

## Municipality of Cumberland By-Law 20-01

### Canine Control By-Law

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**WHEREAS** Section 172 (1) (a), (b), (c) and (d) of the Nova Scotia Municipal Government Act (MGA) provides Municipalities with the power to make bylaws for Municipal purposes respecting the health, wellbeing, safety, and protection of persons; the safety and protection of property; persons, activities and things in, or near a public place or place that is open to the public; and respecting nuisances, activities and things that, in the opinion of Council, may be or may cause nuisances, including noise and odours; and

**WHEREAS** Section 174 (f) of the MGA provides Municipalities with the power to make bylaws respecting wild and domestic animals and activities in relation to them; and

**WHEREAS** Section 175 of the MGA provides Municipalities with the power to make bylaws specifically pertaining to dogs; and

**WHEREAS** The Municipality of the County of Cumberland does not subscribe nor endorse Breed Specific Legislation in relation to its Canine Control By-Law;

**BE IT ENACTED** by the Council of the Municipality of the County of Cumberland, as follows:

**This By-Law is entitled the *Canine Control By-Law*.**

**In this By-law:**

#### **GENERAL PROVISIONS**

- 1 Should any section of this By-Law be declared by a Court of competent jurisdiction as ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding and shall be read as if the offending section or part had been struck out.
- 2 Should the provisions of this By- Law be found to conflict with the provisions of any other By-Law of the Municipality the provisions of the By-Law providing for the greater degree of safety shall prevail.

#### **DEFINITIONS**

- 3 **In this By-Law:**
  - (a) **"accredited training"** means a certificate from Assistance Dogs International or the International Guide Dog Federation. A dog that has not been trained by an accredited training school may be accredited if the handler and the dog pass a service dog assessment administered by an accredited organization.
  - (b) **"Canine Control Officer"** means a person or persons hired or appointed to enforce the Municipality's Canine Control By-Law;
  - (c) **"Chief Administrative Officer"** (CAO) means the Chief Administrative Officer of the Municipality of the County of Cumberland, as appointed pursuant to the Municipal Government Act;
  - (d) **"Clerk"** means the Clerk of the Municipality and shall include any person

designated by the Chief Administrative Officer to carry out the duties of the Clerk under this By-Law;

- (e) **“continuous restraint and control”** means the dog is on a leash controlled by a person of sufficient size and strength to completely restrain and control the dog;
- (f) **“Council”** means the Council of the Municipality of the County of Cumberland;
- (g) **“dangerous dog”** means any dog that acts in a potentially aggressive or threatening manner towards humans or animals but has not yet resulted in a serious bite, as outlined in Section 7 of this By-Law, Fierce and Dangerous Dogs;
- (h) **“dog”** means any dog, male or female, or any animal that is the result of the breeding of a dog with any other animal;
- (i) **“domestic animal”** includes pets and may include farm animals;
- (j) **“excessive noise”** means allowing a dog to howl or bark to such an extent as to disturb the peace of the surrounding residents or otherwise become a nuisance;
- (k) **“extraordinary expense”** means any expense incurred in relation to a dog except for the provision of food and shelter;
- (l) **“fierce and dangerous dog”** as defined in Section 7 of this By-Law;
- (m) **“impound”** means to seize and house (domestic animals) in a pound or enclosure;
- (n) **“kennel”** means an establishment where dogs are boarded, bred, or sold, for compensation;
- (o) **“livestock dog”** means a dog trained in the capacity of herding livestock;
- (p) **“mitigating factor”** means a circumstance that may excuse the aggressive behaviour of a dog where the dog:
  - (i) at the time of the aggressive behaviour, attacked or injured any person trespassing on property occupied by its owner; or
  - (ii) while off the owner’s property and in the continual restraint and control of the owner was reacting to perceived aggressive or threatening behaviour to the dog or its owner; or
  - (iii) immediately prior to the aggressive behaviour, was being abused or tormented by the person attacked or injured;

Any other mitigating factors that may not be conveyed in the above definitions will be determined in a fair and unbiased manner by the Canine Control Officer, on a case by case basis.

- (q) **“Municipal Staff”** means the Municipality’s Canine Control Officer and any 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;

- (r) **"Municipality"** means the Municipality of the County of Cumberland;
- (s) **"Muzzle Order"** means an Order issued by the Canine Control Officer to require a dog's muzzle to be restricted while off the owner's property, as outlined in Section 8 (b);
- (t) **"owner"** means the individual who has charge of a dog and who has documented proof of ownership. Proof of ownership includes but is not limited to: documentation from a veterinary clinic, a purchase invoice for the dog, or any reasonable form of physical proof of ownership. In situations where the owner is a minor, a parent, guardian or custodian of such a person is also deemed as being an owner;
- (u) **"pound"** means the L.A. Animal Shelter or other accommodation as designated by Council;
- (v) **"public road"** means any road, street, or highway owned and maintained by the Province of Nova Scotia or the Municipality;
- (w) **"seize"** means to take possession of a dog using official power and force;
- (x) **"service dog"** means a dog specially trained to assist individuals with disabilities with everyday tasks; an animal trained by a recognized school for service as a guide dog for the blind or visually impaired; a guide dog for the deaf or hearing impaired; or a special skills dog for other challenged persons and including an animal used in therapy, registered with a recognized organization for that purpose;
- (y) **"traveled portion or shoulder"** means, in the case of a paved road, the paved surface and any unpaved area between the paved area and the ditch, and where there is no ditch, the nearest property line. In the case of an unpaved road it means the entire width of the road between the ditches, and where there is no ditch, the nearest property line.

#### **DOG CONTROL AND POUND**

- 4. The Municipality contracts the services of a Pound which shall:
  - (a) collect 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;
  - (e) keep the pound premises neat and tidy in appearance.

#### **DOGS RUNNING AT LARGE**

5. For the purposes of this by-law a dog is deemed to be running at large if it is:
  - (a) off the premises occupied by the owner without being under the continuous restraint and control of some person;
  - (b) secured on a tether of sufficient length to permit the dog to leave the property boundaries of the premises occupied by the owner; and
  - (c) at any time while the dog is on the travelled portion or shoulder of any public road, it is not under control by means of a harness or leash
  
6. An unleashed or unharnessed dog, under continuous human restraint or control, shall not be deemed to be running at large if at the time the dog is:
  - (a) participating in a search and rescue operation or law-enforcement operation; or
  - (b) assisting a person with a disability, provided the dog is professionally trained for such purpose; or
  - (c) 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
  - (d) a trained herding dog in the course of its animal driving duties; or
  - (e) while competing in a recognized dog exhibition event or dog field trial.

#### **FIERCE AND DANGEROUS DOGS**

7. A dog that, in the absence of a mitigating factor as defined herein:
  - (a) has attacked or injured a person;
  - (b) has attacked or injured a domestic animal;
  - (c) while either not muzzled 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) is owned or harboured in whole or in part for the purpose of dog fighting; or that is trained for dog fighting,is considered to be fierce and dangerous under this By-Law.

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

The Canine Control Officer shall seize any dog that has exhibited fierce and dangerous behavior and shall kennel such animal until an evaluation of the animal has been done by the Canine Control Officer and an authority in dog behaviour as recognized by the Municipality, which may also include quarantining, if required vaccinations cannot be proven.

Based on that evaluation the Municipality shall determine if the dog can be rehabilitated and safely returned to its owner. If it is proven that the dog poses a substantial risk of such behavior recurring, and the owner is unable or unwilling to deal with the requirements imposed, based on the evaluation the Municipality will determine if there are any other remedies that might allow the dog to live safely with people. If no remedy is found to the satisfaction of the Municipality, the dog will be euthanized.

If it is determined the dog can be rehabilitated, it will be returned to the Pound with the stipulation it may be adopted only if the requirements for rehabilitation are met. Any kennel costs or extraordinary expenses incurred while the dog is impounded shall be borne by the dog owner, whether the dog is redeemed or not.

### **DANGEROUS DOGS**

- 8** The Canine Control Officer may deem a dog to be a dangerous dog, as defined by this By-Law. Where the Canine Control Officer designates a dog as dangerous, the Officer shall serve Notice upon the owner of such dog requiring the owner to comply with any or all of the following requirements:
- (a) keep such dog confined in a manner that prevents escape and unsupervised contact with the public.
  - (b) securely attach a muzzle to and leash such dog at all times when it is not confined in accordance with Section 8 (a), and be under the care and control of a person physically capable of controlling the dog;
  - (c) post a Beware of Dog sign in a conspicuous place on his/her property;
  - (d) have the dog evaluated by a Certified Animal Behaviorist or a Certified Veterinary Behaviorist with the completion of any training or treatment as deemed appropriate by that expert,
  - (e) have the dog spayed or neutered, to assist with problem aggression, hardheaded and roaming behavior;

#### Notice to Owner of Dangerous Dog

- (f) The Notice to Owner of a Dangerous Dog shall include:
  - I. A statement explaining why the Canine Control Officer has deemed the dog to be a dangerous dog;
  - II. A statement of requirements that the owner must comply with, in accordance with Section 8.
  - III. A statement that the owner may request, within five (5) working days of receipt of the Notice, a Council Hearing which may affirm or rescind the Canine Control Officer designation of the dog as dangerous.

#### Appeal of Designation

- (g) The owner of a dog who receives Notice from the Canine Control Officer identifying the dog as dangerous may, within (5) working days of receipt of such notice, submit a written application to the Municipal Clerk for a Council Hearing for a review of the designation. Council shall hold a hearing at the next Council Meeting after receipt of this written request for a Hearing. This Hearing shall give the Owner the opportunity of presenting testimony that the dog is not dangerous. The application for a Hearing must include the names and credentials of any witnesses called, who will be asked to testify.

#### Hearing

- (h) At the hearing called for the purpose indicated in Section 8 (g) Council may:
  - (i) accept the Canine Control Officer's decision to deem the dog as a

- dangerous dog.
- (ii) rescind the Canine Control Officer's decision to deem the dog as a dangerous dog.

**Requirement**

- (i) Section 8 (a) (b) (c) and (d) requirements, which may be imposed on a dog owner by the Canine Control Officer, shall not come into effect until either the time for appeal under Section 8 (g) has elapsed without the dog owner requesting an appeal pursuant to that section, or after Council has made a decision as per Section 8 (h).

**COMMUNICATIONS**

- 9. (a) Communications regarding active or ongoing Canine Control investigations shall be done in writing via email, regular mail or hand delivered letter;
- (b) Complaints regarding Canine Control violations can be made in person, by phone, in writing via email, letter or complaint form.

**RESPONSIBILITIES OF OWNERS**

- 10 Every owner of a dog
  - (a) whose dog runs at large;
  - (b) whose dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise; and
  - (c) who harbours, keeps, or has under care, control or direction a dog that is fierce or dangerous,
  - (d) except a dog trained to assist and is assisting a person with a disability, who fails to remove the feces of the dog from public or private property other than property of the dog owneris in contravention of this By-Law.

**IMPOUNDING**

- 11 The Canine Control Officer or designate may, without notice to or complaint against the owner, impound any dog that:
  - (a) is running at large;
  - (b) is fierce or dangerous;
  - (c) is rabid or appears to be rabid or exhibits symptoms of canine madness; or
  - (d) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise.
- 12 An Impounding Fee of \$75.00 and a Daily Pound Fee of \$ 25.00 shall be payable to the Pound by the owner of the dog that has been impounded for the first time. An Impounding Fee of \$150.00 and a Daily Pound Fee of \$50.00 shall be payable by the owner of the dog which has been impounded for a second time. A dog impounded for a third time shall not be redeemable and shall become the property of the Pound and will be dealt with accordingly, on a case by case basis.

- 13 Subject to Section 12 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 that has been impounded may redeem the dog after payment to the Pound Keeper of the Impounding Fee and the Daily Pound Fee(s). In addition to the Impounding Fees and the Daily Pound Fee, all veterinary expenses incurred while the dog was impounded, and any reimbursement for any extraordinary expenses incurred in relation to the dog, must be paid prior to the release of the animal.
- 14 Failure to muzzle a dog that has a Muzzle Order when it is off the owner's property can result in seizure and / or a fine as stated in Sections 12 and 20.
- 15 Any dog that has not been redeemed by its owner at the expiry of a period of 72 hours after being impounded shall become the sole responsibility and property of the Pound Keeper and, if sold, the proceeds shall belong to the Pound.
- 16 Any dog impounded that exhibits signs of infestation or has urgent physical issues will be examined by a Veterinarian. All resulting charges shall be paid by the dog owner prior to redemption.
- 17 When a dog is seized, for the first time and the dog owner is known the Municipality shall make three (3) attempts to return the dog to its owner at no charge. For subsequent seizures the dog shall be taken to the Pound. The Pound Keeper shall make at least three attempts to contact the owner of the dog. Neither the Pound Keeper nor the Municipality shall incur liability in the event of failure to contact the owner.
- 18 The Canine Control Officer may, after two written warnings have been given to the owner, impound a dog that is contravention of this by-law.

#### **ENFORCEMENT AND PENALTIES**

- 19 This By-Law may be enforced by the Canine Control Officer, By-Law Enforcement Officer, Police Officer, Peace Officer, or other individual duly appointed for the purpose of enforcing this By-Law.
  - (a) Each day of contravention shall be a separate offence.
  - (b) Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Five Thousand Dollars (\$5,000.00) and to imprisonment of not more than thirty (30) days in default of payment thereof.
- 20 First and second time contraveners of Section 10 of this By-Law who have been given notice of the contraventions may pay to the Municipality at the place specified in the Notice, a sum of \$100.00 (one hundred dollars) within 14 days of the date of the Notice and shall thereby avoid prosecution for that contravention. The third and subsequent contraventions will be dealt with under Section 19 of this By-Law.
- 21 This By-Law shall come into effect on the advertised date of the notice of final passing.

- 22 All previous Dog By-Laws in the Municipality of the County of Cumberland and the former Towns of Springhill and Parrsboro are hereby repealed.

Clerk's Annotation for Official By-law Book

Date of first reading: November 13, 2019

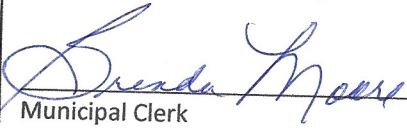
Date of advertisement of Notice of Intent to Consider: November 27, 2019

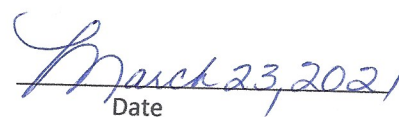
Date of second reading: January 15, 2020

\*Date of advertisement of Passage of By-Law: February 5, 2020

Date of mailing to Minister a certified copy of By-law: August 10, 2020

I certify at this By-Law was adopted by Council and published as indicated above.

  
Municipal Clerk

  
Date

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