

TOWN OF O'LEARY
BYLAW # 2016-3

BYLAW PERTAINING TO DOGS AND THE LICENSING THEREOF

Pursuant to the Municipalities Act R.S.P.E.I. 1988 Cap M13 - Part VIII Sec. 30 Sub 1

Be it enacted by the Town Council of the Town of O'Leary as follows:

1. This bylaw may be cited as the Dog Bylaw of the Town of O'Leary.

Definitions

2. In this bylaw:
 - a. "Animal" includes, but is not limited to, dogs, cats, and other domesticated companion animals;
 - b. "Animal Control Officer" means any person appointed by the Town of O'Leary for the purposes of enforcing this bylaw;
 - c. "Animal Shelter" means the premises selected by the Town of O'Leary for the impoundment of animals;
 - d. "At Large" means an unleashed animal that is in a public place or on private property without the permission of the owner or occupant thereof;
 - e. "Council" means the Town Council of the Town of O'Leary;
 - f. "Judge" means a Judge of the Provincial Court of the Province of Prince Edward Island;
 - g. "Kennel" means an establishment for the breeding and/or boarding of dogs or cats;
 - h. "License" means
 1. A written certificate describing the animal, including its spay/neuter status, identifying the owner and assigning to the animal a unique number that identifies the animal and its owner; and
 2. A metal tag that can be suspended from a collar around the animal's neck and that bears the unique number referred to in clause (1) above along with the name of the Town;
 - i. "Neutered" means any animal that is sexually sterile;
 - j. "Organization" means any organization, individual, association, society or other group hired by the Town of O'Leary for the purpose of controlling, impounding and/or safekeeping animals;
 - k. "Owner" means the person legally entitled to ownership of a domestic animal, the person having actual care and control of a domestic animal or the person harbouring a domestic animal within his or her lands or premises, providing that where ownership, control or harbouring is by a child under the age of 17 years, the custodial parent or legal guardian of such child will be deemed to be the person owning, controlling, or harbouring the domestic animal for the purposes of this

- bylaw;
- l. “Town” means the Town of O’Leary;
 - m. “Dangerous Dog” means any individual dog that,
 1. Has inflicted severe injury on a human being without provocation on public or private property,
 2. Has killed a domestic animal without provocation while off the owner’s property,
 3. That is attack trained,
 4. Has shown the disposition or tendency to be threatening or aggressive,
 5. Is kept for the purpose of security or protection, whether residential, commercial or industrial, of persons or property.
 - n. “Muzzle” means a humane fastening or covering device of adequate strength over the mouth of an animal to prevent it from biting.

Licenses

3. No person shall own a dog within the Town unless such dog is licensed pursuant to the provisions of this bylaw.
4. Upon application for a license, and prior to the issuance of a license, the owner of the dog shall provide the Town with the following information:
 1. The owner’s name, street address, work telephone number and home telephone number;
 2. The name, breed, description and sex of the dog to be licensed (spayed/neutered);
 3. The number of animals owned by the owner; and
 4. Such other information as may be required by the Town.
5. Upon receipt of a license, every owner of a dog shall suspend the metal tag referred to in clause 2 (h)(2) from a collar that is fastened around the neck of the dog and shall ensure that the metal tag remains suspended from the collar and is worn at all times.
6. Licenses issued under this bylaw shall not be transferred from one dog to another.
7. No person shall operate a kennel without first obtaining a kennel license from the Town and the fee for a kennel license shall be \$100.
8. Every person who owns or operates a kennel shall comply with the requirements set out in A Code of Practice for Canadian Kennel Operations (Canadian Veterinary Medical Association 1994).
9. Every person who owns or operates a kennel shall permit an Animal Control Officer to enter and inspect the kennel at all reasonable times, upon production of proper identification, for the purpose of determining compliance with this bylaw.
10. Where an Animal Control Officer finds that the owner or operator of a kennel does not

comply with any regulations in this section, he or she may issue a compliance order and then if the kennel doesn't comply with the regulations he or she may suspend or revoke the license and direct that the animals be seized and impounded.

Animal Control Officers

11. The Council may appoint Animal Control Officers for the purpose of enforcing the provisions of this bylaw.
12. The Council may enter into an agreement with an organization for the enforcement of this bylaw.
13. For the purposes of carrying out his or her duties pursuant to this bylaw:
 1. An Animal Control Officer, when in pursuit of an animal, is authorized to enter onto private property within the Town and impound the animal, but this section does not authorize the Animal Control Officer to enter into a residence;
 2. An Animal Control Officer may seize any animal that is found "at large", and may impound such animal in the animal shelter, or in any other facility which, in the opinion of the Animal Control Officer is reasonable;
 3. Where an Animal Control Officer is in pursuit of an animal that has been "at large" and that has returned to the owner's property, the Animal Control Officer may impound the animal in the animal shelter, or in any other facility which, in the opinion of the Animal Control Officer is reasonable, but this section does not authorize the Animal Control Officer to enter into a residence;
 4. Where in the opinion of the Animal Control Officer, in consultation with a veterinarian, an animal seized and impounded is injured or ill and should be destroyed without delay for humane reasons or for reasons of safety to persons, the animal may be euthanized humanely if reasonable efforts to locate the owner have failed;
 5. Where an animal seized and impounded is injured or ill and is treated by a veterinarian, the Town is entitled to charge the person claiming the animal for the cost of treatment.
14. If the animal is wearing the metal tag referred to in Clause 2 (h)(2), then the Animal Control Officer shall notify the owner of the animal of the impoundment where it is reasonably possible to do so, and the Animal Control Officer shall inform the owner of the conditions under which the owner may regain custody of the animal.
15. The animal shelter for animals impounded in compliance with this bylaw shall be the facility provided by the organization engaged to enforce this bylaw.

Dangerous Dogs

16. Any owner of a dangerous dog shall house such dog in a building or in a secure enclosure so that the dog may not come in contact with any person. At all times while outside the

said building or enclosure, such dog shall be securely restrained and muzzled on its owner's property.

17. A dangerous dog may be seized and destroyed by the Animal Control Officer if it is "at large".

Recovery of Impounded Animals

18. No dog shall be released from impoundment unless it is licensed and all appropriate fees are paid in accordance with the provisions of this bylaw.

19. Subject to Section 18:

1. Where an animal is impounded in accordance with this bylaw, the animal may be recovered by the owner within 120 hours of impoundment upon payment of a fine of \$50.00, plus a board fee as determined by the animal shelter for each 24 hour period or portion thereof that the animal is in the animal shelter;
2. Where an animal is impounded in accordance with this bylaw on a second occasion, the animal may be recovered by the owner within 120 hours of impoundment upon payment of a fine of \$75.00, plus a board fee as determined by the animal shelter for each 24 hour period or portion thereof that the animal is in the animal shelter;
3. Where an animal is impounded in accordance with this bylaw on a third occasion, the animal may be recovered by the owner within 120 hours of impoundment upon payment of a fine of \$100.00, plus a board fee as determined by the animal shelter for each 24 hour period or a portion thereof that the animal is in the animal shelter;
4. Where an animal is impounded in accordance with this bylaw on a fourth occasion, the animal may be disposed of or destroyed in the manner prescribed by the organization;
5. Where an animal is impounded in accordance with this bylaw the owner is subject to and shall pay any additional fees charged by the organization.

20. Where an impounded animal has not been recovered by the owner as provided under Section 19 of this bylaw, the animal may be disposed of or destroyed in the manner prescribed by the organization.

21. Where an animal is destroyed pursuant to Section 20, the owner is liable to the Town for the fine and fees referred to in Section 19, and for the costs incurred in destroying the animal, and for all costs, legal or otherwise, of any action that may be necessary to recover such fines and fees.

22. The organization is authorized:

1. To receive animals pursuant to an eviction, incarceration, fire or medical emergency, or for any other situation the Town deems appropriate;
2. To temporarily keep such animals for a maximum of five (5) days;

3. To charge the owner, when the animals are redeemed, the current per diem sheltering fee and all costs for required veterinary care; and
4. At the end of the five day protective care period, to treat such animals as day one impounded animals, unless other arrangements are agreed to between the owner and the organization.

Provision of Need

23. Every person who keeps an animal within the Town shall provide the animal or cause it to be provided with:
 1. Clean potable drinking water at all times and suitable food of sufficient quantity and quality to allow for normal growth and the maintenance of normal body weight;
 2. The opportunity for periodic exercise sufficient to maintain good health, including the opportunity to be unfettered from a fixed area and exercised under appropriate control where the animal is not “at large”;
 3. The necessary veterinary care when the animal exhibits signs of pain or suffering.
24. Every person who keeps an animal which normally resides outside, or which is kept outside for short or extended periods of time, shall ensure the animal is provided with an enclosure which meets the following criteria:
 1. A total area that is at least twice the length of the animal in all directions;
 2. Contain a house or shelter that will provide shelter from heat, cold and wet that is appropriate to the animal’s weight and type of coat. Such shelter must provide sufficient space to allow the animal the ability to turn around freely and lie in a normal position;
 3. In an area providing sufficient shade to protect the animal from the direct rays of the sun at all times;
 4. Pens and runs must be regularly cleaned and sanitized and excreta removed daily;
 5. Pens and runs shall be constructed of material of sufficient strength and in a manner adequate to confine the dog and prevent the entry of children;
 6. Pens or runs shall be located no closer than 1 metre to a property line and no closer than 5 metres from a dwelling unit located on an adjacent property.
25. No person may cause an animal to be hitched, tied or fastened to a fixed object where a choke collar or chain forms part of the securing apparatus, or where a rope or cord is tied directly around the animals’s neck.
26. No person may cause an animal to be hitched, tied or fastened to a fixed object as the primary means of confinement for an extended period of time.
27. No person may cause an animal to be confined in an enclosed space, including a car, without adequate ventilation.
28. No person shall keep an animal within the Town in an unsanitary condition. Conditions

shall be considered unsanitary where the keeping of the animal results in accumulation of fecal matter, an odor or insect infestation which endanger the health of the animal or any person or which disturb or are likely to disturb the enjoyment, comfort or convenience of any person in or about any dwelling, office, hospital or commercial establishment.

29. No person may transport an animal in a vehicle outside the passenger compartment unless it is adequately confined or unless it is secured in a body harness or other manner of fastening which is adequate to prevent it from falling off the vehicle or otherwise injuring itself.

Offences

30. Any person who fails to comply with any provision of this bylaw is guilty of an offence and subject to the penalties set out herein.
31. The owner of an animal that is found “at large” is guilty of an offence.
32. The owner of an animal that disturbs the peace and quiet of any person within the Town is guilty of an offence.
33. The owner of an animal that damages public or private property is guilty of an offence.
34. A person is guilty of an offence who:
 1. Interferes with, or attempts to obstruct, an Animal Control Officer in the legal execution of his or her duties under this bylaw;
 2. Unlocks, unlatches or otherwise opens any vehicle in which any animal seized for impoundment has been placed, so as to allow or attempt to allow any animal to escape thereof; or
 3. Removes or attempts to remove any animal from the possession of an Animal Control Officer or from any person responsible for the operation of the animal shelter.
35. Any owner who allows his or her animal to defecate on public or private property other than his or her own property and does not remove the feces immediately is guilty of an offence.
36. The owner of an animal that bites, attacks or pursues any person, or attacks or pursues or attacks or pursues any vehicle, is guilty of an offence and, in addition to the penalties set forth in Sections 38 and 39, the animal may be destroyed by an Animal Control Officer.

Penalties

37. A person who is guilty of an offence hereunder, or who violates any of the provisions of this bylaw, is guilty of an offence and is liable upon summary conviction:
 1. For the first offence, to a fine of not less than \$100.00 and not more than \$500.00;

2. For a subsequent offence, to a fine of not less than \$200.00 and not more than \$500.00.

And in default of payment of any fine imposed, to imprisonment for a term not exceeding 60 days.

38. In addition to the penalties set forth in Section 37, any person guilty of an offence hereunder or who violates any provision of this bylaw is liable for any or all costs, fees, charges or expenses, legal or otherwise, incurred by the Town in the prosecution of the offence, the total of which cannot exceed \$5000.00.
39. Each day any person violates any provision of this bylaw shall constitute a separate offence.
40. The levying and payment of penalties shall not relieve a person from the necessity of paying any charges or costs for which he or she is liable under this bylaw.

Appearance Before a Judge

41. Notwithstanding anything to the contrary stated herein, upon complaint being made to a Judge that an animal has bitten or has attempted to bite a person, or that an animal has viciously attacked another animal, the Judge may issue a summons directed to the owner of the animal, which summons shall briefly state the matter of the complaint and which summons shall require the owner to appear before a Judge at a specified time and place to answer the complaint and to be dealt with according to law.
42. If the complaint is proved, the Judge may make an order for the destruction of the animal by an Animal Control Officer authorized to enforce this bylaw and, for the purpose of carrying out this order, the Animal Control Officer may enter upon the owner's property or the property of the person in possession of the animal, and the Animal Control Officer may destroy the animal or remove the animal from the property for the purpose of destroying it.
43. The Judge may, in addition to any other penalty provided in this bylaw, direct the owner to pay for the costs of the proceedings and for the destruction of the animal.
44. All previous bylaws and amendments relating to Dogs and the Licensing Thereof be replaced by this Bylaw #2016-3.

TOWN OF O'LEARY

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FIRST READING THE 12TH DAY OF MAY, 2016.

SECOND READING THE 8TH DAY OF SEPTEMBER, 2016.

ERIC GAVIN
MAYOR

BEVERLEY SHAW
ADMINISTRATOR