

## BY-LAW 206-13

### A BY-LAW OF THE TOWN OF HAMPTON RESPECTING ANIMAL CONTROL

### THE COUNCIL OF THE TOWN OF HAMPTON DULY ASSEMBLED ENACTS AS FOLLOWS:

#### TITLE

1. This By-Law may be cited as the “**Animal Control By-Law**”,

#### DEFINITIONS

2. In this By-Law:

- a) “**animal**” means any domestic animal that would normally be considered a pet
- b) “**Animal Control Officer**” means the person or persons appointed by the Council to administer and enforce the Animal Control By-law, and includes a police officer, the By-law Enforcement Officer and any person duly authorized by Council to enforce this By-law.
- c) “**animal shelter**” means any pound or enclosure that is controlled by any association, person or agency approved by the Province of New Brunswick or Council to properly care and provide for animals impounded pursuant to this By-Law;
- d) “**bite**” includes penetrating the skin by tooth or teeth;
- e) “**Clerk**” means the Clerk of the Town of Hampton;
- f) “**Council**” means the Hampton Town Council;
- g) “**day**” means a 24 hour period;
- h) “**dog**” includes male and female;
- i) “**dog park**” means a public park that is specifically designated for dogs to be off-leash;
- j) “**kennel**” means a place where animals are bred, boarded or held;
- k) “**leash**” means a device used to restrict the movement of an animal in order to control the animal;
- l) “**licence**” means a licence issued pursuant to this By-law;
- m) “**muzzle**” means a humane covering device placed over a dog's mouth and of sufficient strength to prevent it from biting;

- n) **“owner”** includes a person who:
  - i) is in possession of an animal;
  - ii) harbors an animal;
  - iii) suffers an animal to remain about his or her property or property under his or her control; or
  - iv) licenses an animal under this By-Law.
  
- o) **“public place”** means any property that is not privately owned and includes Municipal, Provincial, and Federal property;
  
- p) **“running at large”** means where a dog is;
  - i) unleashed in a public place, except for any dog in a dog park or a service animal participating in search and rescue, fire or police work;
  - ii) unleashed on private property other than that of the owner or keeper of the animal without consent of the owner of the property;
  - iii) unleashed in a forest or wooded area, while not in the company and/or under control of the owner or keeper thereof ;
  - iv) in a public place and is not secured by a leash having a maximum length of three (3) meters; or
  - v) in a public place and not under the control of the owner of such animal;
  
- q) **“reptile”** means an air-breathing, scaly, cold-blooded vertebrate and includes exotic species such as snakes, iguanas and alligators;
  
- r) **“service animal”** means any animal trained to do work or perform tasks for the benefit of an individual with a disability or an animal used for search and rescue or law enforcement;
  
- s) **“shelter”** means such premises and facilities designated by the Town as animal shelters for the keeping and disposition of impounded animals.
  
- t) **“street”** includes road, sidewalk, alley, park, public square and property under the control of the Town;
  
- u) **“Town”** means the Town of Hampton;
  
- v) **“threaten”** means an un-muzzled animal, whether or not in the presence of its owner, leashed or unleashed, that approaches any person or any other animal in a vicious, terrorizing aggressive or attacking manner;
  
- w) **“ungulate”** means hoofed mammal;

## **DUTIES OF THE OWNER**

3. Every owner of an animal shall:
  - a) License their animal, subject to Sections 5 to 13;
  - b) Maintain control of their animal at all times in a public place; and
  - c) Obey any other relevant by-laws, acts or regulations dealing with the care, health, safety and comfort of animals.
  
4. No owner of a dog shall:
  - a) permit their dog to run at large;
  - b) permit their dog to bark, or make other noise for a period of time or in an unreasonable manner;
  - c) allow their dog to defecate on any property in the Town which is not the property of its owner or without the consent of the owner of such property;
  - d) fail to remove forthwith any feces left by the dog on any property other than the property of its owner;
  - e) allow their dog, where it is suffering from a communicable disease, to be in any public place;
  - f) permit their dog to attack any person or another animal without provocation;
  - g) permit their dog to threaten, any person or any other animal in a public place or on any property other than the property of the dog's owner; and
  - h) allow their dog to cause damage to property which is not the property of the owner.

## **LICENSING**

5. Subject to Section 96.1(1) of the Municipalities Act R.S.N.B. 1973, c.M-22, as amended, every owner of a dog shall:
  - a) license with the Clerk, or his or her designate, each dog which they own; and
  - b) provide the Clerk, or his or her designate, with the following information, which will be recorded and retained by the Town;
    - i) the owner's name and place of residence;
    - ii) the owner's phone number and email, where applicable
    - iii) the name, age, breed, colour and sex of the dog;

6. All licences issued pursuant to this By-Law shall be valid for the lifetime of the dog, provided the owner of the dog is the owner named on the licence. When an owner ceases to own a dog for which a licence was given, the licence shall expire.
7. At the time of licensing the dog, the Clerk, or his or her designate, shall issue to the owner a licence tag showing the licence number and the year of licensing.
8. A licence tag for any dog which is issued pursuant to this By-Law is not transferable from one owner to another or from one dog to another. Every person who becomes the owner of a dog which is licensed under this By-Law shall forthwith advise the Clerk, or other persons so designated by Council, within 30 days of the change of ownership. A new tag will be issued.
9. Every person who becomes the owner of a dog shall, within 30 days after becoming an owner of such dog, license the dog pursuant to this By- Law.
10. Every owner of a dog shall cause the dog, licensed by him or her under this By-Law, to wear a collar or harness to which the tag issued under Section 7 shall be attached when a dog is outside of any owner's property. Notwithstanding any other provision in this By-law an owner may temporarily remove the dog or cat's tag while it is being shown in exhibitions.
11. Any animal that does not have a valid licence tag shall be deemed not to be licensed under this By-law.
12. A licence tag which is lost may be replaced by the Clerk, or his or her designate, upon application by the owner and payment of a tag replacement fee.
13. The provisions of Section 5 shall not apply to any animal:
  - a) whose owner is not a resident of the Town; or
  - b) who is in the Town for the purpose of participating in any exhibition.

#### **PET ESTABLISHMENTS INCLUDING KENNELS, PET RETAIL STORES AND ANIMAL SHELTERS**

14. The operators of pet establishments (kennels, pet retail stores and animals shelters) are required to obtain a license under the Province of New Brunswick's *Pet Establishment Regulation – Society for the Prevention of Cruelty to Animals Act* which is enforced by the New Brunswick Society for the Prevention of Cruelty to Animals (NBSPCA).
15. Establishments selling animals considered livestock; grooming facilities; training operations; research and educational facilities; veterinary clinics boarding animals for medical reasons only; circuses; zoos or premises that house horses (such as boarding or riding stables) are exempt from the licensing requirements of the Province of New Brunswick. These facilities must still meet with the by-laws requirements of the Town of Hampton, including but not limited to the Animal Control By-law, the Zoning By-law and the Noise By-law.

16. No person shall operate a pet establishment without a license.

### **ANIMAL CONTROL OFFICER**

17. Council may by resolution appoint an Animal Control Officer to carry out any or all of the functions of this By-Law.

18. An Animal Control Officer, while pursuing any dog in enforcing this By-law, may pass over the land of any person, but this section shall not be so construed as to provide immunity against an action for damage suffered.

19. The Animal Control Officer shall capture and impound any dog not on the property of its owner that is:

- a) not licensed as required under this By-Law;
- b) not wearing a collar or a harness, or a tag attached to the collar or harness as required under this By-Law;
- c) running at large;
- d) actually or suspected to be afflicted with rabies or any other contagious disease; or
- e) abandoned or appears to the Animal Control Officer to have been abandoned.

20. The Animal Control Officer may capture and impound any dog that:

- a) is housed in a kennel which is not licensed as required under this By-Law or the licence for which has been suspended; or
- b) is alleged to have bitten or attempted to bite a person or another animal.

21. The Animal Control Officer shall obtain a search warrant, pursuant to the Provincial Offences Procedure Act SNB 1987, c P-22.1, in order to capture or impound any animals in a private dwelling or on the property of the animal's owner. The search warrant shall specify that the Animal Control Officer be accompanied by a peace officer in the execution of the search warrant.

22. A Provincial Court Judge may issue a search warrant if satisfied that an Animal Control Officer or police officer has reasonable and probable grounds to believe that an offence has been committed under this By-Law involving an animal or its owner and that such animal is in a private dwelling, upon private property, in a business or any place whatsoever.

## **SHELTERS**

23. The Council may establish one or more animal pounds or designate one or more animal shelters to take possession of and properly care and provide for impounded dogs.

## **IMPOUNDING**

24. Where an Animal Control Officer impounds a dog:
- a) during regular Municipal Office hours, he or she shall forthwith notify the Clerk, or
  - b) after Municipal Office hours, he or she shall notify the Clerk as soon as the office opens; and
  - c) the Clerk shall forthwith post a written notice in the Town Office stating, time, date and place where such dog was impounded and any other relative information pertaining to the impounding; and
  - d) where possible the Clerk shall make reasonable effort to post on the Town's social media accounts
  - e) the Animal Control Officer shall make reasonable efforts to notify the owner of the dog within 24 hours of impounding the animal.

## **RECLAIMING ANIMALS**

25. The owner of an impounded dog may reclaim the dog during the regular business hours of the animal shelter unless the dog has been impounded as a result of it having bitten a person, or the dog is actually or suspected to be affected with rabies or any other contagious disease. Where an dog has been impounded as a result of it having bitten a person, or the dog is actually or suspected to be affected with rabies or any other contagious disease, the owner of the dog in question may reclaim the dog during the regular business hours of the animal shelter where the owner enters into a legally binding agreement with the Town in order to ensure the protection of the public, which is to the Town's satisfaction.
26. The owner of an impounded animal may reclaim the animal after proving ownership of the animal and upon payment of the following to the Clerk, or other persons so designated by Council:
- a) the unlicensed dog fee if the animal is a dog which is not licensed;
  - b) expenses, including veterinarian fees, legal fees and costs relating to the capturing, impounding and legal proceedings incurred by the Town; and
  - c) impounding and other applicable fees as set out by Resolution of Council made pursuant to this By-Law.

## **UNCLAIMED ANIMALS**

27. An impounded dog that has not been reclaimed within seventy-two hours of being impounded and the notice being posted may be sold or offered for adoption by the animal shelter for the best price that can be obtained and the monies derived from such sale shall be applied to the payment of the animal shelter and the balance, if any, shall be paid to the Clerk, or other persons so designated by Council.
28. An impounded dog that cannot be sold or offered for adoption for any reason, including the fact that the dog is affected with rabies or any other contagious disease, may be euthanized, in the manner deemed most humane by the New Brunswick Society for the Prevention of Cruelty to Animals or by any licensed veterinarian, and the owner shall pay the costs and expenses referred to in Section 26 of this By-Law.
29. The animal shelter may continue to keep the dog longer than the period specified in Section 27 of this By-Law, when the owner:
  - a) requests the dog be kept for a longer period, or
  - b) advises the animal shelter of his/her ownership but does not pick up the dog from the pound within the time provided in Section 27, and when,
    - i) there is sufficient room in the animal shelter to continue to keep the dog, and
    - ii) the dog is not vicious, rabid, suffering from a communicable disease, ill or injured,
    - iii) the dog is not required to be destroyed under this By-Law; and
    - iv) the animal shelter is satisfied that the owner or anyone acting on his/her behalf will pay all fees and charges for which the owner is or becomes liable.

## **LIABILITY**

30. No person authorized by this By-Law to capture, impound or destroy a dog shall be liable in damages for any injury or damage to such dog while the dog is being captured, impounded or destroyed.

## **DESTRUCTION**

31. Any dog impounded under this By-Law may be destroyed, provided that the dog:
  - a) has been or is determined to be running at large and nobody has claimed the dog within one week of being impounded;
  - b) has bitten or attempted to bite a person and a Judge of the Provincial Court has ordered the animal destroyed;
  - c) has rabies, distemper or any other communicable disease; or
  - d) has suffered injuries and a veterinarian has determined that the dog will not recover and should be destroyed.

32. A Judge of the Provincial Court may summon the owner of a dog that is alleged to have bitten or attempted to bite a person or another animal to appear and to show cause why the dog should not be destroyed. If, from the evidence, produced it appears that the dog has bitten or attempted to bite any person, household pet, or livestock, the Judge may order that the animal be destroyed.

### **DEER AND MOOSE**

33. No person shall on their property or on public property feed or otherwise purposefully attract deer, moose or other undomesticated ungulates or allow, cause or permit the feeding or attraction of ungulates such that the ungulates cause a public nuisance on the property of those engaged in feeding or the property of others including public property.

### **REPTILES**

34. No person shall have, keep or possess a reptile in a public place or any property in the Town which is not the property of its owner unless it is in a case, cage or other container designed in such a fashion that it will completely confine the reptiles.
35. No reptile shall be in a public place or any property in the Town that does not meet with any Provincial and/or Federal regulations.

### **GENERAL**

36. Any person who violates a provision of this By-law commits an offense and is liable on conviction to a fine, as set out in Schedule "A", which Council shall adopt and from time to time amend.
37. Any person commits an offence under this By-Law if:
- a) he or she interferes or attempts to interfere with the Animal Control Officer while he or she is exercising his or her functions under this By- Law; or
  - b) he or she, not being the owner, removes a collar or license tag from an animal
38. When a Judge of the Provincial Court finds the owner of an animal guilty of an offence under this By-Law, he or she may make an order directing the owner of the animal to pay to the Town all costs incurred for impounding, boarding and maintaining the animal, including veterinary fees and all legal costs incurred by the Town.



## **PENALTY**

39. Every person in violation of this By-law may, on or before the date a charge pertaining to the offence has been laid in Provincial Court, pay to the Town Clerk the corresponding fine, as set out in Schedule A, upon which payment committing the violation is not liable to be prosecuted for that violation.
40. The Town has the discretionary power to accept voluntary payment from person in lieu of charges being brought against such person, depending on the number of violations of this By-law such person has been found or admits to have infringed.
41. A payment made under Section 40 shall constitute a full satisfaction, release and discharge of all penalties and imprisonments incurred by such person for such violation, and for the purposes hereof shall have the same effect as if a Judge had convicted the person of the violation for which the amount was paid. A certificate signed by the Clerk to the effect that the sum has been paid in respect of a specific violation shall be prima facie evidence in all counts of conviction.
42. If the voluntary payment set out in Section 38 to 40 has not been received before a charge pertaining to the offence has been laid in Provincial Court, the person charged with the offence is liable, on summary conviction, to a fine for commission of an offence punishable under Part II of the Provincial Offences Procedure Act as a category D Offence (as set out in Schedule "A"), which Council shall adopt and from time to time may amend.

## **FINES AND FEES**

43. All fees and penalties made pursuant to this By-Law are set out in Schedule "A", attached hereto, which said Schedule "A" forms part of this By-law. Council shall adopt, and from time to time amend, fees and penalties as set out in said Schedule "A".

## **ENFORCEMENT**

44. This By-Law shall be enforced by the By-Law Enforcement Officer, Animal Control Officer and/ or the Royal Canadian Mounted Police.

## **BY-LAWS REPEALED**

45. The repeal of this by-law in the Town of Hampton 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 manner or thing whatsoever completed, existing or pending at the time of repeal.

The by-law entitled ***By-Law No. 42: A By-law Relating To The Control and Licensing of Dogs*** and amendments thereto are hereby repealed.

FIRST READING BY TITLE: December 10, 2013

SECOND READING BY TITLE: December 10, 2013

THIRD READING AND ENACTMENT:

**SCHEDULE "A" TO THE ANIMAL CONTROL BY-LAW**

**Fees and Fines**

**1. Fees**

Animal Licence	\$20
Replacement Tag	\$10

**2. Fines**

1<sup>st</sup> Offense

Failure to license an animal	\$50
Allowing an animal to run at large	\$50

(All fees incurred for handling an animal running at large, including but not limited to, capture, impoundment, vaccination, shall be reimbursed to the Town by the owner.)

Allowing an animal to defecate on property not owned by the owner	\$50
Allowing an animal to cause damage to property not owned by the owner	\$50
Allowing an animal to threaten a person or another animal	\$75
Allowing an animal to attack a person or another animal	\$150
Operating a kennel without a licence	\$200
Any other offense	\$50

For each additional offense, the fines will be doubled.

