

**TOWN OF MIDLAND**

**BY-LAW NO. 2009-18**

A By-law for the Licensing and Control of Dogs within the boundaries of the Town of Midland, and to repeal by-laws 98-41, 99-64 and 2002-11.

**WHEREAS** the Municipal Act, 2001, S.O. c.25, Section 11. (3) 9, authorizes the Council of a local municipality to pass by-laws related to animals;

**AND WHEREAS** the Municipal Act, 2001, S.O. c.25, Section 103, authorizes the Council of a local municipality to regulate or prohibit animals being at large and provides for the seizure and impounding of animals;

**AND WHEREAS** the Municipal Act, 2001, S.O. c.25, Section 105, authorizes the Council of a local municipality to require the muzzling of a dog;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND ENACTS AS FOLLOWS:**

**1.0 DEFINITIONS**

In this By-law,

- (a) **“Animal Control Officer”** means an Animal Control Officer appointed by by-law of the Corporation of the Town of Midland;
- (b) **“Clerk”** means the Clerk appointed by the Council of the Corporation of the Town of Midland pursuant to the Act;
- (c) **“Council”** means the Council of the Corporation of the Town of Midland;
- (d) **“Dog”** means a male or female dog over the age of 12 weeks;
- (e) **“Dog Tag”** means a metal license bearing a serial number and the current year in which it was issued by the Clerk, his designate, or the Animal Control Officer of the Corporation of the Town of Midland;
- (f) **“Dwelling unit”** means a room or suite of two or more rooms, designed or intended for use by any person or persons, in which sanitary conveniences are provided and in which facilities are provided for cooking or the installation of cooking equipment, which shall include any real property associated with such dwelling unit;
- (g) **“Harbour”** does not include the provision of shelter to a dog for a period of time of less than seven days, provided that the dog is owned by someone other than the

household group normally a resident in the dwelling unit in which the dog is harboured and can provide proof of a permanent address;

- (h) **“Household group”** means two or more persons who live in the same dwelling unit whether or not they are related to one another;
- (i) **“Kennel”** shall mean an establishment where more than two (2) dogs are kept for the purpose of show, training, keeping, breeding and raising for profit or gain, but shall not apply to the keeping of animals in a veterinary establishment for the purpose of observation and/or recovery necessary to veterinary treatment;
- (j) **“Municipal Law Enforcement Officer”** shall mean a By-law Enforcement Officer, interim or full time, as appointed by Council for the Corporation of the Town of Midland;
- (k) **“Muzzle”** shall mean a covering for the snout of a dog that when fastened over a dog’s snout and mouth, prevents biting or eating;
- (l) **“Officer”** means a Police Officer, Animal Control Officer, or Municipal Law Enforcement Officer duly appointed for the purposes of enforcing the Municipality’s by-laws;
- (m) **“Owner of a dog”** shall include any person who possesses or harbours a dog and where the person who possesses a dog is a minor, the person responsible for the custody of a minor.

## 2.0 LIMIT OF TWO DOGS IN A DWELLING UNIT

- 2.1 No more than two dogs shall be harboured, at any one time, in a dwelling unit, which shall include any real property associated with such dwelling unit located within the Town of Midland.
- 2.1 Any person who harbours more than two dogs upon establishing residency on any property within the Town of Midland may apply in writing to the Municipal Law Enforcement Officer for an exemption pursuant to Section 2.1.
- 2.3 The Municipal Law Enforcement Officer may authorize an exemption pursuant to Section 2.1 subject to such terms and conditions as are necessary to give effect to this by-law. If the Municipal Law Enforcement Officer refuses the exemption, the applicant may appeal the decision to the Clerk within seven days of receiving the decision. The Clerk shall notify the applicant in writing of their decision and that decision will be final and no further right of appeal will be granted.
- 2.4 Should the person who received the exemption not register all three dogs yearly with a license by the Town, the exemption will automatically expire. The license for the third dog is not eligible for a reduced rate.
- 2.5 Should the person who received the exemption receive a set fine associated with this by-law, the exemption will automatically expire.

- 2.6 Should the exemption pursuant to Section 2.3 be granted, it will automatically expire when circumstances result in the number of dogs being reduced to two.

### **3.0 LICENSING OF DOGS**

- 3.1 (a) Every owner of a dog shall ensure that each dog owned by him is registered with and licensed by the Town of Midland for each calendar year.
- (b) Every owner of a dog shall cause the dog to be registered with a license by the Town for each calendar year, before the 1st day of March of that year, unless the dog came into his possession or care after that date.
- (c) Every owner of a dog, immediately after the dog comes into his possession or care, shall if the dog does not have a Town of Midland tag for the current calendar year, cause such dog to be registered and licensed by the Town.
- (d) (i) The owner of a service dog or police work dog is required to license the dog as stipulated in this by-law, however any associated fees are waived..
- (ii) The Town may require the owner of a dog to establish to his satisfaction that the dog is a service dog.
- 3.2 Except as provided herein, no person shall harbour a dog or dogs within the Town of Midland unless such dog has affixed to it a current dog tag issued under this by-law.
- 3.3 No person shall use a dog tag for a dog other than the dog for which the dog tag was issued.
- 3.4 License fees are provided for in the Town's Composite Fees and Charges By-law.
- 3.5 Upon application for a license, the owner shall produce a certificate signed by a practicing veterinarian that the dog has been inoculated with an Anti-Rabies Vaccine that is current and active.
- 3.6 A record of dog tags issued shall be kept by the Clerk or other officer designated by the Corporation of the Town of Midland for that purpose, showing the name, address and phone number of the owner and the serial number of the dog tag.

### **4.0 EXPIRATION OF LICENCES**

- 4.1 A licence issued pursuant to Section 3.1 of this By-law shall expire on the 31<sup>st</sup> day of December in the final year for which it was issued.

### **5.0 KENNEL LICENSING**

- 5.1 No person shall operate a kennel without, first applying for and obtaining a kennel license and paying the prescribed fee as set out in the Town's Composite Fees and Charges By-law.
- 5.2 A kennel operator with a kennel license is not required to apply for a license pursuant to Section 3.1 in respect of dogs harboured at the kennel.
- 5.3 Kennels may only be licensed if they are located where kennels are permitted by the applicable zoning by-laws.
- 5.4 No person or persons shall keep more than two (2) dogs over 12 weeks of age at one location unless a kennel license is obtained.
- 5.5 Every person who holds a kennel license or applies for a kennel license shall comply with the following requirements:
  - (a) The kennel shall be registered in the register of the Canadian Kennel Club Incorporated.
  - (b) The kennel shall be in a separate building.
  - (c) The kennel building and its location must conform to the applicable zoning by-laws and the Ontario Building Code.
  - (d) The kennel building shall have a floor of concrete or other impermeable material and shall have a drain opening constructed as a plumbing fixture and such floor shall be thoroughly cleaned daily, or more often if necessary.
  - (e) The kennel building shall have electric lighting, windows that may be opened for proper ventilation, a heating system sufficient to adequately heat the building, hot and cold running water and a food preparation area.
  - (f) Where dogs are permitted to use an outside area, there shall be constructed around such area a fence having a height of at least four feet (4'); the wall of an adjacent building may be included as part of such fenced in area.
  - (g) Where a clipping and grooming service is performed, such clipping and grooming shall be carried out in the kennel building only.
  - (h) While the license is in force, it shall be continuously exposed in a conspicuous place in the interior of the premises for which the license is obtained.
  - (i) At all times the kennel operator shall maintain the premises in a sanitary, well ventilated, clean condition, and free from offensive odours.

- (j) The operator shall keep the dogs in sanitary, well bedded, well ventilated, naturally lighted, clean quarters at a healthful temperature at all times.
- (k) The operator shall feed and give water to the dogs periodically each day and keep same in a clean, healthy condition, free from vermin and disease.
- (l) The Officer may inspect any place where dogs are kept, pursuant to this by-law.
- (m) If the kennel is found not to conform, under the requirements set out herein, the Officer may direct that the dogs be seized and impounded by the Animal Control Officer and may revoke the license issued to the kennel.

## **6.0 DOGS RUNNING AT LARGE**

- 6.1 No person shall permit a dog to run at large within the boundaries of the Town of Midland.
- 6.2 A dog shall be deemed to be under the control of a competent and responsible person if it is on a leash not exceeding 1.5 meters in length and which leash is in the hands of an individual able to restrain the dog and/or maintain control over the dog.
- 6.3 A dog shall not be deemed to be running at large if, while off the premises of its owner, the dog is within an enclosed area from which it does not appear to be able to escape, with the consent of the owner of such enclosed area.
- 6.4 For purposes of this section, a dog shall be deemed to be running at large if found at any place within the boundaries of the Town of Midland other than the premises of the owner of the dog and, when so found it is not under the control of a competent and responsible person.
- 6.5 Where any dog is running at large and:
  - (a) represents a threat to the safety of any person or animal, or
  - (b) is severely injured,an Animal Control Officer or Police Officer may destroy such dog and no damages or compensation shall be recoverable by the owner of the dog on account of such destruction.
- 6.6 A dog running at large may be seized by any person, who shall forthwith deliver the dog to the Animal Control Officer.
- 6.7 An Officer appointed by the Corporation of the Town of Midland may seize and impound any dog found running at large. The dog may be sold or destroyed by the Town.

## **7.0 MUZZLING AND LEASHING OF DOGS:**

- 7.1 The owner of a breed of dog described in Schedule “B” attached hereto and forming part of this by-law, shall ensure that when the dog is on any municipal property, the snout of the dog is secured at all times by the use of a muzzle so as to prevent it from biting a person or animal and that the dog be secured to the owner by a leash.
- 7.2 After any dog has bitten a person or domestic animal, the owner shall ensure that such dog is muzzled and leashed at all times. Notwithstanding the foregoing, an order to muzzle may be issued by the Animal Control Officer, if in the opinion of the Animal Control Officer a dog has a temperament, disposition or history of aggressiveness which may result in the dog biting a person or domestic animal.
- 7.3 Where a contravention of section 7.2 has occurred, an order to muzzle or leash shall be issued to the owner of the dog, setting out the control requirements.
- 7.4 The owner of any dog required to be muzzled or leashed may request and shall have a hearing before Council who may exempt the owner in whole or in part from the muzzling requirements.
- 7.5 Any person who fails to comply with such order is guilty of an offence.

## **8.0 NOISE**

- 8.1 No person, being the owner of a dog or the operator of a kennel, shall permit a dog or dogs to howl or bark so as to cause noise, which disturbs, or is likely to disturb the inhabitants of the Town of Midland.
- 8.2 If, upon being warned of a complaint by the Officer, the owner of the dog or kennel which is the subject of complaint fails to restrain the dog or dogs from causing noise, the owner of the dog or the operator of the kennel shall be deemed to have committed an offence under this By-law.

## **9.0 REMOVAL OF DOG EXCREMENT**

- 9.1 Every person who owns controls or harbours a dog shall remove forthwith any excrement left by such dog on public or private lands within the boundaries of the Town of Midland.
- 9.2 In any prosecution pursuant to a violation of Section 9.1 of this by-law, proof that the defendant is either a blind person or a handicapped person shall constitute a defence to such prosecution.

## **10.0 SEIZURE AND IMPOUNDING**

- 10.1 If a dog found running at large is injured and should, at the discretion of the Officer, be destroyed without delay for humanitarian reasons, the Officer may destroy the dog in a humane manner after the seizure as he/she thinks fit and no damages or compensation shall be recoverable by the owner of the dog on account of such destruction.

- 10.2 Any dog impounded and not wearing a tag for the then current year, may at the discretion of the Town, be given an inoculation to provide temporary immunization against distemper or any other contagious or infectious disease.
- 10.3 The Animal Control Officer is hereby authorized to charge a pound and seizure fee as well as a daily maintenance fee for services as set out in the Town's Composite Fees and Charges By-law.
- 10.4 Where a dog has been impounded and has not been destroyed, the Animal Control Officer shall release possession of the dog to its owner where:
- (a) the owner attends at the pound and claims possession of the dog within three days, excluding the day in which the dog was impounded and statutory holidays and Sundays, and
  - (b) the owner provides proof that the animal is licensed prior to release, and
  - (c) the owner pays to the Animal Control Officer, the pound and seizure fee and maintenance fee as set out in the Town's Composite Fees and Charges By-law, plus the cost of any damages, fines, expenses, veterinary care and the cost of any vaccination or immunization,
  - (d) the maintenance fee shall be a per day fee for each day the dog has been in the pound commencing the day the dog is seized and including the day the dog is removed from the pound.

## **11.0 LIABILITY FOR FEES**

- 11.1 Where a dog is impounded, the owner of the dog shall be liable for the pound and maintenance fees prescribed herein, including the fees for destruction of the dog where the dog has been destroyed, whether or not the dog is claimed by the owner. All such fees shall be payable on written demand to the owner from the Clerk or Animal Control Officer.
- 11.2 If the owner has not paid the fees demanded in writing, within 30 days of the demand for payment, such fees may be collected by alternate means.

## **12.0 DISPOSAL OF DOGS**

- 12.1 Where a dog has been seized while found running at large and impounded and the owner has not claimed the dog within three days, excluding the day on which the dog was seized, statutory holidays, and Sundays, or having attended at the pound to claim the dog but not paid the prescribed seizure, pound and maintenance fees, the Officer may sell the dog for such price as he deems fit, destroy the dog in a humane manner, or otherwise dispose of the dog as he deems fits in his discretion, and no damages or compensation shall be recoverable by the owner as a result of any such action.

**13.0 ENFORCEMENT**

This by-law shall be enforced by an Officer of the Town.

**14.0 PENALTIES FOR OFFENCES**

Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.

**15.0 GENERAL**

15.1 By-law No. 98-41, 99-64 and 2002-11 are hereby repealed.

15.2 This By-law shall come into force and take effect upon the third and final passage thereof.

By-law read a first, second and third time and finally passed at a regular meeting of the Municipal Council of The Corporation of the Town of Midland held this Twenty-third day of March, 2009.

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Mayor

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Clerk



## **SCHEDULE “A” TO BY-LAW 2009-18**

### **FEES**

Fees are set out in the Town’s Composite Fees and Charges By-law.

## **SCHEDULE “B” TO BY-LAW 2009-18**

### **Dog Breeds that require muzzle pursuant to Section 10.2**

Pit Bull Terrier, American Pit Bull Terrier, Pit Bull, Staffordshire Bull Terrier, American Staffordshire Terrier, or any dog of mixed breeding which includes any of the aforementioned breeds.

Rottweiler or any dog of mixed breeding which includes the aforementioned breed.

Bull Mastiff or any dog of mixed breeding which includes the aforementioned breed.

# CORPORATION OF THE TOWN OF MIDLAND

## Part 1 Provincial Offences Act

### By-Law No. 2009-18 being a by-law for the licensing and control of dogs

<b>ITEM</b>	<b>Column 1 Short Word Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Harbour more than two dogs in a dwelling unit.	Section 2.1	\$105.00
2	Fail to licence dog for current year.	Section 3.1(a)	\$105.00
3	Harbour dog without a tag affixed.	Section 3.2	\$105.00
4	Use tag for a dog not being the licensed dog.	Section 3.3	\$105.00
5	Operate a Kennel without a license.	Section 5.1	\$150.00
6	Keep more than two dogs –no kennel license.	Section 5.4	\$150.00
7	Permit dog to run at large.	Section 6.1	\$105.00
8	Failed to ensure dog muzzled.	Section 7.1	\$105.00
9	Fail to comply with order to muzzle or leash.	Section 7.3	\$105.00
10	Permit noise from dog likely to disturb.	Section 8.1	\$105.00
11	Fail to remove dog excrement from property.	Section 9.1	\$105.00

Note: The penalty provision(s) for the offences indicated above is Section 14 of By-Law No. 2009-18 a certified Copy of which has been filed.