

**THE CORPORATION OF THE TOWN OF AMHERSTBURG
BY-LAW NO. 2009-57**

By-law to provide for the regulation of dangerous dogs

WHEREAS Section 11(3) of the *Municipal Act*, S.O. 2001, c. 25 provides for the authority for lower tier municipalities to pass by-laws to regarding animals;

AND WHEREAS Section 103 and 105 of the *Municipal Act*, S.O. 2001, c. 25 outline specific powers of municipalities regarding the impounding of animals and the muzzling of dogs;

AND WHEREAS Section 12 of the *Dog Owners' Liability Act*, R.S.O. 1990, c. D. 16 designates a Municipal Law Enforcement Officer as a Peace Officer for the purposes of enforcing the Act;

AND WHEREAS the Corporation of the Town of Amherstburg deems it desirable to pass a By-law relating to dangerous dogs;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

- 1.1 **"Clerk"** shall mean the Clerk of the Corporation of the Town of Amherstburg or his or her designate.
- 1.2 **"Council"** shall mean the Council of the Corporation of the Town of Amherstburg.
- 1.3 **"Dog"** shall mean any dog, male or female.
- 1.4 **"Dangerous Dog"** shall mean:
 - (a) a dog that, in the absence of any mitigating factor, has attacked, bitten or caused injury to a person or has demonstrated a propensity to, tendency or disposition to do so; or
 - (b) a dog that, in the absence of any mitigating factor, has significantly injured or killed a domestic animal.
- 1.5 **"Enforcement Officer"** shall mean:
 - (a) Municipal Law Enforcement Officer, Community Standards Officer or other law enforcement officer as appointed by Council; or
 - (b) Person duly appointed by Council for seizing and impounding dogs running at large in the Town of Amherstburg;
 - (c) Police Officer appointed pursuant to the *Police Services Act*, R.S.O. 1990, c.P.15; or
 - (d) Agent or Inspector pursuant to the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c. 036.
- 1.7 **"Leash"** shall mean chain or other material capable of restraining the dog. A leash shall measure no more than 1.8 metre in length.
- 1.8 **"Mitigating Factor"** shall mean circumstances which excuses aggressive behaviour of a dog and, without limiting the generality of the foregoing, may include circumstances where:
 - (a) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a person or domestic animal;
 - (b) the dog was, at the time of the aggressive behaviour, acting in defence of its young or to a person or domestic animal trespassing on the property of its owner;

(c) the dog was, at the time of the aggressive behaviour, being teased, provoked or tormented.

1.9 **“Muzzle”** shall mean a humane fastening device or covering device of adequate strength which when placed over the mouth of the dog will then prevent that dog from biting without interfering with the breathing, panting or vision of the dog or its ability to drink. Such muzzle shall be subject to approval of the Enforcement Officer.

1.10 **“Owner”** shall mean any person who keeps, possesses, harbours and/or feeds a dog, and where the owner is a minor, the person responsible for the custody of the minor, and has not turned the dog over to the Town as a stray dog, shall be deemed to be the owner of the dog.

1.11 **“Town”** shall mean the Corporation of the Town of Amherstburg.

2. EXEMPTIONS

2.1 This By-law shall not apply to police service dogs or other specially trained dogs used for investigative purposes while under the ownership of any police service or other federal, provincial or municipal agency.

3. RESPONSIBILITY OF DOG OWNER

3.1 No owner shall permit his or her dog to:

- (a) Bite, attack, threaten, harass, chase, kill or injure any person including, but not limited to when such person is on a bicycle, walking or running; or
- (b) To fight, bite, attack, threaten or kill or injure any domestic animal.

4. DESIGNATING A DOG AS A DANGEROUS DOG

4.1 The Enforcement Officer may designate a dog as being a dangerous dog.

4.2 Where the Enforcement Officer has designated a dog as a dangerous dog, the Enforcement Officer shall serve notice or cause notice to be served to the dog owner.

4.3 Notice shall be served personally or by registered mail to the owner's home address.

4.4 Notice shall include:

- (a) Description of the dog;
- (b) Statement that the Enforcement Officer has deemed the dog dangerous;
- (c) Requirements that the owner must comply with and when they take effect;
- (d) Statement that the owner may appeal the decision in writing, within fourteen (14) business days of the date of the notice.

4.5 Where the Enforcement Officer has deemed the dog as a dangerous dog, the owner may appeal the decision to the Council of the Town of Amherstburg by filing an appeal with the Clerk within fourteen (14) days of the date of the notice.

4.6 All appeals shall be in writing and include:

- (a) Reason(s) or grounds for the appeal;
- (b) Identification of the appellant and any other party;
- (c) Name of the agent, representative or lawyer representing the applicant (if applicable);
- (d) Municipal address, telephone number and email address for each person identified in clause (b) and (c).

4.7 Where an owner appeals the designation under Section 4.1, Council shall hear the appeal by way of a hearing to determine whether the dog is dangerous and may, after the hearing confirm, or alter the designation, or direct the owner to do anything under

this By-law, as the Council considers proper and for such purpose as may substitute its opinion for that of the Enforcement Officer.

- 4.8 Notwithstanding that an owner has appealed to Council under Section 4.5, the designation in Section 4.1 and the conditions imposed under Section 5 remain in effect until the appeal is disposed of.
- 4.9 The decision of Council is final.
- 4.10 No member of Council or its staff is personally liable for anything done by it, or him or her under the authority of this By-law.

5. RESTRICTIONS RELATING TO A DANGEROUS DOGS

- 5.1 Where the Enforcement Officer designates a dog as being a dangerous dog, and serves the owner with the notice of such designation, the Enforcement Officer may include any of the conditions set out in Section 5 (a) through (l) inclusive, as deemed necessary by the Enforcement Officer:
 - (a) to licence such dangerous dog with the Town in accordance with the applicable by-law;
 - (b) to keep the dangerous dog confined within the Owner's dwelling, or in an enclosed pen of sufficient dimension and construction to provide humane shelter for the dog while preventing it from escaping therefrom and preventing the entry therein of unsupervised children. Such pen must meet the satisfaction of the Enforcement Officer;
 - (c) to keep the dangerous dog confined within the Owner's dwelling, or confined to the owner's fenced yard of adequate construction to prevent the dog from escaping therefrom and preventing entry therein of unsupervised children to the satisfaction of the Enforcement Officer;
 - (d) to keep the dangerous dog under effective control of a person at least eighteen (18) years old;
 - (e) to keep the dangerous dog on a leash at all times when it is not on the owner's property;
 - (f) to display, at the entrance to the owner's dwelling which a person would normally approach, a warning sign that there is a dangerous dog on the property. The sign shall be posted in such a manner that it cannot be easily removed by passersby and it is clearly visible to a person approaching the entrance of the owner's property. The sign shall be subject to approval of the Enforcement Officer.
 - (g) to securely attach a muzzle as defined in this By-law to the dangerous dog at all times when it is off the owner's property and not in an enclosed property;
 - (h) to provide the Enforcement Officer with the new address and telephone number of the owner within two (2) working days of moving the dangerous dog;
 - (i) to provide the Enforcement Officer with the name, address and telephone number of the new owner within two (2) working days of selling or giving away the dangerous dog;
 - (j) to advise the Enforcement Officer forthwith if the dangerous dog has bitten or attacked any person or animal;
 - (k) impound the dog at the owner's expense for a maximum of ten (10) days or until such time as the owner of the said dog has complied with all the requirements contained in this By-law for the keep of a dangerous dog;
 - (l) to obtain up to date rabies vaccination and provide proof satisfactory to the Enforcement Officer.
- 5.2 No person shall abandon a dangerous dog other than to a pound operated by, or on behalf of a municipality in Ontario, or to a registered research facility or supply facility under the Animals for Research Act.

- 5.3 The owner of a dog deemed dangerous, shall comply with the conditions imposed by the Enforcement Officer within ten (10) days and provide proof satisfactory to the Enforcement Officer.
- 5.4 Should the owner fail to comply with the requirements contained in this By-law and imposed on the owner for the keeping of a dangerous dog within a ten (10) day period, the Town may seize the dangerous dog until such time as the owner complies with the requirements to the satisfaction of the Enforcement Officer.
- 5.5 Every owner of a dangerous dog who is unable or unwilling to meet the requirements of this By-law shall surrender such dog into the care and control of the Enforcement Officer.
- 5.6 A dog is no longer deemed Dangerous when the dog dies or the Enforcement Officer is satisfied that it no longer resides in the Town.
- 5.7 No person shall interfere with, hinder or impeded an Enforcement Officer in the performance of any duty authorized by this By-law or provincial legislation.

6. PENALTY

- 6.1 Any person who contravenes any provisions of this by-law is guilty of an offence and is liable, upon conviction, to the maximum penalty as prescribed by the *Provincial Offences Act*, R.S.O., 1990, c.P. 33, as amended, and all such penalties and costs may be recovered under the Provincial Offences Act.

7. SEVERABILITY

- 7.1 Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of the By-law shall continue in force unless the court makes an order to the contrary.
- 7.2 When any requirement of this By-law is at a variance with other By-law in effect in the Town or with provincial or federal statute or regulation, the more restrictive requirement shall apply unless otherwise stated in the legislation.
- 7.3 If there is a conflict between provisions of the *Dog Owner's Liability Act*, R.S.O. 1990, c.D. 16 or a regulation under that Act, or any other Act relating to dangerous dogs, and a provision of this By-law relating to dangerous dogs, the provision that is most restriction in relation to the control of dangerous dogs prevails.

8. SHORT TITLE

- 8.1 This By-law may be referred to as the Dangerous Dog By-law.

That this By-law shall come into force and take effect on the date of final passage thereof.

First Reading: August 24, 2009
Second Reading: August 24, 2009
Third Reading: August 24, 2009


MAYOR – Wayne Hurst


CLERK – Brenda M. Percy

**The Corporation of the Town of Amherstburg
By-law No. 2009-57: Dangerous Dogs Regulation
Part I Provincial Offences Act
Set Fine Schedule**

Item	COLUMN 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set fines
1.	Permit dangerous dog to threaten, bite, attack a person	3.1 (a)	\$500.00
2.	Permit dangerous dog to threaten, bite, attack a domestic animal	3.1 (b)	\$500.00
3.	Fail to licence a dangerous dog	5.1 (a)	\$100.00
4.	Fail to securely confine a dangerous dog	5.1 (b)	\$100.00
5.	Fail to keep a dangerous dog under control	5.1 (d)	\$100.00
6.	Fail to leash a dangerous dog	5.1 (e)	\$100.00
7.	Fail to display sign on property	5.1 (f)	\$100.00
8.	Fail to muzzle a dangerous dog	5.1 (g)	\$100.00
9.	Fail to provide new address of a dangerous dog	5.1 (h)	\$100.00
10.	Fail to advise of new owner	5.1 (i)	\$100.00
11.	Fail to advise of bite or attack by a dangerous dog	5.1 (j)	\$100.00
12.	Fail to have up to date rabies vaccination	5.1 (l)	\$100.00
13.	Abandon a dangerous dog	5.2	\$100.00
14.	Fail to comply with conditions	5.3	\$100.00
15.	Fail to surrender a dangerous dog	5.5	\$100.00
16.	Hinder or impede an Enforcement Officer	5.7	\$100.00

NOTE: Penalty provisions for the offences indicated above is Section 6.1 of By-law 2009-57, a certified copy of which has been filed