturbed.
15. Every Owner of a Dog:
- (1) whose Dog is not registered pursuant to this By-law;
 - (2) whose Dog is not wearing a Registration Tag pursuant to this By-law;
 - (3) who fails to notify Staff of cessation of ownership of a Dog pursuant to this By-law;
 - (4) who neglects or refuses to provide a written statement required by this By-law;
 - (5) whose Dog runs at large in the Town;
 - (6) whose Dog persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise, or unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;
 - (7) who harbours, keeps, or has under care, control or direction a Dog that is fierce or dangerous; or
 - (8) who fails to remove the Dog's feces from public property or private property other than the Owner's;
- is guilty of an offence.
16. (1) It shall be a defence to a charge under subsection 15(5) of this By-law that at the time of running at large the Dog is:

- (a) participating in a dog exhibition event;
 - (b) participating in a search and rescue operation or law-enforcement operation; or
 - (c) assisting a person with a disability, provided the dog is trained for such purpose.
- (2) It shall be a defence to a charge under subsection 15(7) of this By-law that at the time of an attack or a biting:
- (a) the Dog was being tormented or abused by the person or domestic animal attacked or bitten;
 - (b) the Dog was acting in defense of itself or a person;
 - (c) the Dog was acting as a professionally trained guard dog while lawfully engaged for law enforcement or guard duties; or
 - (d) the attack or bite was inflicted upon or sustained by a person who was committing one or more of the following:
 - (i) a wilful trespass or other tort;
 - (ii) a criminal act upon premises owned or occupied by the Owner of the Dog; or
 - (iii) a trespass contrary to Provincial or Federal Legislation.
- (3) It shall be a defence to a charge under subsection 15(8) of this By-law that, at the time of the failure to remove the Dog's feces, the Owner had a disability that prevented the Owner from complying with the subsection and the Dog was trained to assist a person with such a disability and the Dog was assisting the Owner with such a disability.
17. (1) Every person who keeps more than four Dogs on any property contrary to this By-law is guilty of an offence.
- (2) It shall be a defence to a charge under this section that the property on which the Dogs are kept is a veterinary hospital and the Dogs are present for the purpose of receiving medical care.
18. Staff shall apply to the Governor in Council pursuant to the *Summary Proceedings Act*, R.S.N.S. 1989, c.450, as amended, to have the offences under this By-law designated by the *Summary Offence Ticket Regulations* to permit the use of summary offence tickets for prosecuting such offences in appropriate circumstances.

IMPOUNDING

19. An Animal Control Officer may, without notice to or complaint against the Owner, impound any animal that:
- (1) runs at large in the Town;
 - (2) is not registered or not wearing a Registration Tag required by this By-Law;
 - (3) is fierce or dangerous;
 - (4) is rabid or appears to be rabid or exhibits symptoms of canine madness; or
 - (5) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise;
- and deliver the animal to the Pound Keeper
20. The Pound Keeper shall:
- (a) provide adequate facilities for the keeping of such animals as may be seized by the Animal Control Officer;
 - (b) collect Impounding Fees, Pound Fees and any other charges as provided in this By-Law and forward such funds to the Town; and
 - (c) be responsible for the operation of the pound, including providing adequate food and water to impounded animals, maintaining the pound in a reasonable state of cleanliness, and keeping the pound premises neat and tidy in appearance.
21. (1) An animal must be redeemed by its Owner within the Redemption Period or the animal may be, given to a suitable person, sold or destroyed by the Pound Keeper.
- (2) If an impounded Dog has a Registration Tag fixed to it, the Pound Keeper shall attempt to contact the registered Owner using the records associated with the Registration Tag. If an impounded animal other than a Dog has the name and telephone number of its Owner attached to it, the Pound Keeper shall attempt to contact the Owner. The onus is on the Owner, however, to ascertain within the Redemption Period whether the animal has been impounded, and neither the Pound Keeper nor the Town shall incur liability in the event of failure to contact the Owner.
- (3) The animal shall only be destroyed if no suitable owner can be found for the animal.

22. No Dog may be redeemed by its Owner or sold by the Pound Keeper if the Dog:
- (1) is fierce or dangerous;
 - (2) is rabid or appears to be rabid; or
 - (3) exhibits symptoms of canine madness;
- and the Dog shall be destroyed by the Pound Keeper.
23. (1) An animal cannot be redeemed by its Owner until proof of ownership of the animal is provided to the Pound Keeper by the Owner, Impounding Fees, Pound Fees, and any Extraordinary Expense are paid by the Owner to the Pound Keeper, and, where applicable, the Dog is registered and a Registration Tag is fixed to the Dog.
- (2) Notwithstanding subsection (1), a Dog cannot be redeemed by its Owner if the Dog was impounded for:
- (a) running at large; or
 - (b) persistently disturbing the quiet of the neighbourhood by barking, howling or otherwise, or unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;

for the third time within a period of 24 months, and the Pound Keeper shall dispose of the Dog as if the Redemption Period had expired.
 - (c) Disposing of the Dog includes finding a suitable owner for the dog.
- (3) Notwithstanding subsection (1), a Dog cannot be redeemed by its Owner if the Owner has been convicted of three offences pursuant to subsections 15(5), 15(6), 15(7), or subsection 17(1) of this By-law, or any combination thereof, within a period of 24 months, and the Pound Keeper shall dispose of the Dog as if the Redemption Period had expired.
24. (1) Upon the expiry of the Redemption Period for an animal, the Pound Keeper may give away or sell any animal eligible to be sold for the best price reasonably obtainable;
- (2) and in the event an animal cannot be given away or sold by the Pound Keeper within a reasonable period of time, the Pound Keeper shall destroy the animal.
25. An Animal Control Officer may without notice to or complaint against the Owner, kill on sight any animal that:
- (1) is fierce or dangerous or appears to be fierce or dangerous;

- (2) is rabid or appears to be rabid;
- (3) exhibits symptoms of canine madness;
- (4) is running at large and which the Officer believes to pose a danger to a person or a domestic animal or to property of persons other than the Owner.

PENALTIES AND ANIMAL OWNER LIABILITY

26. (1) Any person who contravenes section 15(1), 15(2), 15(3), 15(4), 15(5), 15(6), 15(8), or 17(1) of this By-law is punishable on summary conviction by a fine of not less than \$150.00 and not more than \$10,000.00, plus any Impounding Fees, Pound Fees, and Extraordinary Expense associated with the conduct that gives rise to the offence, and in default of payment to imprisonment for a period not exceeding one year.
- (2) Any person who contravenes subsection 15(7) of this By-law is punishable on summary conviction by a fine of not less than \$350.00 and not more than \$10,000.00, plus any Impounding Fees, Pound Fees, and Extraordinary Expense associated with the conduct that gives rise to the offence, and in default of payment to imprisonment for a period not exceeding one year.
27. Any person who contravenes section 15 or 17 of this By-law and who is given notice of the contravention may pay to the Town, at the place specified in the notice, the sum shown in Schedule "A" attached hereto and forming part of this By-law, plus any Impounding Fees, Pound Fees, and Extraordinary Expense as stated in the notice, within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.
28. Any Owner of an animal that is impounded is liable for any Impounding Fees, Pound Fees, and Extraordinary Expense despite the failure of the Owner to redeem the animal and regardless of whether the owner is convicted of an offence pursuant to this By-law.

REPEAL

29. All previous Dog Bylaws of the Town, and any amendments thereto, are hereby repealed.

EFFECTIVE DATE

30. This By-law is effective upon publication.

C Joe Feeney, Mayor

James A Wentzell, CAO

This is to certify that the foregoing is a true copy of a bylaw passed at a duly convened meeting of the Council of the Town of MAHONE BAY, held the 14th day of January 2014.

Given under the hand of the Mayor and Chief Administrative Officer and the seal of the Town of MAHONE BAY this 15th day of January 2014.

FIRST READING:	April 24, 2008	November 28, 2013
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FORWARDED TO TOWN WEBSITE:	N/A	January 23, 2014

*Effective Date of the By-law unless otherwise specified in the text of the By-law.

Schedule "A"

Section	Payment
15(1)	\$150.00
15(2)	\$150.00
15(3)	\$150.00
15(4)	\$150.00
15(5)	\$150.00
15(6)	\$150.00
15(7)	\$350.00
15(8)	\$150.00
17(1)	\$150.00