

BY-LAW NO. 19-08
A BY-LAW OF THE MUNICIPALITY OF SAINT ANDREWS RESPECTING
ANIMAL CONTROL PURSUANT TO SECTION 10 OF THE
LOCAL GOVERNANCE ACT OF NEW BRUNSWICK.

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A BY-LAW OF THE MUNICIPALITY OF THE TOWN OF SAINT ANDREWS RESPECTING ANIMAL CONTROL

The Council of the Town of Saint Andrews, under authority vested in it by *Section 10 of the Local Governance Act of New Brunswick*, enacts as follows:

1. TITLE

- a. This By-law may be cited as the "Animal Control By-law",
- b. The provisions of this By-law apply within the entire area of the Town of Saint Andrews.

2. DEFINITIONS

In this By-law:

- a. "**animal**" includes, but is not limited to, a dog, cat, or horse.
- b. "**Animal Control Officer**" includes a peace officer and/or a person appointed by Council to carry out any or all of the functions of animal control pursuant to this By-law;
- c. "**animal shelter**" means any association, person, pound or agency designated by Council to take possession of and properly care and provide for animals impounded pursuant to this By-law;
- d. "**breeder**" means an owner who keeps and/or sells more than two (2) unaltered dogs and/or three (3) altered dogs;
- e. "**cat**" includes male and female cat;
- f. "**Clerk**" means the Clerk of the town of Saint Andrews;
- g. "**Council**" means the Council of the town of Saint Andrews;
- h. "**day**" means a 24-hour period;
- i. "**Deer**" (singular and plural) are the ruminant mammals forming the family *Cervidae*. Species in the family include white-tailed deer, mule deer such as black-tailed deer, elk, moose, red deer, reindeer(caribou), fallow deer, roe deer.
- j. "**dog**" includes a male or female dog;

- k. **“fierce or dangerous animal”** means an animal which meets any one of the following conditions:
 - i. an animal that has attacked, bitten or caused injury to a person, either on public or private property or has demonstrated a propensity, tendency or disposition to do so;
 - ii. an animal that has attacked, bitten or caused injury to a domestic animal, either on public or private property;
 - iii. an animal that, while running at large, has aggressively pursued or harassed a person;
 - iv. an animal that, while running at large, has aggressively pursued or harassed a domestic animal;
 - v. an animal with a known propensity to attack or injure a person without provocation;
 - vi. is attack trained;
 - vii. is kept for the purpose of security or protection, whether residential, commercial or industrial, of persons or property; or
 - viii. is a potentially dangerous animal.
- l. **“horse”** includes a male or female horse.
- m. **“kennel”** means a place where animals are housed which can include a residence or place of business;
- n. **“muzzle”** means a humane fastening or covering device of adequate strength over the mouth of an animal to prevent it from biting.
- o. **“owner”** includes a person, partnership, association or corporation who:
 - i. is in possession of an animal;
 - ii. harbours an animal;
 - iii. suffers an animal to remain about his or her property or property under his or her control;

- iv. is a registered owner, according to Service New Brunswick records, of property where an animal is allowed or permitted to remain; or
- v. registers or licences an animal under this By-law;
- p. **“potentially dangerous animal”** means an animal:
 - i. which has been impounded three (3) times within any twenty-four (24) month period;
 - ii. for which the owner has received a municipal ticket or official warning concerning animal control three (3) times within any twenty-four (24) month period; or
 - iii. for which the total number of impounds, tickets and warnings total three (3) within any twenty-four (24) month period.
- q. **“public place”** means any property that is not privately owned and includes Municipal, Provincial, and Federal property;
- r. **“reptile”** means an air-breathing, scaly cold-blooded vertebrate and includes snakes;
- s. **“running at large”** means:
 - i. to be tethered on a tether of sufficient length to permit the animal to leave the property boundaries of the premises occupied by the owner;
 - ii. not secured by a leash having a maximum length of three (3) meters in a public place; or
 - iii. to be unleashed:
 - (1) in a public place;
 - (2) on private property other than that of the owner or keeper of the animal without consent of the owner of the property; or
 - (3) in a forest or wooded area, while not in the company or control of the owner or keeper thereof.
- t. **“street”** includes road, sidewalk, alley, park, public square and property under the control of the town.
- u. **“unaltered”** means an unneutered male or an unspayed female dog.

- v. **“service animal”** means an assistance dog and may include other animals specifically trained to perform physical tasks to mitigate an individual’s disability. Assistance dogs include: guide dogs that guide individuals who are legally blind; hearing dogs that alert individuals who are deaf or hard of hearing to specific sounds; and service dogs for individuals with disabilities other than blindness or deafness. The presence of an animal as being trained to mitigate an individual’s disability does not qualify said animal as a service animal.

3. REGISTRATION AND LICENSING

- a. Every owner of a dog shall:
 - i. register with the Clerk, or other person(s) so designated by Council by December 31st of each calendar year, each dog which he/she owns, and obtain a license pursuant to the provisions of this By-law for the next calendar year;
 - ii. provide the Clerk, or other person(s) so designated by Council, with the following information which will be recorded and retained:
 - (1) the owner’s name and place of residence,
 - (2) the name, age, breed, colour and sex of the dog,
 - (3) proof of current rabies vaccination
 - iii. pay, in accordance with *Section 15* of this By-law, to the Clerk, or other person(s) so designated by the Council, a license fee for each dog which he/she owns, subject to the following:
 - (1) the licence fee for any newly acquired dog that is being registered between July 1 and October 31 in any year shall be fifty percent (50%) of the fee set out in *Section 15* of this By-law;
 - (2) there shall be no license fee for a “service animal”, but it must be licensed and wear a current tag;
 - (3) dogs which are being purebred and raised by a breeder, who is duly registered by the Canadian Kennel Club and holds a current Breeder’s Licence, are exempt from the licensing requirements until they reach six (6) months of age.
- b. All licenses issued pursuant to this By-law shall expire at midnight on the thirty-first day of December of each year. Further provided an application may be made after November 1st in any year for a license for the following

year, which shall be valid from the date of its issuance. When an owner ceases to own a dog for which the license was given, the license shall expire.

- c. An approved certificate from a veterinary or animal hospital is required as proof that a male dog is castrated, or a female dog is spayed, and an approved certificate from a veterinary or animal hospital confirming the dog(s) has received its rabies immunization pursuant to *Section 5 RABIES*.
- d. Every owner of a dog which is registered under this By-law shall forthwith advise the Clerk, or other person(s) so designated by Council, within thirty (30) days of the change of ownership and every owner who sells a dog which is registered under this By-law shall advise the purchaser of the registration and licensing provisions set out herein.
- e. Every person who conveys or receives a dog not necessarily by way of sale and purchase shall nevertheless follow the same provisions as set out in *Subsection 3(d)* herein.
- f. The Clerk, or other person(s) so designated by Council, at the time of registration of the dog, shall issue to the owner a license tag upon which is inscribed the registration number and the year of registration.
- g. A license tag is not transferrable from one owner to another or from one dog to another.
- h. A license tag which is lost, after it has been issued for the current year, may be replaced by the Clerk, or other person(s) so designated by Council, upon application by the owner and payment of any fees pursuant to *Section 14* of this By-law.
- i. Every owner of a dog shall cause a dog, registered by him or her under this By-law, to wear a collar to which the tag, issued under *Subsection 3(f)* shall be attached.
- j. The provisions of *Subsection 3(a)* shall not apply to:
 - i) an owner of a dog who is visiting in the Town for less than twenty-one (21) days per calendar year; or
 - ii) an owner of any dog in the Town for the purpose of the dog participating in a dog show.
 - iii) A dog in a pet establishment as defined in *Regulation 2010-74* under *the Society for the Prevention of Cruelty to Animals Act* until the dog is sold or otherwise leaves the pet establishment.

- k. The maximum numbers of dogs permitted to be kept on a lot and the location where keeping of animals is permitted, shall be in accordance with the provisions of the Town of Saint Andrews Zoning By-law in a Residential Zone.

4. ANIMAL CONTROL OFFICER

- a. Council may by resolution appoint an Animal Control Officer to carry out any or all of the functions of this By-law.
- b. Council may by resolution assign requirement to carry any or all of the functions of this By-law to the By-law enforcement officer.

5. RABIES

- a. The owner of a dog or cat which has not been vaccinated against rabies shall cause his or her dog or cat to be so vaccinated:
 - i. within ten (10) days of acquiring the dog or cat if it is more than three (3) months of age; or
 - ii. within ten (10) days after it has reached the age of three (3) months.
- b. When a dog is more than three (3) 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 dog to be vaccinated against rabies within one (1) month thereafter and every three (3) years following.
- c. Except as otherwise provided in this Regulation, a person who violates or fails to comply with a provision of this Regulation commits an offence that is punishable under Part 2 of the *Provincial Offences Procedure Act* as a category B offence.
- d. The Animal Control Officer will report an animal suspected of being rabid to the District Medical Health Officer and to the Royal Canadian Mounted Police.
- e. The Animal Control Officer shall, where in his/her opinion the condition of the animal warrants the recommendation or care of a veterinary surgeon, impound and/or report any apparent illness, communicable diseases, injury or unhealthy condition of any animal to a veterinary surgeon. The owner of the animal shall be held responsible for any fees incurred as a result of such consultation or treatment by the veterinary surgeon.

- f. Where an animal is suffering from any communicable disease, the owner shall not permit the animal to be in any public place or in proximity of any other people or animals;
- g. A person who owns an animal that is rabid or suspected of being rabid or has been exposed to rabies shall immediately report the matter to the District Medical Health Officer and to the Royal Canadian Mounted Police and to the Animal Control Officer.

6. DISTEMPER AND PARVOVIRUS

- a. The owner of a dog which has not been vaccinated against distemper and parvovirus shall cause the dog to be so vaccinated:
 - i. within ten (10) days of acquiring such dog if it is more than four (4) months of age, or
 - ii. within ten (10) days after it has reached the age of four months;
- b. when a dog is more than four (4) months of age on the coming into force of this By-law and it has not been vaccinated against distemper and parvovirus, the owner shall cause such dog to be vaccinated within thirty (30) days thereof.

7. RUNNING AT LARGE AND ANIMAL CONTROL

No owner of a dog shall:

- a. permit the dog to run at large;
- b. permit the dog to bark, bay or make other noise for such a period of time or in such a manner as to be a nuisance which is annoying and disturbing to the owners of land in the neighbourhood;
- c. permit a female dog to be in public while in heat;
- d. suffer or permit any dog to defecate on any property in the town which is not the property of its owner;
- e. fail to remove forthwith any feces left by the animal on a property other than the property of the owner;
- f. suffer or permit the dog to cause damage to property which is not the property of the owner;

- g. permit a dog, whether restrained or not, to be on a public beach normally used for swimming at any time during the year.

8. FIERCE OR DANGEROUS ANIMALS

- a. The Town Administrator and the Director of Community Services, upon the recommendation of the Animal Control Officer if he or she has sufficient evidence to believe that an animal should be declared a fierce or dangerous animal, may declare an animal a fierce or dangerous.
 - i. If the Animal Control Officer declares an animal to be fierce or dangerous, the owner of such animal may appeal the decision to a Court.
- b. The owner of an animal which has been declared a fierce or dangerous animal by the Animal Control Officer shall ensure that:
 - i. such animal is licensed with the Town as a fierce or dangerous animal in accordance with *Section 15*;
 - ii. such animal is spayed or neutered;
 - iii. they comply with the owners' responsibilities as outlined in this By-law;
 - iv. at all times when off the owner's property, the animal shall be muzzled;
 - v. at all times when off the owner's property, the animal shall be on a leash not longer than one(1) metre and under the control of a responsible person over the age of eighteen (18);
 - vi. when such animal 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 fierce or dangerous animal and capable of preventing the entry of any person not in control of the animal. Such pen or structure must have minimum dimensions of two (2) metres by four (4) 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 (30) centimetres deep. The enclosure must also provide protection from the elements for the animal. The pen or structure shall not be within one (1) metre of the property line or within three (3) metres of a neighbouring dwelling unit. Such animal may not be chained as a means of confinement;
 - vii. a sign (as provided by the Town with a Fierce or Dangerous Animal Licence), with minimum dimensions of two hundred fifty by two hundred (250 x 200) millimetres, is displayed at each entrance to the

property and building in which the animal is kept warning in writing, as well as with a symbol, that there is a dangerous animal on the property. This sign shall be visible and legible from the nearest road or thoroughfare;

9. IMPOUNDING

- a. 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 animals.
- b. The Animal Control Officer or a member of the Royal Canadian Mounted Police may capture and impound any animal on private, (other than in a private dwelling), or public property, that is:
 - i. not registered or licensed as required under this By-law;
 - ii. not wearing a collar or a tag attached to a collar as required under this By-law other than when the animal is in a kennel or is in the owner's residence;
 - iii. running at large;
 - iv. actually or suspected to be affected with rabies or any other contagious disease;
 - v. alleged to be barking, baying or making other noise for such a period of time or in such a manner as to be a nuisance which is annoying and disturbing to the owners of land in the neighbour-hood;
 - vi. abandoned or appears to the Animal Control Officer to have been abandoned;
 - vii. alleged to have bitten or attempted to bite a person;
 - viii. alleged to have bitten or attempted to bite a domestic animal;
 - ix. a female dog in a public place while in heat;
 - x. a fierce or dangerous animal and is unmuzzled and off the owners private property.
 - xi. damaging property which is not the property of the owner;
 - xii. whether restrained or not, on a public beach or in an area of the water normally used for swimming at a public beach each year this by-law is in force;

- xiii. a fierce or dangerous animal and its owner has not complied with the provisions of *Section 8*.
- c. The Animal Control Officer may capture and impound any animal in a private dwelling for violations of the By-law provided that a entry warrant has been applied for and obtained pursuant to the *Entry Warrants Act*. The Animal Control Officer shall be accompanied by a peace officer in the execution of the search warrant.
- d. A Provincial Court Judge may issue an entry warrant if satisfied that an Animal Control Officer or peace 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 or upon a private dwelling, business or any place whatsoever.
- e. Where an Animal Control Officer impounds an animal, he or she shall, within 24 hours, make reasonable efforts to notify the owner of the animal.
- f. Subject to *Subsection 9(g)* and *Section 10*, the owner of an animal which has been impounded, upon proving ownership thereof, may reclaim the animal during the regular business hours of the animal shelter upon payment of the following to the Clerk, or other person(s) so designated by Council, unless the animal has been impounded as a result of having bitten a person or the animal is actually or suspected to be affected with rabies or any other contagious disease:
- i. the registration and license fee if the animal is a dog which is not registered and licensed;
 - ii. expenses, (including veterinarian fees), costs and legal fees relating to the capturing, impounding and legal proceedings incurred by the town;
 - iii. impounding and other applicable fees shall be as set out pursuant to *Section 15* of this By-Law;
 - iv. if an offence under this By-law has been committed, a voluntary fine as set out pursuant to *Section 14* of this By-law.
- g. The owner of any animal which has been impounded three (3) times within any twenty four (24) month period or for which the owner has received a municipal ticket or official warning concerning animal control three (3) times within any twenty four (24) month period or for which the total number of impounds, tickets and warnings total three (3) within any twenty-four (24) month period, shall not be permitted to reclaim such animal.

- h. An animal, which has not been reclaimed within a period of Seventy-two (72) hours after being impounded, exclusive of Statutory Holidays and Sundays, may be sold 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 person(s) so designated by Council.
- i. Notwithstanding the foregoing, fierce or dangerous animals may not be offered for sale or adoption, but must be humanely euthanized by an animal shelter, animal control agency or licensed veterinarian.
- i. An animal which is impounded and cannot be sold for any reason, including the fact that the animal is infected with rabies or any other contagious disease may be destroyed in such manner as may be directed by the Animal Control Officer or in a manner deemed most humane by the New Brunswick Society for the Prevention of Cruelty to Animals or a licensed veterinarian and the owner shall pay the costs and expenses referred to in *Subsection 9(f)(ii)* and *Subsection 9(f)(iii)*.
- j. The Pound Keeper may continue to keep the animal in the pound longer than the period specified in *Subsection 9(h)*, when the owner:
 - i. requests the animal, which is not a fierce or dangerous animal, be kept for a longer period, or
 - ii. advised the Pound Keeper of his/her ownership but does not pick up the animal from the pound within the time provided in *Subsection 9(h)*, and when,
 - (1) there is sufficient room in the pound to continue to keep the animal,
 - (2) the animal is not vicious, rabid, suffering from a communicable disease, ill or injured,
 - (3) the animal is not required to be destroyed under this Bylaw, and
 - (4) the Pound Keeper 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.
 - iii. is being prosecuted pursuant to *Section 10.b.* of this by-law.

- k. No person authorized by this By-law to capture and impound or destroy an animal shall be liable in damages for any injury or damage to such animal while the same is being captured and impounded or destroyed.

10. DESTRUCTION

- a. Any animal impounded under this By-law may be destroyed after ten (10) days, provided that the Town Administrator and the Director of Community Services, upon the recommendation of the Animal Control Officer, is satisfied that it is necessary for the protection of persons and/or property, and the animal:

- i. has been or is determined to be running at large;
- ii. has bitten or attempted to bite a person;
- iii. has rabies, distemper or any other communicable disease;
- iv. has suffered injuries and a Doctor of Veterinary Medicine has determined that the animal will not recover and should be destroyed;
- v. has attacked, bitten or attempted to bite, or caused injury to a domestic animal; or
- vi. has been declared a fierce or dangerous animal;

- b. A Judge of the Provincial Court to whom a complaint has been made, alleging that an animal has:

- i. attacked, bitten, attempted to bite, or cause injury to a person;
- ii. attacked, bitten, attempted to bite, or cause injury to a domestic animal;
- iii. while running at large, has aggressively pursued or harassed a person; or
- iv. while running at large, has aggressively pursued or harassed a domestic animal;

may summon the owner of the animal to appear and to show cause why the animal should not be destroyed and may make an order directing:

- (1) that the animal be destroyed, or

(2) that the owner or keeper of the animal keep the animal under control.

- c. The Animal Control Officer or a member of the Royal Canadian Mounted Police may kill on site an animal which that person is unable to seize if they have sufficient evidence to believe that the animal has attacked, chased, bitten or injured another person or domestic animal, or poses an immediate threat to the public.
- d. If the owner of an animal that has been designated as fierce or dangerous is unwilling or unable to comply with the requirements of *Section 8*, the said animal shall then be humanely euthanized by an animal shelter, animal control agency or licensed veterinarian, after a fourteen (14) day holding period. Any animal that has been designated as fierce or dangerous under this By-law may not be offered for adoption.

11. REPTILES, PIGEONS, AND OTHER ANIMALS

- a. No person shall have, keep or possess a reptile in a public place or any property in the town which is not the residence of said reptile. Notwithstanding this, a person may possess a snake or other reptile on a street or sidewalk provided, in the opinion of the Animal Control Officer, it is in a case or cage or other container designed in such a fashion that it will completely confine such snake or reptile.
- b. No person shall on their property or on public property feed or otherwise attract pigeons or allow, cause or permit the feeding or attraction of pigeons, such that the pigeons cause a public nuisance on other property

12. DEER

No person shall on their property or on public property feed or otherwise purposefully attract deer (or other animals in the family *Cervidae*), or allow, cause or permit the feeding or attraction of deer such that the deer cause a public nuisance on the property of those engaged in feeding or the property of others including public property. This prohibition includes the feeding of birds or other non deer animals, if in doing so, the feeding of those animals attract deer to those feeders.

13. OFFENCES

- a. The owner or any person who violates or breaches any provision of this By-law is guilty of an offence.
- b. Any person commits an offence under this By-law if:
 - i. 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
 - ii. he or she, not being the owner, removes a collar or license tag from an animal.

14. ADMINISTRATIVE PENALTIES

- (1) All contraventions of this By-law are designated by-law contraventions that may be dealt with by a notice of penalty pursuant to the provisions of the *Local Governance Act*.
- (2) The Administrative penalty for a contravention of Section 12 of this By-law shall be two hundred and fifty dollars (\$250.00).
- (3) The Administrative penalty for all contraventions of the By-law other than Section 12, shall be one hundred fifty dollars (\$150.00).
- (4) A person to whom a penalty notice is delivered may pay the Administrative penalty on or before a charge pertaining to the offence has been laid in Provincial Court as follows:
 - (a) In person at the Town of Saint Andrews Office, 212 Water Street, Saint Andrews, NB or
 - (b) By mail to: Town of Saint Andrews, 212 Water Street, Saint Andrews, NB E5B 1B4 or
 - (c) Electronically by Credit Card on the Town of Saint Andrews website
- (5) A person who pays the Administrative penalty shall be deemed to have contravened the provision of the by-law in respect of which the payment was made and shall not be charged with an offence in respect of the same incident that gave rise to the Administrative penalty.
- (6) If the Administrative penalty is not paid in accordance with Section 14(2), the person charged with the offence is liable on summary conviction to a fine of not less than five hundred dollars (\$500.00).

- (7) If the Administrative penalty is not paid in accordance with Section 14(3), the person charged with the offence is liable on summary conviction to a fine of not less than five hundred dollars (\$500.00).
- (8) A person or owner who fails to comply with the provisions of an Order made under the provisions of Subsection 10(b) commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category "F" offence.

15. FEES AND TARIFFS

Fees and tariffs in this By-law are as follows:

a. Annual License Fees

Altered dog	\$10.00
Unaltered dog	\$25.00
Fierce or dangerous animal (includes 2 signs)	\$100.00
Replacement tag	\$2.00
Replacement fierce or dangerous animal sign	\$15.00

b. Impounding Fees

1st Occasion	\$ 50 + HST + *maintenance + \$40 if after hours
2nd Occasion (within 24 months)	\$ 75 + HST + *maintenance + \$40 if after hours
3rd & Subsequent Occasion	\$100 + HST + *maintenance + \$40 if after hours

*maintenance - includes \$10 per day shelter and \$10 for vaccination, which all dogs must receive when entering the shelter, plus any other expenses incurred by the Animal Control Officer including, but not limited to: veterinarian fees, costs and legal fees relating to the capturing, impounding and legal proceedings.

16. SEVERABILITY

If any part of this By-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this By-law.

17. ENFORCEMENT

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

18. BY-LAWS REPEALED

All By-laws, rules, and regulations heretofore passed, adopted and observed by the Council of the Town of Saint Andrews, relating to dogs and/or animal control are hereby repealed, including By-law 11-02, a By-law Respecting Animal Control within the Town of Saint Andrews.

19. EFFECTIVE DATE

This By-law comes into effect on the date of final enactment thereof.

READ FIRST TIME:	September 9, 2019
READ SECOND TIME:	November 4, 2019
READ THIRD TIME & ENACTED:	December 2, 2019

SEAL





DOUG NAISH, MAYOR



CHRIS SPEAR, ACTING CLERK