

BY-LAW 01-12

A By-law of the town of Rothesay Respecting Animal Control, Enacted Under the *Municipalities Act*, Section 96(1), R.S.N.B. 1973, c.M-22

The Council of the town of Rothesay 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, including but not limited to a dog and/or cat
 - 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) “**cat**” includes male and female;
 - f) “**Clerk**” means the Clerk of the town of Rothesay;
 - g) “**Council**” means the Rothesay Town Council;
 - h) “**dangerous dog**” means any individual dog that the Animal Control Officer has deemed to be dangerous to the public.
 - i) “**day**” means a 24 hour period;
 - j) “**dog**” includes male and female;
 - k) “**dog park**” means a public park that is specifically designated for dogs to be off-leash;

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- l) **“kennel”** means a place where animals are bred, boarded or held;
- m) **“leash”** means a device used to restrict the movement of an animal in order to control the animal;
- n) **“licence”** means a licence issued pursuant to this By-law;
- o) **“microchip”** means an identification device, approved by the Canadian Standards Association, implanted into an animal that contains a unique code that permits access to information stored in a central database, such as the owner's name, address and telephone number.
- p) **“muzzle”** means a humane covering device placed over a dog's mouth and of sufficient strength to prevent it from biting;
- q) **“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.
- r) **“public place”** means any property that is not privately owned and includes Municipal, Provincial, and Federal property;
- s) **“running at large”** means where an animal 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 two (2) meters; or
 - v) in a public place and not under the control of the owner of such animal;
- t) **“reptile”** means an air-breathing, scaly, cold-blooded vertebrate and includes exotic species such as snakes, iguanas and alligators;
- u) **“service animal”** means any animal trained to do work or perform

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tasks for the benefit of an individual with a disability or an animal used for search and rescue or law enforcement;

- v) **“shelter”** means such premises and facilities designated by the Town as animal shelters for the keeping and disposition of impounded animals.
- w) **“street”** includes road, sidewalk, alley, park, public square and property under the control of the Town;
- x) **“Town”** means the town of Rothesay;
- y) **“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 or attacking manner;
- z) **“ungulate”** means hoofed mammal;

DUTIES OF THE OWNER

- 3. Every owner of an animal shall:
 - a) License their animal, subject to Sections 5 to 14;
 - b) Vaccinate their animal for rabies, distemper and parvovirus subject to Sections 17 to 21;
 - c) Maintain control of their animal at all times in a public place; and
 - d) Obey any other relevant by-laws, acts or regulations dealing with the care, health, safety and comfort of animals.
- 4. No owner of an animal shall:
 - a) permit their animal to run at large;
 - b) permit their animal to bark, or make other noise for a period of time or in an unreasonable manner;
 - c) permit their female animal(s), where applicable, to be in public while in heat;
 - d) allow their animal 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;
 - e) fail to remove forthwith any feces left by the animal on any property other than the property of its owner;
 - f) allow their animal, where it is suffering from a communicable disease, to be in any public place;

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- g) permit their animal to attack any person or another animal without provocation;
- h) permit their animal to threaten, any person or any other animal in a public place or on any property other than the property of the animal's owner; and
- i) allow their animal 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 or a cat shall:

- a) license with the Clerk, or his or her designate , each dog or cat 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 or cat;
 - iv) proof of vaccination against rabies, distemper and parvovirus;
 - v) a digital photo of the animal which is suitable for the purpose of identifying the animal in question;
 - vi) microchip information, if applicable.

6. All licences issued pursuant to this By-Law shall be valid for the lifetime of the animal, provided the owner of the animal is the owner named on the licence and the animal has not been declared to be a dangerous dog. When an owner ceases to own a dog or cat for which a licence was given, the licence shall expire.

7. At the time of licensing the dog or cat, 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 animal which is issued pursuant to this By-Law is not transferable from one owner to another or from one dog or cat to another. Every person who becomes the owner of a dog or cat 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. The Town may request the vaccination record of any dog or cat at any time after licensing.

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10. Every person who becomes the owner of a dog or cat shall, within 30 days after becoming an owner of such animal, license the dog or cat pursuant to this By-Law.
11. Every owner of a dog or cat shall cause the dog or cat, 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 or cat is outside of any dwelling place. 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.
12. Any animal that does not have a valid licence tag shall be deemed not to be licensed under this By-law.
13. 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.
14. 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.

KENNELS

15. A kennel license, issued under the Society for the Prevention of Cruelty to Animals Act R.S.N.B. 1973, c.S-12, is required prior to seeking the approval of a kennel under the Rothesay Zoning By-law.
16. No person shall operate a kennel without a license acquired under the Society for the Prevention of Cruelty to Animals Act R.S.N.B. 1973, c.S-12.

VACCINATIONS

17. The owner of a dog or cat shall:
 - a) ensure that each animal owned by the owner is vaccinated for rabies, distemper and parvovirus within ten (10) days of acquiring the dog or cat if it is more than twelve weeks of age; and
 - b) regularly vaccinate each animal owned by the owner for rabies, distemper and parvovirus after the first vaccination, as required by a veterinarian.
18. The Animal Control Officer shall, where in their opinion the condition of the animal warrants the recommendation or care of a veterinarian, report any apparent

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illness, communicable diseases, injury or unhealthy condition of any animal to a veterinarian. The owner of the animal shall be held responsible for any fees incurred as a result of such consultation or treatment by the veterinarian.

19. Where an animal is suffering from any communicable disease, the owner of such animal shall not permit the animal to be in any public place and shall not allow the animal to be in the proximity of any other animals.

20. A person who owns an animal that is rabid, is suspected of being rabid or has been exposed to rabies shall immediately report the matter to the proper Provincial authority.

21. Every owner of a dog or cat shall cause such dog or cat to wear a collar or harness to which the vaccination tag is attached.

DANGEROUS DOGS

22. The Animal Control Officer, after considering the evidence and consulting such experts as they see fit, may deem any dog a dangerous dog if:

- (i) that dog has attacked a person;
- (ii) that dog has killed, bitten or injured another animal;
- (iii) that dog is attack trained and is kept for the primary purpose of security or protection of persons or property; or
- (v) that dog has repeatedly shown the disposition or tendency to be threatening or aggressive towards people or other animals.

23. The Animal Control Officer may declare a dog to be a dangerous dog only after acquiring and considering sufficient evidence, such as:

- i) a veterinarian's report;
- ii) a report from a trained and recognized animal behaviourist; or
- iii) evidence of repeated offenses by the dog, such as those offenses listed in Section 22.

24. The owner shall cover the costs of any reports required by the Animal Control Officer pursuant to Section 23.

25. If the Animal Control Officer declares an animal to be a dangerous dog the owner of such animal may appeal the decision to Council.

26. If Council upholds the decision of the Animal Control Officer to declare a dog to be a dangerous dog the owner may appeal Council's decision to the Provincial Court.

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27. The owner of a dangerous dog may be required by the Town to enter into a legally binding agreement with the Town to ensure that the public is protected from the dog. The terms of the legal agreement may include, but are not limited to, any or all of the following conditions, subject to the sole discretion of the Town:

- a) the dog shall be muzzled at all times when it is off the owner's property;
- b) the dog shall be on a leash not longer than one metre and under the control of a responsible person at all times when it is off the owner's property;
- c) the dog shall be either securely confined indoors or in a securely enclosed and locked pen or structure that the dog can not escape from by jumping, climbing or digging when such dog is on the property of its owner. The structure shall be capable of preventing the entry of any person not in control of the dog and shall also provide protection from the elements for the dog;
- d) a sign must be displayed at each entrance to the owner's property and the 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 or in the building, as applicable. This sign shall be visible and legible from the nearest road and/or thoroughfare;
- e) the dog is neutered or spayed as soon as is practicable after the dog is determined to be a dangerous dog;
- f) the dog is implanted with a microchip;
- g) the dog is licensed with the Town as a dangerous dog; and
- h) such other conditions as the Town deems desirable in order to achieve the goal of ensuring the public is protected from the dangerous dog in question.

28. If the owner of a dangerous dog is unwilling or unable to enter into a legal agreement to the satisfaction of the Town, where required to do so by the Town pursuant to Section 27, the owner of said dog may offer the dog for adoption. A dangerous dog may only be adopted by a person willing and able to enter into and uphold a legal agreement between the owner and the Town, as provided for under Section 27, for the protection of the public from said dangerous dog

29. If the owner of a dangerous dog is unwilling or unable to enter into a legally binding agreement to the satisfaction of the Town, where required to do so by the Town pursuant to Section 27, the owner of said dog may, subject to a surrender agreement signed by the owner and the Town, voluntarily surrender ownership of the dog to the Town.

30. When the Town is of the opinion that the owner is unable to take sufficient actions to ensure the safety of the public the Town, subject to Section 45, may apply

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to the Provincial Court to have a dangerous dog destroyed.

ANIMAL CONTROL OFFICER

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

32. An Animal Control Officer, while pursuing any animal 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.

33. The Animal Control Officer shall capture and impound any animal 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.

34. The Animal Control Officer may capture and impound any animal 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;
- b) is alleged to have bitten or attempted to bite a person or another animal.

35. 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.

36. 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

37. 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.

IMPOUNDING

38. Where an Animal Control Officer impounds an animal they shall make reasonable efforts to notify the owner of the animal within 24 hours of impounding the animal.

RECLAIMING ANIMALS

39. The owner of an impounded animal may reclaim the animal during the regular business hours of the animal shelter unless the animal has been impounded as a result of it having bitten a person, the animal is a dangerous dog or the animal is actually or suspected to be affected with rabies or any other contagious disease. Where an animal has been impounded as a result of it having bitten a person, the animal is a dangerous dog or the animal is actually or suspected to be affected with rabies or any other contagious disease, the owner of the animal in question may reclaim the animal 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, pursuant to section 27, which is to the Town's satisfaction.

40. 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 animal fee if the animal is a dog or cat 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

41. An impounded animal that has not been reclaimed within five days of being impounded may be offered for adoption.

42. An impounded animal that cannot be sold or offered for adoption for any

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reason, including the fact that the animal 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 40 of this By-Law.

43. The animal shelter may continue to keep the animal longer than the period specified in Section 41 of this By-Law, when the owner:

- a) requests the animal be kept for a longer period, or
- b) advises the animal shelter of his/her ownership but does not pick up the animal from the pound within the time provided in Section 41, and when,
 - i) there is sufficient room in the animal shelter to continue to keep the animal, and
 - ii) the animal is not vicious, rabid, suffering from a communicable disease, ill or injured,
 - iii) the animal 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

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

DESTRUCTION

45. Any animal impounded under this By-Law may be destroyed, provided that the animal:

- a) has been or is determined to be running at large and nobody has claimed the animal 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 animal will not recover and should be destroyed.

46. A Judge of the Provincial Court may summon the owner of an animal that has been deemed a dangerous dog or that is alleged to have bitten or attempted to bite a

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person or another animal to appear and to show cause why the animal should not be destroyed. If, from the evidence, produced it appears that the animal has bitten or attempted to bite any person, household pet, or livestock, the Judge may order that the animal be destroyed.

PIGEONS

47. 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.

DEER AND MOOSE

48. 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

49. 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 reptile.

GENERAL

50. 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.

51. 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

52. 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

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Town.

PENALTY

53. 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.

54. 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.

55. A payment made under Section 53 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.

56. If the voluntary payment set out in Section 53 to 55 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

57. 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

58. This By-Law shall be enforced by the By-Law Enforcement Officer, Animal Control Officer and/ or the Rothesay Regional Police Force.

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BY-LAWS REPEALED

59. The following By-Laws relating to Animal Control in Rothesay are repealed:

By-law 4-98-A1
By-law 4-98-A2

FIRST READING BY TITLE: 13 February 2012

SECOND READING BY TITLE: 12 March 2012

READ BY SECTION NUMBER:

(*Advertised as to content on the Rothesay website in accordance with Sections 11 and 12 Municipalities Act, R.S.N.B. (1973) Chapter M-22) 14 February 2012

THIRD READING AND ENACTMENT: 10 April 2012

William J. Bishop
Mayor

Mary Jane E. Banks
Clerk

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SCHEDULE "A" TO THE ANIMAL CONTROL BY-LAW

Fees and Fines

1. Fees

Animal Licence	Free
Replacement Tag	\$10
Dangerous Dog Licence	\$100

2. Fines

1st Offense

Failure to license an animal	\$50
Failure to have an animal vaccinated	\$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	\$35

For each additional offense, the fines will be doubled.