

ANIMAL CONTROL BY-LAW

BY-LAW # 250-11

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The Council of the Town of Sussex, under the authority of Section 96 of the Municipalities Act, hereby enacts as follows:

I. TITLE

- (i) This by-law may be cited as the “Animal Control By-law”
- (ii) The provisions of this by-law apply within the entire area of the Town of Sussex.

II. DEFINITIONS

In this By-Law

- (i) “animal” means any wild or domestic mammal, including a dog, cat or reptile;
- (ii) “Animal Control Officer” means a contractor or a person or persons employed by the Town of Sussex who is or are charged with the responsibility of controlling animals within the Town of Sussex and shall be charged with the responsibility of maintaining and supervising the animal shelter;
- (iii) “animal license” means a license issued hereunder for an animal;
- (iv) “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;

- (v) “animal tag” means a plate on which is stamped a license number;
- (vi) “breeder” means an owner who keeps and/or sells more than two (2) unaltered dogs and/or three (3) altered dogs;
- (vii) “Building Inspector” means a person appointed by Council as Building Inspector;
- (viii) “cat” includes a male or female cat;
- (ix) “Chairperson” means the Mayor or his alternate as appointed by the Council;
- (x) “Clerk” means the Clerk of the Town of Sussex;
- (xi) “Council” means the Council of the Town of Sussex;
- (xii) “day” means a twenty four (24) hour period;
- (xiii) “Development Officer” means a person appointed by Council as Development Officer;
- (xiv) “District Medical Health Officer” means a person appointed by the Province;
- (xv) “dog” includes a male or female dog;
- (xvi) “fierce or dangerous animal” means an animal which meets any one of the following conditions:
 - (a) 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;
 - (b) an animal that has attacked, bitten or caused injury to a domestic animal, either on public or private property;
 - (c) an animal that, while running at large, has aggressively pursued or harassed a person;

- (d) an animal that, while running at large, has aggressively pursued or harassed a domestic animal;
 - (e) an animal with a known propensity to attack or injure a person without provocation;
 - (f) is attack trained;
 - (g) is kept for the purpose of security or protection, whether residential, commercial or industrial, or persons or property; or
 - (h) is a potentially dangerous animal.
- (xvii) “kennel” means a building or part of a building where animals are kept for sale or are boarded;
- (xviii) “leashed” means secured by a leash or similar device of 1.2 meters maximum length, suitable to keep an animal under the control of an owner;
- (xix) “muzzle” means a humane fastening or covering device of adequate strength over the mouth of an animal to prevent it from biting;
- (xx) “neighbourhood” means for the purpose of this By-Law not less than two (2) people living in the immediate area and occupying separate dwellings; and
- (xxi) “owner” means a person, partnership, or corporation who:
- (a) is in possession of an animal, or
 - (b) harbors an animal, or
 - (c) permits an animal to habitually remain on property owned by or under the control of that person, partnership, or corporation, or
 - (d) is a registered owner, according to Service New Brunswick records, of property where an animal is allowed or permitted to remain; or

- (e) registers or licenses an animal under this By-Law and “owns” and “owned” have the corresponding meaning;
- (xxii) “Police Officer” means:
 - (a) a member of the Royal Canadian Mounted Police,
 - (b) a Police Officer appointed under Section 10, 11 or 17.3 of the Police Act, or
 - (c) an Auxiliary Police Officer or an Auxiliary Police Constable appointed under Section 13 of the Police Act, when accompanied by or under the supervision of a member of the Royal Canadian Mounted Police;
- (xxiii) “Pound Keeper” means the Animal Control Officer approved by Council to retain all animals;
- (xxiv) “Protective Services Committee” means a committee created by the Council;
- (xxv) “public place” means any property that is not privately owned and includes Municipal, Provincial and Federal property;
- (xxvi) “reptile” means an air-breathing, scaly cold-blooded vertebrate and includes snakes;
- (xxvii) “Royal Canadian Mounted Police” means the Sussex Post of District # 3 of the Royal Canadian Mounted Police;
- (xxviii) “running at large” means an unleashed animal
 - (a) 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;
 - (b) not secured by a leash having a maximum length of three (3) meters in a public place;
 - (c) in a public place, or
 - (d) on private property other than that of the owner or keeper of the animal, or

- (e) in a forest or wooded area, while not in the company and control of the owner of the animal;
- (xxix) “street” includes road, sidewalk, alley, park, public square and property under the control of the town.
- (xxx) “Town” means the Town of Sussex;
- (xxxix) “Treasurer” means the Treasurer of the Town of Sussex;
- (xxxii) “unaltered” means an unneutered male or an unspayed female dog or cat;

III. REGISTRATION AND LICENSING

- (i) Every owner of a dog or cat shall:
 - (a) register with the Clerk, or other person(s) so designated by Council, by March 31st of each calendar year, each dog or cat which he/she owns, and obtain a license pursuant to the provisions of this by-law;
 - (b) provide the Clerk, or other person(s) so designated by Council, with the following information which will be recorded and retained:
 - ◆ the owner’s name and place of residence,
 - ◆ the name, age, breed, colour and sex of the dog or cat,
 - (c) pay, in accordance with Schedule “A” of this by-law, to the Clerk, or other person(s) so designated by the Clerk, a license fee for each dog or cat which he/she owns, subject to the following:
 - ◆ the license fee for any newly acquired dog or cat that is being registered between July 1st and October 31st in any year shall be fifty percent (50%) of the fee set out in Schedule “A” of this by-law;
 - ◆ there shall be no license fee for a “seeing eye dog”, but it must be licensed and wear a current tag;

- (ii) All licenses issued pursuant to this by-law shall expire at midnight on the thirty-first day of December of each year and an owner of an animal is allowed to have a period of grace up to and not beyond March 31st in the next ensuing year for the renewal of licenses; and further an owner making an application after November 1st in any year for a license for the following year, the license shall be valid from the date of its issuance. When an owner ceases to own a dog or cat for which the license was given, the license shall expire.
- (iii) An approved certificate from a veterinary or animal hospital is required as proof that a male dog or male cat is castrated, or a female dog or female cat is spayed, and an approved certificate from a veterinary or animal hospital confirming the cat(s) or dog(s) have received their rabies immunization pursuant to the Section on Rabies of this by-law.
- (iv) Every owner of a dog or cat which is registered under this by-law shall forthwith advise the Clerk, or other person(s) so designated by the Clerk within thirty (30) days of the change of ownership and every owner who sells a dog or cat which is registered under this by-law shall advise the purchaser of the registration and licensing provisions set out herein.
- (v) Every person who conveys or receives a dog or cat not necessarily by way of sale and purchase, shall nevertheless follow the same provisions as set out in subsection III(iv) herein.
- (vi) The Clerk, or other person(s) so designated by Clerk at the time of registration of the dog or cat, shall issue to the owner a license tag upon which is inscribed the registration number and the year of registration.
- (vii) A license tag is not transferable from one owner to another or from one dog or cat to another.

- (viii) 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 the Clerk, upon application by the owner and payment of any fees pursuant to Schedule "A" of this by-law.
- (ix) Every owner of a dog or cat shall cause a dog or cat, registered by him or her under this by-law, to wear a collar to which the tag, issued under subsection III(vi) shall be attached.
- (x) The provisions of subsection III(i) shall not apply to:
 - (a) an owner who is visiting with a dog or cat in the Town for less than twenty-one (21) days per calendar year; or
 - (b) an owner who is in the Town for the purpose of the dog or cat participating in a dog or cat show.

IV. KENNELS

- (i) Every owner who is a breeder or who keeps a dog or dogs for breeding purposes shall obtain a kennel license from the Clerk, or other person(s) so designated by the Clerk in accordance with the fees pursuant to Schedule "A" herein;
- (ii) A kennel license shall not be issued unless:
 - (a) a written application for a kennel license is submitted to the Clerk, or such other person(s) so designated by the Clerk, containing such information as prescribed by the Clerk, or such other person(s) so designated by the Clerk;
 - (b) the Animal Control Officer provides a written report to the Clerk, or such other person(s) so designated by the Clerk, stating that the kennel adequately provides for the health, safety, hygiene and comfort of the dogs while they may be housed therein;

- (c) the Development Officer or Building Inspector certifies that the kennel and its operation meets the requirements of the Building Code, the Zoning By-Law and other applicable by-laws;
 - (d) the Clerk, or such other person(s) so designated by the Clerk, is satisfied that, in the opinion of the Animal Control Officer, the kennel will not be a nuisance to the other owners of land in the neighbourhood and the Clerk, or such other person(s) so designated by the Clerk, approves the issuance of the license; and
 - (e) the kennel license fee is paid.
- (iii) A kennel license may be revoked if:
- (a) the Animal Control Officer provides a written report to the Clerk, or such other person(s) so designated by Council, stating that he is not satisfied that the kennel is being operated so as to adequately provide for the health, safety, hygiene and comfort of the dogs housed therein;
 - (b) the Clerk, or such other person so designated by Council, has determined that its continued operation is a nuisance and is annoying and disturbing to the owners of land in the neighbourhood; or
 - (c) its continued operation constitutes a violation of this or any other by-law.

V. ANIMAL CONTROL OFFICER

- (i) Council may by resolution appoint an Animal Control Officer to carry out any or all of the functions of this by-law.

VI. RABIES

- (i) 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:
 - (a) within ten (10) days of acquiring the dog or cat if it is more than six (6) months of age; or
 - (b) within ten (10) days after it has reached the age of six (6) months.
- (ii) When a dog or cat is more than six (6) 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 or cat to be vaccinated against rabies within one (1) month thereafter and every three (3) years following.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.

VII. DISTEMPER

- (i) The owner of a dog or cat which has not been vaccinated against distemper shall cause the dog or cat to be so vaccinated:
 - (a) within ten (10) days of acquiring such dog or cat if it is more than four (4) months of age, or
 - (b) within ten (10) days after it has reached the age of four months.
- (ii) When a dog or cat 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, the owner shall cause such dog or cat to be vaccinated within thirty (30) days thereof.

VIII. RUNNING AT LARGE AND ANIMAL CONTROL

No owner of an animal shall:

- (i) permit the animal to run at large;
- (ii) permit the animal 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;
- (iii) permit a female dog or cat to be in public while in heat;
- (iv) suffer or permit any animal to defecate on any property in the Town which is not the property of its owner;
- (v) refuse to remove forthwith any feces left by the animal on a property other than the property of the owner; and
- (vi) suffer or permit the animal to cause damage to property which is not the property of the owner.

IX. FIERCE OR DANGEROUS ANIMALS

- (i) 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 make application by means of a report to the Protective Services Committee to have that animal declared a fierce or dangerous animal.
 - (a) Upon application of the Animal Control Officer to have an animal declared fierce or dangerous, the Chairperson of the Protective Services Committee shall convene a meeting of the Protective Services Committee to hear evidence from the Animal Control Officer, the animal's owner, and other witnesses as necessary, to determine if such animal should be declared fierce or dangerous. After hearing all the evidence presented, the Protective Services Committee shall then declare whether such animal is a fierce or dangerous animal or not.
 - (b) If the Protective Services Committee declares an animal to be fierce or dangerous, the owner of such animal may appeal the decision to a Court.
- (ii) The owner of an animal which has been declared a fierce or dangerous animal by the Protective Services Committee shall ensure that:
 - (a) such animal is licensed with the Town as a fierce or dangerous animal in accordance with Section III;
 - (b) such animal is spayed or neutered;
 - (c) such animal comply with the owners' responsibilities as outlined in this by-law;
 - (d) such animal shall be muzzled at all times when the animal is off the owner's property;
 - (e) 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);

- (f) 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) centimeters 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; and
- (g) a sign, as depicted below with minimum dimensions of two hundred fifty by hundred (250 X 100) millimeters, 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.



X. IMPOUNDING

- (i) 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.
- (ii) The Animal Control Officer or a Peace Officer may capture and impound any animal on private, (other than in a private dwelling), or public property, that is:
 - (a) not registered or licensed as required under this by-law;
 - (b) 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;
 - (c) running at large;
 - (d) actually or suspected to be affected with rabies or any other contagious disease;
 - (e) housed in a kennel which is not licensed as required under this by-law or the license for which has been suspended;
 - (f) 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 neighbourhood;
 - (g) abandoned or appears to the Animal Control Officer to have been abandoned;
 - (h) alleged to have bitten or attempted to bite a person;
 - (i) alleged to have bitten or attempted to bite a domestic animal;
 - (j) a female dog or cat in a public place while in heat;
 - (k) a fierce or dangerous animal and is not muzzled and off the owner's private property;
 - (l) damaging property which is not the property of the owner;
and

- (m) a fierce or dangerous animal and its owner has not complied with the provisions of Section IX.
- (iii) The Animal Control Officer may capture and impound any animal in a private dwelling for violations of the by-law provided that a search warrant has been applied for and obtained pursuant to the Entry Warrants Act. The Animal Control Officer shall be accompanied by a Police Officer in the execution of the search warrant.
- (iv) 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 or upon a private dwelling, business or any place whatsoever.
- (v) 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.
- (vi) Subject to subsection X(vii) and Section XI, 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:
 - (a) the registration and license fee if the animal is a dog or cat which is not registered and licensed;
 - (b) expenses, (including veterinarian fees), costs and legal fees relating to the capturing, impounding and legal proceedings incurred by the Town;
 - (c) impounding and other applicable fees shall be as set out pursuant to Schedule "A" of this by-law; and

- (d) if an offence under this by-law has been committed, a voluntary fine as set out pursuant to Section XIV of this by-law.

- (vii) 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 unless so authorized, upon appeal of the owner, to the Protective Services Committee.

- (viii) 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 be paid to the Treasurer, or other person(s) so designated by the Treasurer.
 - (a) 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.

- (ix) 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 X(vi)(b) and subsection X(vi)(c).

- (x) The Pound Keeper may continue to keep the animal in the pound longer than the period specified in subsection X(viii) when the owner:
- (a) requests the animal, which is not a fierce or dangerous animal, be kept for a longer period, or
 - (b) advised the Pound Keeper of his/her ownership but does not pick up the animal from the pound within the time provided in subsection X(viii), and when,
 - ◆ there is sufficient room in the pound to continue to keep the animal;
 - ◆ the animal is not vicious, rabid, suffering from a communicable disease, ill or injured;
 - ◆ the animal is not required to be destroyed under this by-law; and
 - ◆ 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.
- (xi) 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.

XI. DESTRUCTION

- (i) Any animal impounded under this by-law may be destroyed, provided that the Protective Services Committee, on the recommendation of the Animal Control Officer, is satisfied that it is necessary for the protection of persons and/or property, and the animal:
- (a) has been or is determined to be running at large;
 - (b) has bitten or attempted to bite a person;
 - (c) has rabies, distemper or any other communicable disease;

- (d) has suffered injuries and a doctor of veterinary medicine has determined that the animal will not recover and should be destroyed;
 - (e) has attacked, bitten or attempted to bite, or caused injury to a domestic animal; or
 - (f) has been declared a fierce or dangerous animal.
- (ii) A Judge of the Provincial Court to whom a complaint has been made, alleging that an animal has:
 - (a) attacked, bitten, attempted to bite, or cause injury to a person;
 - (b) attacked, bitten, attempted to bite, or cause injury to a domestic animal;
 - (c) while running at large, has aggressively pursued or harassed a person; or
 - (d) 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:
 - (a) that the animal be destroyed, or
 - (b) that the owner or keeper of the animal keep the animal under control.
- (iii) The Animal Control Officer or a Police Officer may kill on site an animal which a 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.

- (iv) 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 IX, 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.

XII. REPTILES

- (i) No person shall have, keep or possess a reptile in a public place or on any property in the Town which is not the property of its owner unless it is in a case or cage or other container designed in such a fashion that it will completely confine such snake or reptile.

XIII. OFFENCES

- (i) The owner or any person who violates or breaches any provision of this by-law is guilty of an offence.
- (ii) 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.

XIV. PENALTY

A person, who fails to comply with the provisions of an order made by a Judge of the Provincial Court under this by-law, commits an offence punishable under Part II of the Provincial Offences Procedure Act as a Category F offence.

XV. ENFORCEMENT

This by-law shall be enforced by the Animal Control Officer and/or Police Officer.

XVI. PLURAL OR FEMININE TERMS

Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this By-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

XVII. VALIDITY

The invalidity of any section, subsection, clause, sentence or provision of this by-law shall not affect the validity of any other section, subsection, clause, sentence or provision of this by-law which can be given effect without such parts.

XVIII. REPEAL

- (a) The repeal of “A By-Law Respecting Animal Control, By-Law # 250-04, enacted on December 20, 2004, and all amendments thereto, shall not affect any penalty, forfeiture or liability incurred before such repeal or any proceeding for enforcing same, completed or pending, at the time of repeal; or shall it repeal, defeat, disturb, invalidate or prejudicially affect any manner or thing whatsoever completed, existing or pending, at the time of repeal.

SCHEDULE "A" - SCHEDULE OF FEES

A. LICENSE FEE	
Spayed female or neutered male dog	\$ 11.00/dog
Non-spayed female or non-neutered dog	\$ 22.00/dog
Spayed female or neutered male cat	\$ 6.00/cat
Non-spayed female or non-neutered cat	\$ 12.00/cat
B. BREEDER'S LICENSE FEE	
Breeder's License	\$400.00/Year
C. KENNEL LICENSE FEE	
Kennel License	\$200.00/Year
D. REPLACEMENT TAG FEE	
Replacement Tag	\$ 4.00/Tag
E. ANIMAL CONTROL SHELTER MAINTENANCE FEE	
Each Animal	\$ 15.00/Day
F. ANIMAL SEIZING AND IMPOUNDING FEE	
(i) For the first occasion during any calendar year	\$ 22.00
(ii) For the second occasion during any calendar year	\$ 77.00
(iii) For the third and any subsequent offenses during any calendar year	\$ 127.00
G. FEDERAL AND PROVINCIAL TAXES ARE IN ADDITION TO THE FEE CHARGES UNDER SCHEDULE "A" WHERE AFORESAID TAXES ARE APPLICABLE	