

Council Meeting August 11, 2011.

Proposed Dog By-law

Proposed Motion:

That Council hereby approves first reading and hereby proceeds to advertise for a Public Hearing in order to consider and if deemed advisable, repeal the existing Dog By-law, By-law No. 20, and substitute therefore a new Dog By-law as attached.

TOWN OF YARMOUTH
BY-LAW NUMBER 20
RESPECTING DOGS
IN THE TOWN OF YARMOUTH

Short Title

1. This By-law shall be known as By-law No. _____ and may be cited as the “Dog By-law”.

Definitions

2. In this By-law:

(a) “destroy” means kill;

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

(c) “domestic animal” means any dogs, cats, pets or farm animals;

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

(e) “fierce or dangerous dog” has the meaning stipulated in s. 24 of this By-law;

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

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

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

(g) “Town Staff" means the Town’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 any member, employee, or agent of any branch of the Society for the Prevention of Cruelty to Animals (SPCA) which has contracted with the Town for the provision of certain services relating to this By-law;

(h) "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;

(i) "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 Staff and obtain from the Town Staff a tag for such dog.

4. A person shall be at least eighteen (18) years of age to register a dog with the Town.

5. The Town shall not accept any dog for registration if the owner has any unpaid fines levied against him or her as a result of a conviction under this By-law, or any unpaid fines levied with respect to a conviction under this By-law involving the dog to be registered.

6. The failure to pay any fine levied under this By-law within the time period granted by the Court shall result in the immediate revocation of the registration of any dog under this By-law.

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

8. In order to register a dog, an owner shall pay the annual registration fees set out in Schedule A of this By-law 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 unspayed or neutered or unneutered as the case may be; and, at the discretion of the owner, the following additional information may be supplied:

(i) A photograph of the dog;

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

(iii) The name of the veterinary clinic frequented by the dog and veterinary file ID number.

9. Registration shall be effective until the first day of April in the year following the year of registration.

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

11. The owner of every dog shall keep on the dog a collar with the tag issued for that dog by Town Staff at the time of registration. Such a tag shall be kept securely fixed on the dog at all times during the year until a replacement tag is issued. However, such a 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.

12. The owner of a dog shall deliver in writing to 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.

13. The following are exempt from registration:

(a) the Town Staff or the Yarmouth SPCA shall not be required to register a stray;

(b) 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.

14. 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.

Dog Control Provisions

15. The owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, shall immediately remove the dog's feces from any public property or private property, other than the property of its owner.

16. If a dog is on any public property or private property other than the property of its owner, the owner shall have in his or her possession a suitable means of facilitating the removal of the dog's feces.

17. The owner of a dog may enter upon private property for the purpose of removing a dog's feces.

18. No owner shall suffer, permit, allow or for any reason have his or her dog persistently bark, howl or otherwise disturb the quiet of a neighborhood.

19. The owner of a dog shall ensure that such dog does not enter or remain in or on:

- (a) any school ground, playground, sports field, or golf course; or
- (b) any other area where dogs are prohibited by posted signs.

Unsanitary Conditions

20. No person shall keep a dog in an unsanitary condition within the Town. Conditions shall be deemed unsanitary where the keeping of the dog results in an accumulation of fecal matter, an odour, insect infestation or rodent attractants which endanger the health of the animal or any person, or which disturb or is likely to disturb the enjoyment, comfort or convenience of any person in or about any dwelling, office, hospital or commercial establishment.

Dogs Running At Large

21. Any dog which is off the premises occupied by its owner must be on a leash or harness and under the continuous restraint and control of some person. Whether a dog is under the continuous restraint and control of a person is to be determined by reference to:

- (a) the size and strength of the person in relation to the size and strength of the dog;

- (b) whether the dog has responded to voice, sound or sight commands from the owner;
- (c) whether the dog has bitten, attacked or done any act that injures a person or domestic animal;
- (d) whether the dog has chased or otherwise threatened a person;
- (e) whether the dog has caused damage to property.

22. Any dog that does not comply with the requirements of section 21 is deemed to be running at large.

23. 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.

24. 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 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; or
- (d) within a Town 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.

Fierce or Dangerous Dogs

25. For purpose of this By-law a dog that is fierce or dangerous 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 attacked or 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)** owned or harboured in whole or in part for the purpose of dog fighting; or
- (f)** 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.

26. In addition to a prosecution of an offence under this By-law for having a fierce or dangerous dog, or after the conviction of any person for having a fierce or dangerous dog, the Town may require the registered owner of a fierce or dangerous dog to ensure that within ten (10) days after the notice to do so:

- (a)** such dog is registered with the Town as a fierce or dangerous dog in accordance with the fees outlined in Schedule A;
- (b)** such dog is spayed or neutered;
- (c)** at all times when off the owner's property, the dog shall be muzzled;
- (d)** at all times when off the owner's property, the dog shall be on a leash not longer than 1.2 metres with a tensile strength of at least 140 kilograms and under the control of a responsible person sixteen years of age or older;
- (e)** when such dog is on the property of the owner, it shall be either securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the escape of the dangerous dog and capable of preventing the entry of any person not in control of the dog. Such pen or structure must have minimum dimensions of two metres by four metres and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than thirty centimetres deep. The enclosure must also provide protection from the elements for the dog. The pen or structure shall not be within one metre of the property line or within three metres of a neighbouring dwelling unit. Such dog may not be chained as a means of confinement;
- (f)** a sign is displayed at each entrance to the property and building in which the dog is kept warning in writing, as well as with a symbol, that there is a dangerous

dog on the property. This sign shall be visible and legible from the nearest road or thoroughfare;

(g) a policy of liability insurance, satisfactory to the Town, is in force in the amount of at least \$500,000, covering the twelve month period during which licensing is sought, for injuries caused by the owner's dog. This policy shall contain a provision requiring the community to be named as an additional insured for the sole purpose of the community to be notified by the insurance company of any cancellation, termination or expiration of the policy.

27. The Town shall have the authority to make whatever inquiry is deemed necessary to ensure compliance with the provisions outlined in this By-law.

28. If the owner of a dog that is fierce or dangerous is unwilling or unable to comply with the requirements of section 26 after fourteen days, the said dog shall then be destroyed. Any dog that is fierce or dangerous under this By-law may not be offered for adoption.

29. The owner of a fierce or dangerous dog who does not comply with the provisions of this section of the By-law, will have all current dog licenses revoked, and no future dog licenses will be issued for a period of 5 years.

Responsibilities of the Owner

30. The owner of a dog:

(a) whose dog is not wearing a tag as required by this By-law;

(b) whose dog is not registered pursuant to this By-law;

(c) who fails to remove the feces of a dog as required in this By-law;

(d) who fails to have in his or her possession a suitable means of facilitating the removal of a dog's feces when required by this By-law;

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

(f) who permits his or her dog to enter or remain in or on a school ground, playground, sports field, golf course, or any other area where dogs are prohibited by posted signs;

- (g) who keeps a dog in an unsanitary condition;
- (h) who neglects or refuses to provide a written statement required by this By-law;
- (i) which runs at large;
- (j) which is fierce or dangerous;
- (k) who fails to comply with the requirements for registering or keeping a fierce or dangerous dog;

is guilty of an offence under this By-law.

Impounding

31. 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 exhibits symptoms of canine madness; or
- (f) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise.

32. Owners seeking to redeem an impounded dog must pay an impoundment fee as outlined in Schedule A of this By-law.

33. Subject to Section 31 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 Staff in relation to the dog.

34. 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.

35. 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 destroyed in a humane way by the Pound Keeper and, if sold, the proceeds shall belong to the Town.

36. 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.

37. 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 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 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

38. Town Staff may after complying with the requirements of Section 39, destroy after capture any dog that:

- (a)** is fierce or dangerous;
- (b)** is rabid or appears to be rabid or exhibits symptoms of canine madness.

39. Before destroying any dog, the Town Staff shall given written notice of its intent to destroy the dog to the registered owner of the dog, or in the event there is no registered owner of the dog, any owner of the dog. The written notice shall provide the owner with the circumstances as known by the Town Staff which lead to the decision to destroy the dog. The written notice shall specify that the owner has 10 days to provide a written response to the notice which shall be considered by the Town Staff. After receiving the written response, the Town Staff shall either confirm or deny the decision to destroy the dog.

40. Town staff may, after one written warning, has been given to the owner that a dog has been running at large or eluding capture, destroy such dog on sight or after capture.

41. Town 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 an animal or to property of persons other than the owner.

Penalties

42. Any person who contravenes any provision of this By-law is guilty of an offence punishable on summary conviction and is liable to a penalty as set out in Schedule B.

43. A Provincial Court Judge, in addition to the penalties provided in this By-law, may, if he or she considers the offence sufficiently serious, direct or order the owner of a dog to prevent such dog from doing mischief or causing the disturbance or nuisance complained of, or have the animal removed from the Town, or order the animal destroyed.

44. Where any person contravenes the same provision of this By-law twice within one twelve month period, the specified penalty payable in respect of the second contravention is double the amount specified in Schedule B of this By-law.

45. Where any person contravenes the same provision of this By-law three or more times within one twelve month period, the specified penalty payable in respect of the third or subsequent contravention is triple the amount specified in Schedule B of this By-law.

46. Any person in default of payment may be imprisoned for a term not exceeding ninety (90) days.

Schedule A - Licence Registration and Impoundment Fees

REGISTRATION FEES	
Registration Type	Cost
Dog registration (male or female)	\$50
Dog registration for neutered male or spayed female	\$25
Dog registration for neutered male or spayed female that is implanted with a microchip or tattooed	\$10
Fierce and Dangerous Dog registration	\$250
Kennel registration	\$100
IMPOUNDMENT FEES	
Impoundment Type	Cost
First impoundment in any calendar year	
Neutered male or spayed female dog	\$25
Non-neutered or unspayed dog	\$50
Fierce and Dangerous dog	\$250
Second impoundment in any calendar year	
Neutered male or spayed female dog	\$100
Non-neutered or unspayed dog	\$250
Fierce and Dangerous dog	\$500
Third impoundment in any calendar year	
Neutered male or spayed female dog	\$200
Non-neutered or unspayed dog	\$500
Fierce or Dangerous dog	\$1000

Schedule B - Penalties

Penalties	Cost	
failure to remove the feces of a dog as required in this By-law;	\$100	
failure to have in his or her possession a suitable means of facilitating the removal of a dog's feces when required by this By-law;	\$100	
whose dog persistently disturbs the quiet of the neighborhood by barking, howling or otherwise;	\$100	
who permits his or her dog to enter or remain in or on a school ground, playground, sports field, golf course, or any other area where dogs are prohibited by posted signs;	\$100	
who keeps a dog in an unsanitary condition;	\$100	
who neglects or refuses to provide a written statement required by this By-law;	\$100	
which runs at large;	if fierce or dangerous:	\$1000
	if unlicensed:	\$150
	if licensed:	\$100
which is fierce or dangerous;	\$1000	
who fails to comply with the requirements for registering or keeping a fierce or dangerous dog	\$1000	

The contravention of the same provision of this By-law twice within one twelve month period shall double the above.

The contravention of the same provision of this By-law three or more times within one twelve month period shall triple the above.

