



Regular Council Meeting

To:	Mayor and Council
Date:	July 6, 2020
From:	Elana Arthurs, Clerk
Report Number:	Corporate Services 2020-13
Subject:	Dog Control By-law Update

Recommendation:

That Council adopt By-law No. 2020-36 being a by-law to provide for the licencing and registration of dogs, and for prohibiting or regulating the running at large of dogs.

Overview:

The current Dog Control By-law was adopted in 2013 and since then there have been a variety of occurrences that staff felt should be addressed within the Township's By-law.

Staff have drafted a new Dog Control By-law for Council's consideration with minor provisions to address the following:

- The ability for the Clerk to provide flexibility around the number of allowable dogs permitted by one property. This will often occur when someone moves into the municipality owning more than the allowable number of dogs;
- Restricting the number of dogs on properties that have more than one dwelling unit to two (2) per unit instead of three (3); and
- Providing the Dog Control Officer the ability to lay charges for a wider variety of offences which are identified in the Set Fines attached to this report and included within the By-law.

The By-law also contains a process, and an associated fee, for appealing a muzzle order or order to restrain as required by the Municipal Act, which contains the following wording:

Muzzling of dogs

105 (1) If a municipality requires the muzzling of a dog under any circumstances, the council of the municipality shall, upon the request of the owner of the dog, hold a hearing to determine whether or not to exempt the owner in whole or in part from the requirement. 2002, c. 17, Sched. A, s. 22 (1).

Conditions

(2) An exemption may be granted subject to such conditions as council considers appropriate. 2001, c. 25, s. 105 (2).

When a Muzzle Order / Order to Restrain is issued, a request for an appeal can be made to the Clerk along with a \$100.00 fee and a Hearing would be conducted whereby Council would rule on the Order. Since 2012, we have only had one verbal request for a hearing, the dog owner was requested to put something formally in writing although nothing has been received to date.

The fees that require approval from the Provincial Offences are identified in the By-law and will be sent to the Province for approval. Fees that do not require Provincial approval, including fees for dog tags and an application fee for a hearing will be established in the User Fees and Charges By-law.

Attachment:

By-law No. 2020-36 being a by-law to provide for the licencing and registration of dogs, and for prohibiting or regulating the running at large of dogs

Respectfully submitted by,

Reviewed by,

Elana Arthurs
Clerk

Yvette Hurley
Chief Administrative Officer

The Township of Cavan Monaghan

By-law No. 2020-36

Being a by-law to provide for the licencing and registration of dogs, and for prohibiting or regulating the running at large of dogs

Whereas the Municipal Act, 2001, S.O. c. 25, Sections 11, 103 & 105 provide that Municipalities may pass By-laws to regulate animals; and authority in respect to the seizure and impounding of dogs found running at large and the muzzling of dogs;

And Whereas the Council of the Township of Cavan Monaghan deems it advisable to pass a By-law for the licencing and requiring the registration of dogs and for prohibiting or regulating the running at large of dogs in the Township;

And Whereas Subsection 391 (1) of the Municipal Act 2001, S.O. c. 25, authorizes a municipality to impose fees or charges on persons for services or activities provided or done on behalf of it;

Now Therefore the Council of the Township of Cavan Monaghan hereby enacts as follows:

1. Definitions: For the purpose of this By-law:

Dangerous Dog – means a dog that:

- (a) has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so; or
- (b) has significantly injured a domestic or farm animal; or
- (c) has shown the disposition or tendency to be threatening or aggressive to persons or animals.

Dog – means a male or female dog whether neutered or spayed that is over 12 weeks of age.

Dog Control Officer – includes any person employed by the Township of Cavan Monaghan to enforce the provisions of this By-law.

Minor – is a person who has not achieved the age of majority as defined by applicable provincial law.

Owner of Dog – includes a person who possesses or harbours a dog and, where the owner is a minor, the person responsible for custody of the minor.

Possession or Harbours – of a dog shall be deemed to occur when a person permits a dog to remain at or about or on the property or the premises which he/she owns or occupies or which is habitually kept on such property.

Service Dog – means a dog trained and actively used to work or perform tasks for persons with disabilities and that are registered with an accredited “Service Animal” organization.

Township – means the Township of Cavan Monaghan.

Township Clerk – means the person within the Township’s administration who fulfills the function of the Clerk as required by the Municipal Act, 2001 or his or her designate.

2. Requirements for a Licence

- 2.1** Every person who owns a dog which is kept in the Township shall obtain a licence for such dog and shall pay the licence fee for such dog as prescribed in Schedule ‘A’ to this By-law.
- 2.2** The requirement to obtain a licence as prescribed in Section 2(1) shall occur when a person:
 - (a) becomes the owner of the dog, and is kept within the Township; or
 - (b) when the dog is possessed or harboured in the Township for a period of more than fourteen (14) days.
- 2.3** All annual licences issued under this By-law shall expire on the 31st day of December in each year and the owner shall be required to renew the licence prior to March 31st of the current year.
- 2.4** Registration and licencing of a dog under the age of six (6) months is not required by this By-law.
- 2.5** Annual licencing fees are set out in the Township of Cavan Monaghan’s current User Fees and Charges By-law.

3. Identification of Dog(s) and Issuance of Tags

- 3.1** Every person who is issued a licence pursuant to Section 2(1) shall be given a lifetime tag for such dog, and such tag shall indicate an identification serial number thereon for such tag, and the same shall be provided to the person.
- 3.2** Every person who is provided with a tag pursuant to Section 3(1) shall ensure that the tag is affixed to the collar of the dog, in such a manner that the tag can identify such dog to any person at all times and the same shall be secured on the dog until the tag is renewed or replaced.
- 3.3** Section 3(2) does not apply in cases when the dog is receiving veterinary treatment, or is being groomed, or otherwise cannot have the tag affixed because it would represent a danger to the dog, or when the dog is being lawfully used for hunting in the bush.

- 3.4** A record shall be kept by the Township, showing the name, address and phone number of the owner of the dog and the serial number of the tag provided to the person pursuant to Section 3(1).
- 3.5** Tags which are lost may be replaced by providing sufficient proof that the dog possessed a licence for the current year and paying to the Township the sum set out in the User Fees and Charges By-law.

4. Service Dog

Sections 2 and 3 of this By-law shall not apply to any person who is disabled and owns a dog (or dogs) for his or her assistance as a service dog.

5. Dogs at Large

- 5.1** No person shall permit a dog owned by him or her to run at large in the Township, and running at large shall be deemed to occur when the dog is found in any place other than the property or premises of the owner, and not under the control of any person, and held securely in or on a leash to prevent the possibility of any person or other animal (including another dog) from being attacked or bitten by such dog.
- 5.2** Section 5(1) shall not apply in cases where prior consent to allow the dog to be at large is given by the person owning the land on which the dog is found.
- 5.3** The Dog Control Officer may seize and impound any dog found running at large and deliver same to the Peterborough Humane Society.
- 5.4** Any person may restrain, at their own risk, any dog found at large on their property, or at large on a public property, and surrender the dog to the custody of the Dog Control Officer.
- 5.5** Where a dog seized under this By-law is injured, or should be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the dog may be euthanized in a humane manner at the Dog Control Officer's discretion and no damages or compensation shall be recovered by the Owner of the dog for such action.
- 5.6** Where a dog is captured or taken into the custody, including by order of a court, or under the direction of the local police services, the Owner shall pay to the Township all applicable fees and charges, including the cost of the services of a veterinarian, whether the animal is alive, dies or is euthanized.
- 5.7** Where an injured dog is impounded or otherwise detained and requires the immediate attention of a Veterinarian, the Dog Control Officer may deliver the injured dog to a Veterinarian for treatment or euthanization and the Owner, if

known, shall be responsible for all costs incurred. No damages or compensation shall be recoverable by the Owner or any other person.

6. Restricting the Number of Dogs

No person shall have, retain, harbor or have possession of:

- (a) More than three (3) dogs within or about any single detached dwelling; or
- (b) More than two (2) dogs within or about any dwelling unit for properties with two (2) or more dwelling units regardless of whether that person is the owner of the dogs;
- (c) Sections (a) and (b) shall not apply to a property which is zoned Agricultural, a property possessing a valid kennel license, an approved business and/or veterinary offices.
- (d) The Clerk of the Township of Cavan Monaghan may authorize, in unique circumstances, additional dogs to be kept for a specified period of time.

7. Seizure and Impounding of Dogs

7.1 The Officer responsible for the enforcement of this By-law may:

- (a) Seize and impound any dog(s) found running at large within the Township and impose fees as attached in Schedule 'A'.
- (b) Where it is impossible to identify the owner of the dog(s), the Officer shall deliver the dog(s) to the Peterborough Humane Society.
- (c) Where, in the opinion of the Officer responsible for the enforcement of this By-law, a dog seized, is injured or should be destroyed without delay for humane reasons, or for reasons of safety to persons, the Officer may destroy the dog(s) as soon after seizure as he/she thinks fit without permitting any person to reclaim the dog.
- (d) Where the Officer responsible for the enforcement of this By-law finds a dog(s) running at large contrary to the provisions of this By-law and he/she believes that before he/she can seize the dog(s) it may attack a human being or another animal, he/she may destroy the dog(s).
- (e) No damages or compensation shall be recoverable by the owner of the dog(s) on account, or as a result of the actions of the Officer responsible for the enforcement of this By-law.

- ### **7.2**
- (a) Any dog, impounded pursuant to Section 7.1 may be kept at the Peterborough Humane Society, a secure place, and a fee charged to the owner as set out in the set fines payable to the Township and any fees charged by the Peterborough Humane Society for all costs of the distrainted.
 - (b) When a dog is so impounded and kept pursuant to this Section and is kept at the Peterborough Humane Society, the dog shall be dealt with after the minimum redemption period has expired as established by the current Provincial Legislation.

8. Dog Owners Liability Act

It is the declared intention of Council that the Dog Owners' Liability Act shall be enforced under the Provincial jurisdiction, and further that the Dog Control Officer are recognized as Officers under the authority of the Dog Owners' Liability Act to ensure the expedient and efficient application of this Act.

9. Guard Dogs

Any person who owns/harbours a dog trained for the purpose of attack or guard shall so notify the Clerk in writing. The premises where such a dog is normally kept shall be securely fenced and posted in order that such a dog can be restricted. If it is necessary for such a dog to leave the owner's premises, the dog shall be on a short leash and shall be muzzled.

10. Dangerous Dogs

- 10.1** All Owners shall exercise all reasonable precautions to prevent their dog from:
- (a) Biting or attacking a person or domestic animal;
 - (b) Behaving in a manner that threatens or poses a menace to the safety of persons or domestic animals.
- 10.2** Every Owner of a dangerous dog that has bitten a person or domestic animal shall ensure that said dog is muzzled and leashed while on any property in the Township.
- 10.3** Every Owner of a dangerous dog shall keep it indoors or in a secured yard that prevents the dog from escaping over or under the fence or by any other means, and that prevents access by the public. Dangerous dogs shall not be confined only by a chain or tether.
- 10.4** The Dog Control Officer may seize a dog in a public place if the Officer believes on reasonable grounds that:
- (a) The dog has on one or more occasions bitten or attacked a person or domestic animal;
 - (b) The dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
 - (c) An Owner has on one or more occasions failed to exercise reasonable precautions from carrying out sections (a) or (b) as described above.
 - (d) The dog is a restricted pit bull and the Owner has on one or more occasions failed to comply with the requirements of the legislation or regulations respecting pit bulls;
 - (e) There is reason to believe that the dog may cause harm to a person or domestic animal.

- 10.5** Where the Owner objects to the muzzling or leashing requirements set forth above, the Owner may request and is entitled to a Hearing by the Council of the Township of Cavan Monaghan.

11. Muzzle Order/Order to Restrain

- 11.1** Where the Officer is satisfied on the balance of probabilities and in the absence of any mitigating factor, that a dog has placed a person or domestic animal at risk of physical harm or behaved in a manner that poses a menace to the safety of persons or domestic animals the Officer may issue Muzzle Order/Order to Restrain to the Owner as set out in Schedule 'A' of this By-law. Every person shall comply with such an Order.
- 11.2** A Muzzle Order/Order to Restrain shall be served upon the dog's Owner by pre-paid registered mail, to the Owner or to an inhabitant of the Owner's usual place of residence who appears to be at least 18 years of age.
- 11.3** Notwithstanding other Sections of this By-law, when a Muzzle Order/Order to Restrain has been served on the Owner, and at the discretion of the Officer the Owner shall as indicated on the Order:
- (a) Keep the dog, when on the Owner's premises, confined within the dwelling and under the effective control of an adult, or in a secured yard, that prevents the dog from escaping over or under the fence or by any other means, or enclosed in a pen constructed with secure sides so as to prevent escape of the dog and prevent entry therein by the public;
 - (b) When not confined in accordance with section (a) above, to keep the dog under the effective control of an adult person and on a leash of not more than 1.8 metres (6 feet) in length;
 - (c) Ensure that the dog is muzzled at all times when it is not confined as set out above;
 - (d) Notify the Dog Control Officer or the Township Clerk within five (5) working days of moving the dog, selling the dog, giving the dog away or death of the dog;
 - (e) Immediately advise the Dog Control Officer if the dog is at large, or has bitten or attacked any person or domestic animal;
 - (f) If not already licensed, licence and register the dog with Municipality seven (7) days of receipt of the Order;
 - (g) Not contravene any other conditions imposed in the Order.
- 11.4** The Dog Control Officer shall maintain a record of all Orders and shall notify and supply a copy to the Township Clerk of the issuance of the Order.
- 11.5** Any Owner that fails to comply with the requirements of the Order shall pay the set fine or permanently surrender the dog to the Dog Control Officer.
- 11.6** No person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee of the Municipality and/or agent in the lawful exercise of a power or duty under this By-law.

12. Muzzle Order/Order to Restrain – Appeal

- 12.1** Any Owner to who a Muzzle Order/Order to Restrain has been issued shall inform the Township Clerk in writing that they intend to appeal the Order and request a Hearing within fourteen (14) days of being served notice.
- 12.2** Upon payment of a Hearing Fee as set out in this By-law, the Owner may request and is entitled to a hearing by the Council of the Township of Cavan Monaghan.
- 12.3** Upon determination of a hearing date, the Clerk shall give notice in writing to the Owner that:
- (a) Includes a statement of the time, date, place and purpose of the hearing; and
 - (b) Includes a statement that if the Owner does not attend the hearing, Council may proceed in the absence of the Owner and the Owner will not be entitled to any further notice.
- 12.4** The notice of hearing shall be served upon the dog's Owner by pre-paid registered mail, to the Owner or to an inhabitant of the Owner's usual place of residence who appears to be at least 18 years of age. When service is made by registered mail, the service shall be deemed to be made on the fifth (5) day after mailing.
- 12.5** Council shall hold a hearing in accordance with the provisions of this By-law at the time, date and place set out in the notice and Council may:
- (a) Exempt the Owner from muzzling and/or leashing requirements;
 - (b) Confirm muzzling and/or leashing requirements;
 - (c) Vary muzzling and/or leashing requirements and other requirements of the Order, or
 - (d) Combine any exemption confirmation or variance as it sees fit.
- 12.6** The decision of the Board shall be final and binding.
- 12.7** An application made by the Owner for a hearing under this By-law does not act as a stay of the Order which shall take effect on the day it is served or deemed serviced, and shall continue to be effective until Council renders a decision indicating otherwise.

13. Stoop and Scoop

Every person who owns, retains, possesses, harbours, keeps or is in control of a dog shall immediately remove any excrement or waste left by the dog on any property in the municipality, and shall dispose of excrement or waste in an appropriate sanitary manner.

14. Penalties

Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as such penalties as provided in the Provincial Offences Act or the Dog Owners Liabilities Act and identified in the set fine schedule.

15. Severability of Provisions

If any section or sections of this By-law, or parts thereof, are to be found by any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable, and all other sections or parts thereof of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.

16. Repeal of Previous By-laws

By-law No. 2013-71 is hereby repealed in its entirety.

17. This By-law comes into force and effect on the 6th day of July 2020.

Read a first, second and third time this 6th day of July, 2020

Scott McFadden
Mayor

Elana Arthurs
Clerk

**The Township of Cavan Monaghan
Schedule 'A' to By-law No. 2020-36
Muzzle Order/Order to Restrain**

To (Name of Owner): _____

Address: _____

Telephone: _____

I, _____, an Officer appointed by the Township of Cavan Monaghan, have reasonable grounds to believe that the dog

described as Breed: _____ Colour: _____

Age: _____ Name: _____ Microchip: _____

and residing at _____ has bitten or attacked a person or another domestic animal; placed a person or domestic animal at risk of physical harm; or behaved in a manner that poses a menace to the safety of persons or domestic animals, as per the provisions of the By-law No. 2020-36.

You are hereby ordered as indicated below:

- ☐ To keep the dog, when on the Owner's premises, confined within the dwelling and under the effective control of an adult, contained by a fence, electric or otherwise, or enclosed in a pen constructed with a secure sides.
- ☐ To keep the dog under effective control of an adult and on a leash of not more than 1.8 metres (6 feet) in length when it is not confined as noted above. Flexi leads are not permitted.
- ☐ To securely attach a muzzle to the dog at all times when it is not confined as noted above.
- ☐ Notify the Dog Control Officer or the Township Clerk within five (5) working days of moving the dog, selling the dog, giving the dog away or death of the dog.

- ☐ Immediately advise the Dog Control Officer if the dog is at large, or has bitten or attacked any person or domestic animal.
- ☐ Licence and register the dog with the Municipality within seven (7) days of receipt of the Order.

This **Order** takes effect immediately.

If you wish to **Appeal** this Order to Restrain you must apply to the Township Clerk of the within fourteen (14) days from the date this Order is received by you setting out your request for a hearing in front of the Council of the Township of Cavan Monaghan which shall include the reasons for appealing this Order, and the payment of the hearing fee in the amount of \$100.00, failing which this Order is final and binding.

Please be advised that notwithstanding that you may apply for a hearing regarding this Order, this Order takes effect immediately upon its receipt by you and remains in effect for so long as the dog shall live unless a decision on an appeal to rescind this Order, in which case this Order remains in effect until the date a decision is issued by Council.

A full copy of By-law No. 2020-36, being a by-law to provide for the licencing and registration of dogs, and for prohibiting or regulating the running at large of dogs in enclosed to ensure you are fully aware of your rights and obligations in this matter and the basis for the issuing of this Order.

Dated at the _____ this _____ day of _____, 20____.

Dog Control Officer (Signature)

Name of Dog Control Officer (print)

Township Clerk or Designate (Signature)

The Township of Cavan Monaghan
Part 1 Provincial Offences Act
Set Fine Schedule
By-law No. 2020-36: Dog Control

The licencing and registration of dogs, and for
prohibiting or regulating the running at large of dogs
Within the Township of Cavan Monaghan

Item	Column 1 Short form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Failure to obtain a license	Section 2	\$100.00
2.	Failure to affix dog tag	Section 3	\$100.00
3.	Failure to keep more than permitted number of dogs	Section 6	\$200.00
4.	Failure to Clean Up Excrement	Section 13	\$100.00
5.	Failure to muzzle or leash a dangerous dog	Section 11	\$250.00
6.	Failure to comply with Muzzle Order/Order to Restrain first offence	Section 11	\$350.00
7.	Failure to comply with Muzzle Order/Order to Restrain second offence	Section 11	\$500.00
8.	Animal at large	Section 5	\$150.00
9.	Failure to restrain a dog in public	Section 5	\$150.00

Note: The general penalty provision for the offences listed above is Section 14 of By-law No. 2020-36, a certified copy of which has been filed, and s. 61 of the Provincial Offences Act, R.S.O. c.P.33