

# MUNICIPALITY OF THE DISTRICT OF YARMOUTH

<b>Dog By-Law</b>  <b>D-048-02</b>	Effective Date  August 9, 2004
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## Part 1 Title

This By-Law is entitled the “*Dog By-Law*”.

## Part 2 Definitions

In this By-Law:

- 2.1 “**Canine Madness**” means a form of rabid madness non-communicable to man; characterized by foaming at the mouth, impairment of deglutition, and a desire to vomit;
- 2.2 “**Destroy**” means kill;
- 2.3 “**Dog**” means any *dog*, male or female, or any animal that is the result of the breeding of a *dog* with any other animal;
- 2.4 “**Domestic Animal**” includes pets and farm animals;
- 2.5 “**Extraordinary Expense**” means any expense incurred by *Municipal Staff* in relation to a *dog* except for provision of food and shelter;
- 2.6 “**Fierce or Dangerous Dog**” has the meaning stipulated in section [6] of this By-Law;
- 2.7 “**Mitigating Factor**” means a circumstance which excuses the aggressive behavior of a *dog* where:
  - 2.7.1 the *dog*, at the time of the aggressive behavior, attacked or injured any trespasser on property occupied by its *owner* provided that the presence of the *dog* is clearly posted
  - OR
  - 2.7.2 the *dog*, immediately prior to the aggressive behavior, was being abused or tormented by the person attacked or injured;
- 2.8 “**Municipal Staff**” means the *Municipality* of the District of Yarmouth’s *Dog Control Officer* or a person appointed by the Chief Administrative Officer or Council to act on

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the *Municipality's* behalf for the purposes of this By-Law, and includes the Pound Keeper;

- 2.9 **“Municipality”** means the *Municipality* of the District of Yarmouth;
- 2.10 **“Owner”** means the *owner* of a *dog* and any person who possesses, has the care or control of, or harbors a *dog* and, where such a person is a minor, includes a parent, guardian or custodian of such a person;
- 2.11 **“Wolf-Dog Hybrid”** means any animal which results from the breeding of a *dog* and a wolf or that is or has been advertised or held out for sale as such;
- 2.12 **“Kennel”** means any facility that breeds or harbors four (4) or more *dogs*.

### Part 3 Registration

- 3.1 On or before the **1<sup>st</sup> day of May** in each year the *owner* of any *dog* shall register such *dog* with the *Municipal Staff* and obtain from the *Municipal Staff* a tag for such *dog*;
- 3.2 every *owner* of a *dog* shall, within ten (10) days of having become *owner*, register such *dog* with *Municipal Staff* and obtain from *Municipal Staff* a tag for such *dog*;
- 3.3 in order to register a *dog*, an *owner* shall pay the annual registration fee as set out by Municipal Council each year. These fees are to be reviewed annually by Council. *Dog Taxes* being paid between January 1<sup>st</sup> and May 1<sup>st</sup> of the same calendar year shall be discounted by an amount to be set out by Municipal Council each year. The *owner* of each *dog* shall supply *Municipal Staff* with the following:
- 3.3.1 name, civic address and telephone number of the *owner*;
- 3.3.2 name and breed of the *dog*;
- 3.3.3 description of the *dog* including whether the *dog* is male or female, spayed or unspayed or neutered or unneutered as the case may be; and at the discretion of the *owner*, the following additional information may be supplied;

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- 3.3.4 identification information such as micro-chip implants, tattoos or other special markings; and
- 3.4 registration shall be effective until the **20<sup>th</sup> day of January** in the year following the year of registration;
- 3.5 the registration fee shall be reduced by 50% in the year of acquisition where the *owner* acquires ownership of the *dog* after June 30<sup>th</sup>;
- 3.6 the following are exempt from registration:
- 3.6.1 the *Municipal Staff* or Pound Keeper or the Yarmouth Chapter of the SPCA shall not be required to register a stray;
- 3.6.2 a *dog* shall be exempt from registration and registration fees in the event the *owner* proved that the *dog* is under the age of three months; and
- 3.6.3 the *owner* of a *kennel* in any year, shall pay the *Municipal Staff*, a fee (as indicated in the *Municipality* of Yarmouth's Fee Policy F-020-02) as a tax upon the *kennel* for that year. Upon the sale of *dogs* from the *kennel*, the *kennel owner* shall be responsible for licensing and tagging each *dog* and shall provide the *Municipality* with information on the *dog*, the time of sale, and address of new *owners*, or confirm that the *owner* does not reside in the *municipality*, and any other information that may be required by the *municipality* from time to time to adequately keep track of these *dogs*.
- 3.7 a *dog* that is trained to assist and assists a person with a disability is exempt from paying a registration fee but not from registration;
- 3.8 the *owner* of every *dog* shall keep, on the *dog*, a collar with the tag issued for that *dog* by *Municipal Staff* at the time of registration and such tag shall be kept securely fixed on the *dog* at all times during the year until a replacement tag is issued, except that such tag may be removed while the *dog* is being used for lawful hunting purposes in the presence and under the control of the *dog's owner* and wearing a collar bearing the *owner's* name and address;

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- 3.9 the *owner* of a *dog* shall deliver in writing to the *Municipal Staff* a statement of the number of *dogs* owned or harbored, or that are kept upon the premises occupied by the *owner* within 10 days after having received notice requiring it to be provided;
- 3.10 if an *owner* files a Statutory Declaration that a tag has been lost, with the *Municipal Staff*, the *Municipal Staff* may replace the tag that has been lost upon payment by the *owner* of an amount of One Dollar (\$1.00).

### **Part 4 Dog Control and Pound**

- 4.1 *Municipal Staff* shall be responsible for the enforcement of this By-Law;
- 4.2 Council shall appoint a Pound Keeper who shall:
- 4.2.1 collect on behalf of the *Municipality* any Impounding Fees, Daily Pound Fees and any other additional charges or fees as are authorized in this By-Law and as may be set by resolution of Council;
  - 4.2.2 be responsible for the operation of the pound;
  - 4.2.3 provide adequate food and water to impounded dogs;
  - 4.2.4 keep the pound in a reasonable state of cleanliness;
  - 4.2.5 keep the pound premises neat and tidy in appearance.

### **Part 5 Dogs Running at Large**

- 5.1 Any dog which is off the premises occupied by the *owner* without being under the continuous restraint or control of some person is deemed to be running at large for the purposes of this By-Law. A dog which is tethered on a tether of sufficient length to permit the dog to leave the property boundaries of the premises occupied by the *owner* is deemed to be running at large.

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### Part 6 Fierce or Dangerous Dogs

- 6.1 For the purpose of this By-Law a dog that is *fierce or dangerous* means any dog:
- 6.1.1 that is a *wolf-dog hybrid*;
  - 6.1.2 that, in the absence of a *mitigating factor* as defined herein, has attacked or injured a person;
  - 6.1.3 that, in the absence of a *mitigating factor* as defined herein, has injured a *domestic animal*;
  - 6.1.4 that, in the absence of a *mitigating factor* as defined herein, when either unmuzzled or unleashed, in a vicious or terrorizing manner, approached any person in an apparent attitude of attack upon streets, sidewalks, any public grounds or places, or on private property other than the property of the *owner*;
  - 6.1.5 owned or harbored in whole or in part for the purpose of dog fighting; or
  - 6.1.6 trained for dog fighting; provided that no dog shall be deemed *fierce or dangerous* if it is a professionally trained guard dog while lawfully engaged for law enforcement.

### Part 7 Responsibilities of Owners

- 7.1 Every *owner* of a dog
- 7.1.1 whose dog runs at large;
  - 7.1.2 whose dog is not wearing a tag required by this By-Law;
  - 7.1.3 whose dog is not registered pursuant to this By-Law;
  - 7.1.4 whose dog persistently disturbs the quiet of the neighborhood by barking, howling or otherwise;
  - 7.1.5 who neglects or refuses to provide a written statement required by this By-Law;

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7.1.6 who harbors, keeps, or has under care, control or direction a dog that is *fierce or dangerous*;

7.1.7 who fails to remove the feces of a dog, other than a dog that is trained to assist and is assisting a person with a disability, from public property or private property other than the *owners*;

is in contravention of the By-Law.

**Part 8 Impounding**

8.1 *Municipal Staff* may, without notice to or complaint against the *owner*, impound any dog that:

8.1.1 runs at large contrary to this By-Law;

8.1.2 is not wearing a tag required by this By-law;

8.1.3 is not registered pursuant to this By-Law;

8.1.4 is *fierce or dangerous*;

8.1.5 is rabid or appears to be rabid or exhibits symptoms of *canine madness*; or

8.1.6 persistently disturbs the quiet of the neighborhood by barking, howling or otherwise.

8.2 An impounding fee and daily pound fee shall be set out the Municipal Council each year and shall be payable by any person seeking to redeem an impounded dog;

8.3 Subject to sections [8.5, 8.6 and 9.1] of this By-Law, except in the case where a dog is impounded for being *fierce or dangerous*, or is rabid or exhibits symptoms of canine madness, the *owner* of a dog which has been impounded, upon proof of ownership of the dog, may redeem the dog after payment to the Pound Keeper, or making arrangement for payment satisfactory to the Pound Keeper, of the Impounding Fee

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and the Daily Pound Fee(s), along with reimbursement for any *Extraordinary Expenses* incurred by the *Municipal Staff* in relation to the dog;

- 8.4 In the case of redemption of a dog which has not been registered pursuant to this By-Law, the *owner* shall also be required to register the dog and pay the registration fee before being allowed to redeem the dog;
- 8.5 Any dog which has not been redeemed by its *owner* at the expiry of a period of 72 hours after being impounded may be given away, sold or killed by the Pound Keeper and, if sold, the proceeds shall belong to the *Municipality*;
- 8.6 Whenever the 72 hours of impounding time expires on a weekend, the Pound Keeper shall hold such dog until the expiry of the first business day following the weekend to permit the *owner* to redeem the dog.

### Part 9 Notice

- 9.1 Upon any dog being impounded the Pound Keeper shall check for a tag and if a tag is found, the Pound Keeper shall make at least two attempts to contact the registered *owner* of the dog using the tag number on the records of *Municipal Staff*. Provided however that if a dog is missing, the onus is on the *owner* of the dog to ascertain within the time period provided for impounding under this By-Law, whether the dog has been impounded, and neither the Pound Keeper nor the *Municipality* shall incur liability in the event of failure to give Notice to the *owner*, if the *owner* has not made inquiry of the Pound Keeper to determine whether the dog was impounded.

### Part 10 Destroying

- 10.1 *Municipal Staff* may, without notice to or complaint against the *owner*, *destroy* on sight or after capture any dog that:
- 10.1.1 is *fierce or dangerous*;
- 10.1.2 is rabid or appears to be rabid or exhibits symptoms of canine madness.

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- 10.2 *Municipal Staff* may, after two written warnings have been given to the *owner* that a dog has been running at large or eluding capture, kill such dog on sight or after capture;
- 10.3 *Municipal Staff* may, kill on sight any dog that is running at large and which he or she believes, on reasonable and probable grounds, to pose a danger to a person or a *domestic animal* or to property of persons other than the *owner*.

**Part 11 Penalty**

- 11.1 Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$100.00 and not more than \$1000.00 and to imprisonment of not more than 45 days in default of payment thereof.

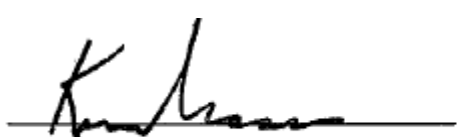
Any person who has contravened Sections 7, 7.1, 7.1.1 through 7.1.7 of this By-Law and where notice so provides may pay a penalty in the amount of \$50.00 dollars (first offence, \$100.00 dollars for a second offence, and \$150.00 dollars for subsequent offences) to the office of the *Municipality* of Yarmouth provided that said payment is made within a period of fourteen (14) days from the date of the notice and where the said notice so provides for a voluntary payment, said payment shall be in full satisfaction, releasing and discharging all penalties incurred by the person for said violation, in accordance with the Payment In Lieu of Prosecution Policy, P-082-02.

**PROCEDURE FOR BARKING DOGS** attached.



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<b>Chief Administrative Officer's Annotation for Official By-Law Book</b>	
Date of First Reading	August 13, 2009
Date of Advertisement of Notice of Intent to Consider	September 8, 2009
Date of Second Reading	September 23, 2009
Date of Advertisement of Passage of By-Law	October 6, 2009
Date of Mailing to Minister a Certified Copy of By-Law	October 6, 2009
Effective Date of By-Law	August 9, 2004
<p>I certify that this Dog By-Law D-048-02 was adopted by Council and published as indicated above.</p>	
 _____ CAO	<p>Date <u>October 6, 2009</u></p>

**Date last reviewed: September 23, 2009**  
**Date of last amendment: September 23, 2009**

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<p><b>Procedure for Barking Dogs</b></p>	<p>Effective Date April 1, 2004</p>
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**Part 1**

- 1.1 All complaints must be willing (if required) to testify in court if the dog owner pleads not guilty to the Summary Offense Ticket. Complainants should be aware that they may be subpoenaed.
- 1.2 There should be at least two separate complaints before any investigation (where possible). **See complaint procedure below.**
- 1.3 Complaints about first time offenders should be treated as a warning with care taken to explain to the owners that a second complaint could result in a fine.
- 1.4 All complaints shall be followed up. Cases where the disturbance occurs between the hours of 11:00pm and 6:00am may be charged. Cases where the disturbance occurs between the hours of 6:00am to 11:00pm may be charged.
- 1.5 Any dispute that is clearly a result of neighbor unrest should be described in detail to the By-Law Committee to help ascertain exactly the direction to be taken.
- 1.6 All charges must be approved by the CAO or Deputy CAO-and, in his/her absence, the Solicitor and reported to the By-Law Committee.
- 1.7 To utilize a decibel meter where applicable following certain criteria:
  - 1.7.1 the meter will be used at the Municipality of Yarmouth’s discretion;
  - 1.7.2 the meter will be used as a tool only and not as a definitive measure;
  - 1.7.3 the meter will be used as a resource to augment an investigation along with other acceptable techniques.

**Part 2 Complaint Procedure**

- 2.1 It is extremely important for ensuring success in prosecution that the following questions are asked, and that as much information as possible is obtained and documented from the complainant.
- 2.2 Identity of dog(s): Civic address of property on which dog is situated. Who owns the dog(s)? The number of dog(s) barking? Where the dog(s) observed barking? Distance between complainant’s home and the dog(s) barking.

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<b>Procedure for Barking Dogs</b>	Effective Date April 1, 2004
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- 2.2.1 If dog barks at night, how can the complainant be certain as to the identity of the dog(s)?
- 2.2.2 How is complainant certain that the dogs are in fact owned by the person alleged to be the owner?
- 2.2.3 On what days are the dog(s) barking?
- 2.2.4 Describe the barking: How long does it last? Is it howling? How often does the barking repeat itself?
- 2.2.5 What was the complainant doing when the dog(s) were barking? (Information must be specify)
- 2.2.6 In what way did the barking dog disturb the complainant?

NOTE: The answers to the above noted questions must be specific. A Court will not convict if the complainant is only able to say that a dog barks “all the time” or “a lot” and that it really “bothers me.” A Court must be told when exactly the dog barks, the nature of the barking and the manner in which it disturbs the peace and quiet of the complainant.

### **Part 3 Enforcement Process**

The enforcement process is as follows:

On a first call, information of the complaint is received. A visit to the owner’s home and a verbal warning to the owner as well as a copy of the by-laws are given so that the owner may be educated as to what their responsibilities are. On the second call, the owner would be given a written warning with the support of a written statement signed and dated from the complainant detailing the dates and times of the dog’s barking. A third call would be a final warning, also accompanied by the complainant’s statement. If this is a persistent problem and the owner has not taken measures to remedy their noisy dog, the final course of action would be to prepare a file for prosecution. If this is a situation where there appears to be one complainant continuing to call, a poll of the neighborhood should be conducted.