

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2018 - 61

**Being a By-law to require the licensing of dogs and for the control of animals within
the Municipality of Magnetawan**

WHEREAS Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS Section 103(1) of the Municipal Act states that if a municipality passes a by-law regulating or prohibiting with respect to the being at large or trespassing of animals, it may provide for the seizure and impounding of animals being at large or trespassing contrary to the by-law and the sale of impounded animals if they are not claimed within a reasonable time or if the expenses of the municipality respecting the impounding of the animals are not paid;

AND WHEREAS Section 105(1) of the Municipal Act states that 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;

AND WHEREAS Section 425(1) of the Municipal Act states that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS Section 426(1) of the Municipal Act states no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act;

AND WHEREAS Section 429(1) of the Municipal Act provides that subject to subsection (4), a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

AND WHEREAS Section 432 of the Municipal Act states that a by-law under section 425 may establish a procedure for the voluntary payment of penalties out of court where it is alleged that any of the following by-laws have been contravened: By-laws related to the parking, standing or stopping of vehicles; and By-laws related to animals, as defined in section 11.1, being at large or trespassing. 2006, c. 32, Sched. A, s. 184.

AND WHEREAS Section 436 (1) A municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with: A by-law of the municipality passed under this Act; A direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act; A condition of a licence issued under a by-law of the municipality passed under this Act; and An order made under section 431. 2006, c. 32, Sched. A, s. 184.

NOW THEREFORE the council of the Corporation of the Municipality of Magnetawan enacts the following by-law, to be referred to as "The Animal Control By-law":

1. DEFINITIONS

- 1.1. **ANIMAL CONTROL OFFICER** means a person designated by Council for the enforcement of this by-law and includes Council appointed Municipal Law Enforcement Officers.
- 1.2. **AT LARGE** means found in any place other than the property of the owner or other property with that property owner or occupiers consent, or any other place while not under the direct control of any person.
- 1.3. **BITE** shall mean a puncture of the skin with teeth
- 1.4. **COMMUNITY BUILDING** means any covered area that is owned or maintained by the Municipality of Magnetawan including but not limited to: the Magnetawan Community Centre, the Magnetawan Lions Pavilion, the Magnetawan Heritage Centre and the Ahmic Harbour Community Centre.
- 1.5. **COMMUNITY BEACH** shall mean an expanse of sand or pebbles along the shore of a body of water owned by the Municipality
- 1.6. **CONTROL** means on a leash being firmly held by a person or not on a leash but located within six meters of a person and immediately responding to the verbal obedience commands of that person.
- 1.7. **COUNCIL** means the Council of The Corporation of the Municipality of Magnetawan
- 1.8. **DANGEROUS DOG** shall mean but is not limited to any or all of the following:
 - i. A dog that has attacked, bitten, or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so
 - ii. A dog that has bitten, injured or killed a domestic animal
 - iii. A dog that is attack trained
 - iv. A dog that is kept for the purpose of security or protection, whether residential, commercial or industrial, of persons or property
 - v. A dog that chases or approaches any person or domestic animal, anywhere other than the property of its owner, in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling
 - vi. has been declared dangerous or vicious in another municipality in Ontario
- 1.9. **DOG** means any female or male domesticated dog, or member of the species Canis Familiaris.
- 1.10. **KENNEL** shall mean any building or structure where domestic household pets are kept, raised and or boarded for commercial purposes.
- 1.11. **LEASH** means a chain, rope, chord or the like that is securely attached to a dog and firmly grasped by a person and which is capable of holding and controlling a dog.
- 1.12. **MUNICIPALITY** means the Municipality of Magnetawan
- 1.13. **MUZZLE** means a humane fastening or covering device of adequate strength placed over a dog's mouth to prevent it from biting.
- 1.14. **OCCUPIER** means a person who is renting, leasing or otherwise legally in charge of a property other than an owner.
- 1.15. **OWNER** means any person who possesses or harbours an animal, and where the owner is a young person, the person responsible for the custody of the young person.

- 1.16. **PARK** means an area of land, usually in a largely natural state, set apart, for the enjoyment of the public, having facilities for rest and recreation, owned and/or managed by the municipality
- 1.17. **PET** means any animal which is harboured by an owner in the Municipality of Magnetawan and includes but is not limited to dogs and horses.
- 1.18. **POUND** as defined in the *Animals for Research Act* means premises that are used for the sheltering, keeping, maintenance or disposal of dogs that have been impounded pursuant to a by-law of a municipality or the *Dog Owner's Liability Act*.
- 1.19. **RESTRAINED** shall mean:
- i. On a Leash; or
 - ii. kept inside a building or house or in an enclosed pen of sufficient dimension and strength to be humane and to prevent a dog from coming into contact with persons other than the owner of the dog or any other domestic animal or within a securely fenced yard where the fence is a minimum height of 1.83 metres. The enclosed pen or the fenced yard shall be equipped with a locking device and/or a self-latching device. The self-latching device shall be designed in such a manner that the pen or gate cannot be opened from the outside by a child ten (10) years old or younger; or
 - iii. kept inside an owner's property line by "invisible fencing" with the fence being active at all times and the dog must wear the appropriate accessories based on size and weight of the dog in order for the "invisible fence" to work just as if a physical fence was in its place.
- 1.20. **SERVICE ANIMAL** shall mean an animal which is trained to assist in the movements of a person with a disability and shall include a Police Dog in which a dog is trained for law enforcement for the police or other person duly appointed as a peace officer.
- 1.21. **TRAIL** a path or track made across a region, through an expanse of land intended for the passage of people.
- 1.22. **YOUNG PERSON** means a person who is or, in the absence of evidence to the contrary, appears to be under sixteen years of age.

2. REGULATIONS

- 2.1. Every owner or person in control of a Pet shall, in a sanitary manner, immediately remove and dispose of any excrement that is left by the animal anywhere within the Municipality on any property other than their own. This requirement does not apply to a person with a medically recognized physical disability who is dependent upon and accompanied by a Service Animal.
- 2.2. Where any dog has bitten a person or animal, or there are reasonable grounds to believe that a dog has bitten a person or animal, an Animal Control Officer may issue an Order to the owner of the dog requiring that the dog be kept muzzled at such times as are set out in the Order. An owner who receives an Order to muzzle a dog is entitled to a hearing before the Council. Council may uphold, amend or rescind the Order of the Animal Control Officer. The Order shall remain in effect from the time it is issued until the first of: an action under the Dog Owner's Liability Act has concluded, the Animal Control Officer withdraws the Order or the Order is rescinded by Council. No owner shall disobey such Order issued under this by-law.
- 2.3. Upon request, the owner of the dog is entitled to a hearing by the Council or the Animal Control Official of the municipality and upon examining all the facts the dog may be exempted from muzzling or the conditions of muzzling will continue to apply.
- 2.4. For the purpose of assembling evidence of a contravention of Section 2.2 of this by-law, the Animal Control Officer may obtain a written statement, or may rely on such other evidence as that officer considers sufficient to form the basis for an Order.

- 2.5. No owner shall permit any Dog or Pet owned by them to persistently bark, whine, whimper or create any noise that is likely to disturb another person.
- 2.6. Every owner shall ensure that their dog is not at large or otherwise creating a nuisance within the Municipality. An Animal Control Officer or a member of the public may seize a dog at large. Any dog seized by a member of the public shall be turned over to the Animal Control Officer as soon as practicable.
- 2.7. Seized dogs will be impounded until returned to their owner. If an owner is not found within 72 hours, excluding statutory holidays, the dog may be sold, surrendered to the Ontario Society for the Prevention of Cruelty to Animals or other animal welfare agency, or destroyed. An owner is not entitled to the return of his or her dog until such time as all pound fees have been paid. These fees are found in the Municipality's fees and charges by-law in effect at the time. Furthermore, all veterinarian expenses incurred by the Municipality and/or a veterinarian in the treatment of a dog picked up and/or impounded for running at large shall be paid in full prior to the dog being surrendered to the owner.
- 2.8. Every owner shall ensure that their dog is not on any land other than their own, or another land owner's or occupier's property without their consent, unless the dog is on a leash or under the control of the owner or land owner or occupier at all times.
- 2.9. Every owner shall ensure that their Pet is not on any Community Beach during the period of May 1st to October 31st, inclusive.
- 2.10. No person shall own or operate a kennel without complying with the regulations as set out in Schedule "A" of this by-law.
- 2.11. The owner of a kennel shall pay an annual licence fee for the Kennel. The Kennel Licence shall be taken out annually on or before the last day of February in each and every year and shall expire on the thirty-first day of December of that year.
- 2.12. The owner of a Kennel shall obtain a licence and register each dog with the Municipality.
- 2.13. Service Dogs shall be exempt from paying the "licence fee" but all other provisions of this By-law shall apply.
- 2.14. Every owner shall ensure that their Pet is not in any Community Building at any time, unless authorization has been given by the Municipality in writing for special event purposes or unless the Pet is a Service Animal.
- 2.15. All dogs or pets shall be leashed while in Parks, Community Beach or anywhere within the Municipality not on private lands.

3. LICENSING

- 3.1. Every owner of a dog shall ensure that the dog is currently licensed at all times. The licensing fee shall be waived for a Service Animal.
- 3.2. Upon payment of the applicable licence fee, an owner of a dog shall be provided with a dog tag bearing a serial number and the year of the licence obtained. This tag shall remain securely affixed to the dog collar and worn at all times until replaced by subsequent tags. Collars may be temporarily removed in situations where it may present a danger to the dog.
- 3.3. A record of each dog shall be kept by the Municipal Office showing:
 - i) the name, address and phone number of the dog owner,
 - ii) the breed, age and description of the dog,

iii) the serial number of the Dog Tag and the fees paid in respect of each dog.

4. ENFORCEMENT

- 4.1. Any person appointed as a by-law enforcement officer for the Municipality shall be permitted to enter onto land at any time for the purpose of enforcing this by-law and any orders or conditions imposed under the authority of this by-law.
- 4.2. Every person who contravenes any provision of this by-law is guilty of an offence and shall be subject to a penalty in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33.
- 4.3. Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine as outlined in Schedule "B".

5. REPEAL

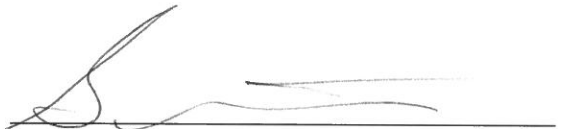
By-law 2007-13 shall be repealed in its entirety.

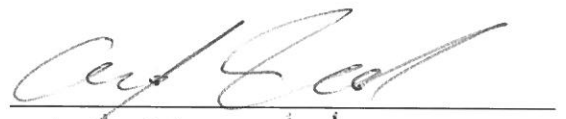
READ A FIRST TIME this 22nd day of August, 2018

READ A SECOND TIME this 22nd day of August, 2018

READ A THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 22nd day of August, 2018

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**


Mayor


Clerk-Administrator

SCHEDULE 'A'

KENNEL REGULATIONS

1. The provisions of this By-law shall not apply to prevent the use of any existing lot, building or structure for any purpose prohibited by this By-law if such existing lot, building or structure was legally used for such purposes, specifically a Kennel, prior to the effective date of this by-law and provided that the lot, building or structure continues to be used for that purpose by the owner or operator. Where the use ceases to exist as a Kennel for a period of two years or the ownership of the property changes the use will be deemed to have been discontinued.
2. No new Kennels shall be permitted to operate or be licenced within the Municipality of Magnetawan unless they are situated in a Rural Zone (RU) or Agricultural Zone (A), on a lot of 10 hectares or greater and conform to all the regulations in Schedule "C" of this By-law.
3. A Kennel shall be constructed in such a manner that:
 - a) the building shall conform to the Building Code Act and be maintained in such a manner as to be free from damage,
 - b) the building shall be separated and enclosed and shall not be attached to a dwelling unit or any other building which is or can be used for human habitation,
 - c) the 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.
 - d) the building shall be maintained in a sanitary, well ventilated, clean condition and free from offensive odours,
 - e) the building shall have windows that may be opened for proper ventilation.
4. All dogs or domestic animals shall be:
 - a) kept in sanitary, well bedded, well ventilated, naturally clean quarters and maintain and keep such quarters at a healthful temperature at all times,
 - b) kept in adequately sized cages to allow the animal to extend its legs to their full extent, stand or sit, turn around or lie down in a fully extended position, and all cages are to be constructed solely of metal, wire or impermeable cement block,
 - c) adequately fed and watered periodically each day and kept in a clean and healthy condition free from vermin and disease.
5. Where dogs are permitted to use an outside area, there shall be constructed around such area a galvanized chain link fence having a minimum height of 2 meters (7 feet) and shall be deemed part of the building for the purposes of Section 3, Schedule "A".
6. Where animal runs permitted as part of any Kennel, no operator or employee of such establishment shall permit a dog to utilize the runs between the hours of 8 PM and 9 AM, except during supervised exercise periods, at which time the operator or employee shall be in direct control of the dog.
7. No operator or employee of such establishment shall permit the operation to become a nuisance by reason of incessant noise from barking dogs or otherwise.
8. Every owner of a Kennel shall file with the Municipality of Magnetawan prior to Kennel License approval and be required to:
 - a) have an initial inspection completed by the By-law Enforcement Officer for the Municipality to ensure that the Kennel complies with the requirements of this By-law and any other applicable law;

- b) comply with the Code of Practice for Canadian Kennels at all times; and
- c) Submit a survey indicating all building locations.

9. Any individual or group of individuals in the employ of the Ontario SPCA, Muskoka-Parry Sound Health Unit or the Municipality of Magnetawan who is duly authorized, may at any time enter an operation and inspect to ensure compliance with this by-law.

10. All owners and operators of Kennels including those non-conforming to Schedule "B" Regulations shall be required to pay a licence fee as set out in this by-law.

**SCHEDULE ‘B’
OUT OF COURT FINES AND KENNEL LICENCE FEES**

OUT OF COURT FINE WORDINGS:

1. Owner fail to purchase dog licence	\$50.00
2. Owner fail to purchase Kennel Licence	\$100.00
3. Owner permit dog to run at large	\$50.00
4. Owner permit dog to trespass on private property	\$50.00
5. Owner fail to leash dog in a public place or public roadway	\$50.00
6. Owner fail to leash dog in a public beach or swimming area	\$50.00
7. Owner fail to clean up dog excrement	\$50.00
8. Owner permit persistent dog barking	\$50.00
9. Owner permit dog to injure or kill livestock, poultry or domestic animal	\$100.00
10. Owner fail to pay dog pound fee	\$100.00

KENNEL LICENSE FEES:

Kennel Licenses shall be purchased prior to the last day of February for the current licence year. The Kennel License fee will be double on our after March 1st of the current licence year.

1. Kennel Licence of up to ten (10) dogs	\$100.00
2. Kennel Licence of ten (10) dogs or more	\$200.00

