

BY-LAW NO. S-12

A BY-LAW RELATING TO THE CONTROL AND LICENSING OF DOGS IN THE TOWN OF NACKAWIC

BE IT ENACTED by the Council of the Town of Nackawic as follows:

1. Short Title

This By-Law may be cited and referred to as the “Dog By-law”.

2. Interpretation

In this by-law,

“Clerk” means the Town Clerk of the Town of Nackawic.

“Council” means the Mayor and Councillors of the Town of Nackawic.

"Dog" means any animal of the canine species, regardless of age or sex.

“Dog Constable” means a peace officer or a person appointed by the Council to carry out the functions of this by-law.

"Impounded" means seized, delivered, received, or taken into the custody of the Dog Constable, as provided by this by-law.

"Muzzled", when describing a dog, means fastened or controlled around the mouth so as to prevent the dog from biting.

“Owner” means, with reference to a dog, a person who

- (i) is in possession of it,
- (ii) harbours it,
- (iii) suffers it to remain about his or her residence or premises, or
- (iv) registers it under this By-Law.

“Peace Officer” means any member of the RCMP Detachment of the Town of Nackawic.

“Registrar” means the Clerk, or such other person as may be appointed by the Council, to issue the licenses and collect the license fees provided for in this by-law.

“Running at Large” means a dog that is not on the property of the owner and not on a leash and/or under the control of a person responsible.

“Vicious Dog” means a dog of any age:

- (a) any dog with a known propensity, tendency or disposition to attack without provocation other domestic animals or humans, or
- (b) any dog which has bitten another domestic animal or human without provocation, or
- (c) any dog which, without provocation, chases humans or other animals, or
- (c) any dog which is a continuing threat of serious harm to humans or other animals.

3. Licensing And Registration

- 3.01 No person who is resident in the Town of Nackawic shall own a dog without having a valid license for that dog under this by-law.
- 3.02 Every owner of a dog shall before the last day of January in each year
 - (a) register with the Registrar each dog which he or she owns, and
 - (b) pay to the Registrar a license fee according to Schedule “A” attached and forming part of this by-law.
- 3.03 A person who becomes an owner of a dog after the last day of January in any year shall register the dog within thirty days of becoming the owner and shall pay the license fee prescribed in subsection 3.02.
- 3.04 A license issued under this by-law expires on the last day of the calendar year in which it is issued.
- 3.05 The Registrar, at the time of registration of a dog, shall issue to the owner a license tag showing the number under which the dog is registered and the year of registration.
- 3.06 Every owner of a dog shall cause such dog registered by him or her to wear a collar to which shall be attached the tag issued under this by-law. No person other than the owner shall remove a collar or tag from any registered dog.
- 3.07 The owner of a dog registered under this by-law shall not allow the tag issued for such dog to be worn by another dog.

- 3.08 When any person has a dog wearing valid and current tags issued by another municipality, that person is not required to register the dog in the Town of Nackawic until the following calendar year or the expiration of the tags, whichever comes first.
- 3.09 Upon application by the owner and a fee of five dollars (\$5.00) paid to the Registrar, a license tag, which becomes lost, may be replaced.

4. Rabies

- 4.01 The owner of a dog, which has not been vaccinated against rabies, shall cause his or her dog to be so vaccinated
- (a) within ten days of acquiring the dog if it is more than three months of age, or
 - (b) within ten days after it has reached the age of three months.
- 4.02 When a dog is more than six months of age on the coming into force of this by-law, and it has not been vaccinated against rabies, the owner shall cause such a dog to be vaccinated against rabies within one month.
- 4.03 An owner who neglects or refuses to have his or her dog vaccinated under this section is guilty of an offence and is punishable upon conviction to a fine of not less than Twenty-Five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00).
- 4.04 The Dog Constable shall seize and cause to be destroyed immediately any dog, which is known to be rabid.
- 4.05 The Dog Constable shall seize and cause to be impounded immediately any dog suspected of being rabid and shall cause the dog to be examined by a veterinarian to determine whether or not the dog is rabid. All costs in determining whether or not the dog is rabid shall be borne by the owner of the dog.
- 4.06 At the time of application for a dog license proof of vaccination for rabies and distemper must be shown.

5. Seizing And Impounding

- 5.01 A Judge of the Provincial Court, upon complaint being made, alleging that a dog has bitten or attempted to bite a person, may summon the owner of the dog to appear and to show cause why the dog should not be destroyed and may, if the evidence produced appears that the dog has bitten or has attempted to bite a person, make an order directing
- (a) that the dog be destroyed, or

- (b) that the owner or keeper of the dog keeps the dog under control.
- 5.02 A person failing to comply with an order under subsection 5.01 is liable to a fine of twenty-five dollars (\$25.00) per day that the offence occurs and the owner is responsible for the payment of accumulated fines and pound fees, should the court so direct.
- 5.03 A dog suspected of being rabid shall for the purposes of this section be considered dangerous.
- 5.04 The Dog Constable shall seize and impound any dog found running at large, except on the premises of its owner, and
- (a) if the owner of such dog is known, notify the owner that his or her dog has been seized and impounded, or
- (b) if the owner of such dog is not known, or being known cannot be located, post an impoundment notice as required by subsection 5.05 and after the requirements of subsection 5.05 are satisfied, may sell or destroy such dog which has not been claimed by the owner or anyone on his or her behalf.
- 5.05 Before selling or destroying a dog which is impounded and which is found not to be rabid, the Dog Constable
- (a) shall post a notice at the office of the Town Clerk stating that such dog has been impounded and will be sold or destroyed within seventy-two hours from the time of posting unless the owner, or anyone on his or her behalf, claims the dog and pays the costs outlined in subsection 5.06, and
- (b) subject to subsections 4.04 and 4.05, may sell or destroy such dog after seventy-two hours have expired from the time of posting.
- 5.06 The Dog Constable shall collect from the owner before releasing the dog the sum of twenty-five dollars (\$25.00) for each day or part thereof during which the dog has been impounded and maintained, or from the purchaser at the time of the sale of the dog, the total of all costs of seizing, impounding and maintaining the dog.
- 5.07 The Dog Constable is authorized to make use of tranquilizing devices, and/or pepper spray on dogs in the course of carrying out his or her duties hereunder.
- 5.08 When destroying any dog under this section, which has not been claimed by the owner or anyone on his or her behalf, the Dog Constable shall do so in a humane manner acceptable to the Council.

6. Kennels

6.01 Kennels are prohibited in the Town of Nackawic.

7. Offences

7.01 The owner of a dog commits an offence under this by-law if

- (a) the dog is permitted to run at large,
- (b) he or she refuses or neglects to register the dog or pay any license fee required under Section 3 of this by-law,
- (c) he or she refuses or neglects to attach and keep attached a license tag to the collar of the dog,
- (d) he or she refuses or neglects to cause the dog to wear a collar at all times other than when it is in a residence,
- (e) the dog is permitted to chase or run after pedestrians or motor vehicles,
- (f) the dog is permitted to bark incessantly so that annoyance is caused to the public.

7.02 Vicious Dogs

- (a) If a complaint of a vicious dog is received by the Town Office or Dog Constable, a committee consisting of the Dog Constable, one member at large appointed by Council and one representative of the Provincial SPCA will investigate and determine if a dog is considered vicious. If the committee determines the dog to be indeed vicious, the Dog Constable will:
 - (i) give the owner a written notice that the dog has been determined to be a vicious dog,
 - (ii) require the owner to keep such dog in accordance with the provisions of subsection 7.02 “e” of this by-law upon the owner’s receipt of the notice, and
 - (iii) inform the owner that if the vicious dog is not kept in accordance with subsection 7.02 of this by-law, the owner will be fined, or subject to enforcement action pursuant to section 8 of this by-law.
 - (iv) Where the owner of a dog that has been determined to be a vicious dog produces information to the By-law Enforcement Officer that

may alter a determination made under subsection 7.02, the By-law Enforcement Officer shall, as soon as is reasonably possible, cause the matter to be reviewed and make a final determination.

- (b) Every owner of a vicious dog shall be responsible for insurance and injuries caused by the owner's vicious dog.
- (c) Every owner shall take all necessary steps to ensure that a vicious dog does not bite, chase or attack any human or other animal whether the person or animal is on the property of the owner or not.
- (d) If a vicious dog bites or attacks a person or animal, the owner is guilty of an offence and shall be liable to a fine under this by-law, exclusive of any other civil actions or penalties.
- (e) When a vicious dog is on the premises of its owner, it shall be kept confined indoors under the effective control of a person over the age of nineteen years, or confined in a securely enclosed and locked pen, or other structure constructed and secured in such a fashion as to prevent the escape of the dog, and to prevent the entry of persons unauthorized by the owner.
- (f) All pens shall have a secure top and sides and either:
 - (i) have a secure bottom effectively attached to the sides, or
 - (ii) the sides shall be embedded in the ground to a minimum depth of 30 centimeters.
- (g) In addition to being on a leash when off the owner's property, a vicious dog must be securely muzzled to prevent it from biting another animal or person and must be under the effective control of a person over the age of nineteen years, and
 - (i) any dog deemed a vicious dog is not tolerated where there is a public gathering, ie. sport events, concerts, parades, etc.
- (h) The owner of a dog, which the owner knows or ought to know is a vicious dog, shall keep such dog in accordance with the provisions of subsection 7.02.

7.03 Dog Waste

The owner, or any person having the care, custody or control of a dog shall remove forthwith any excrement deposited by said dog on any property in the Town. This does not apply to the dog owner's property.

7.04 Exemption from By-law

This by-law does not apply to

- (a) a specially trained dog that is used as a guide dog by a person whose sight or hearing is impaired or who is blind or deaf,
- (b) a dog certified by a recognized training establishment as a handicap assistance dog, or
- (c) a dog belonging to and actively working for a police force having jurisdiction in the Town of Nackawic.

7.05 Every person commits an offence under this by-law if

- (a) he or she interferes or attempts to interfere with the Dog Constable while exercising his or her functions under this by-law,
- (b) he or she, not being the owner, removes a collar or license tag from any dog, or
- (c) permits a dog to bite or attempt to bite a person or permits a dog to approach any person in an aggressive or terrorizing manner upon any street, sidewalk, public grounds or places, or on private property other than the property of the owner.

7.06 Noise

No person being the owner or occupant of any premises causes, allows, or permits the sound of a barking dog, which can be easily heard by a person not on the same premises and which disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment, comfort or convenience of that person.

7.07 Payment

- (a) Notwithstanding anything herein contained, the Registrar may either before or after the institution of proceedings against a person for any alleged violation hereunder, accept from the person alleged to have been guilty of such violation the payment of a sum equal to the minimum fine prescribed for such violation together with legal costs of proceedings to that date, if any, and thereupon the Registrar shall issue a receipt therefore and shall forthwith forward the same to the Treasurer of the Town of Nackawic.

- (b) Any payment made shall constitute a full satisfaction, release and discharge of all penalties incurred by such person for such violation, and for purposes thereof shall have the same effect as if a Judge had duly convicted the person of the violation for which the amount was paid, and a certificate purporting to be signed by the Registrar to the effect that the sum has been paid in respect to a specific violation shall be prime facie evidence in all Courts of the conviction.

8. Penalty Provision

- 8.01 Every person who contravenes any provision of this by-law is guilty of an offence. Unless otherwise provided for herein, a person convicted of an offence under this by-law is punishable by a fine of not less than Twenty-Five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00).
- 8.02 The levying and payment of any fines shall not relieve a person from the necessity of paying any fees, charges or costs from which he or she is liable under the provision of this by-law.
- 8.03 If the voluntary payment set out in this by-law has not been received on or before the hearing scheduled for entering of a plea before the Provincial Court, the person charged with the offence is liable on conviction to a fine of not less than One Hundred Dollars (\$100.00) and not more than the maximum fine that may be imposed for commission of an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category B offence, plus applicable license and pound fees.

9. Appointment Of Officials

- 9.01 The Council may by resolution appoint one or more Dog Constables, appoint a Registrar, and from time to time fix the remuneration to be paid to a Dog Constable and to a Registrar. One appointed person may be a Dog Constable and a Registrar.
- 9.02 Notwithstanding that one or more persons may have been expressly appointed to the position of Dog Constable hereunder, every peace officer of the Town of Nackawic shall be by virtue of his or her position a Dog Constable and such peace officer is authorized to carry out the functions of this by-law and to exercise all of the powers of the Dog Constable hereunder without having been expressly appointed a Dog Constable by the Council.
- 9.03 The Council may from time to time enter into an agreement or agreements with the Province of New Brunswick whereby an employee or employees of the Province of New Brunswick are engaged to act as Dog Constable or Registrar and to administer and enforce the bylaw.

9.03 The Council may by resolution appoint as Dog Constable or Registrar an employee, or employees, of the Province of New Brunswick engaged under an agreement pursuant to subsection 9.01 hereof.

10. Repeal Provision

10.01 By-law No. S-3, A By-law relating to the Control and Licensing of Dogs in the Town of Nackawic, passed by Town Council on October 20, 2003, and amendments thereto, is hereby repealed.

10.02 The repeal of By-law No. S-3, A By-law relating to the Control and Licensing of Dogs in the Town of Nackawic, shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of repeal.

DULY PASSED AND ENACTED BY THE COUNCIL OF THE TOWN OF
NACKAWIC ON SEPTEMBER 8, 2009.

Rowena Simpson, Mayor

Kathryn Clark, Acting Chief Administrative Officer

First Reading: September 8, 2009
Second Reading: September 8, 2009
Third Reading: September 8, 2009