

The Township of Cavan Monaghan

By-law No. 2014-48

Being a by-law to regulate the restraining and muzzling of a biting dog or potentially dangerous dog under any circumstances that is deemed a health or safety issue of the inhabitants of the municipality

Whereas the Municipal Act, S.O. 2001, C.25 Section 11 authorizes a lower tier municipality the authority to pass by-law respecting matters within the following spheres of jurisdiction, subsection (9) animals;

And Whereas subsection 105(1) of the Municipal Act provides 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 subsection 105(2) of the Municipal Act further provides that an exemption may be granted subject to such conditions as Council considers appropriate;

And Whereas the Council of the Township of Cavan Monaghan deems it desirable to pass such a by-law;

Section 1 – Definitions:

1. In this by-law:
 - (a) **Bite** - means the breaking, puncturing or bruising of the skin of a person or a domestic animal caused by the tooth or teeth of a dog and “bitten” has a corresponding meaning;
 - (b) **Biting Dog** - means a dog that, in the absence of a mitigating factor, has attacked, bitten, or caused physical injury to a person or a domestic animal, or a dog that has been declared vicious or a biting dogs in another municipality in Ontario;
 - (c) **Council** - means the elected municipal council for the Township of Cavan Monaghan;
 - (d) **Dog** - means a male or female dog whether neutered or spayed that is over 12 weeks of age;
 - (e) **Dog Control Officer** - includes any person employed by the Township of Cavan Monaghan to enforce the provisions of this By-law;
 - (f) **Kennel** - shall mean any building, structure, dog run or other facility of part thereof, where:

- a) dogs are kept for breeding or show purposes, or
 - b) dogs are kept solely for the purpose of routinely entering into dog sled or other similar races; or
 - c) hunting dogs are kept for hunting purposes;
- (g) **Leash** - shall mean a strap, cord or chain which is fastened to the dog or to the collar of the dog;
- (h) **Microchip** - means an approved Canadian standard encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to owner information, including the name and address of the owner of the animal;
- (i) **Mitigating factor** - means a circumstance that may excuse aggressive behavior 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 behavior, acting in defence of an attack by a person or aggressive animal; or
 - b) the dog was, at the time of the aggressive behavior, acting in defence of its young or reacting to a person or domestic animal trespassing without permission on the property of its owner;
 - c) the dog was, at the time of the aggressive behavior, being teased, provoked or tormented;
- (j) **Muzzle** - means a humane fastening or covering device of adequate strength and design and suitable to the breed of the dog, that fits over the mouth of the dog and cannot be removed by the dog, so as to prevent the dog from biting;
- (k) **Owner** - means any person who owns, possesses or harbours a dog and, where the owner is a minor, the person responsible for the custody of the dog;
- (l) **Owner's property** - means the property owned or occupied by the owner of a dog, and where the owner has exclusive possession of part of a building or property, that portion of the property of which the owner has exclusive possession;
- (m) **Police work dog** - means a dog trained for and actually engaged in law enforcement for the police or other person duly appointed as a peace officer;
- (n) **Potentially Dangerous dog** - means a dog that, in the absence of a mitigating factor, approaches or chases any person or domestic animal anywhere other than on the property of its owner, in a menacing fashion or apparent attitude of attack, including but not limited to aggressive behavior such as growling or snarling, or a dog that has otherwise demonstrated a

propensity or disposition to attack without provocation persons or domestic animals;

- (o) **Purebred** - means the dog whose sire and dam represent the same breed and are themselves of unmixed descent:
 - a) registered or eligible for registration in the register of the Canadian Kennel Club Incorporated; or
 - b) recognized as such pursuant to the Animal Pedigree Act (Canada);
- (p) **Running at large** - a dog shall be deemed to be running at large when found in a place other than the premises of the owner of the dog and not under the control of any person when it is not held on a restraint by means of a leash fastened to the dog;
- (q) **Service dog** – means a dog trained and actively used to assist a person who is disabled;
- (r) **Township Clerk** - means the person within the Township's administration who fulfills the function of the Clerk as required by the Municipal Act, 2001 or his or her designate
- (s) **Township Property** - shall mean all property owned, leased or under the control of the Township of Cavan Monaghan, and without limitation, this term shall include all, open space, opened or unopened road allowance, sidewalks, footpaths or bicycle trails;
- (t) **Treasurer** - shall mean the Treasurer of the Township of Cavan Monaghan.

Section 2 – Biting Dogs

2 (1) Where a Dog Control Officer has reason to believe that a dog is a Biting Dog, the Dog Control Officer may issue and serve, upon the owner, an Animal Control Order declaring the dog to be a Biting Dog.

2 (2) An Animal Control Order declaring a dog to be a Biting Dog shall set out such measures as are required by the Owner to take in respect of such dog, which shall include the following requirements:

- (a) The Owner shall, when the Biting Dog is not securely inside the Owner's dwelling but is otherwise on the Owner's property, at all times keep the dog securely restrained in one of the following manners so as to prevent the Biting Dog from escaping and to prevent the Biting Dog from biting or causing injury to any person or domestic animal entering onto the Owner's property:

- i. The Biting Dog shall be located within a securely fenced yard where the fence is of sufficient dimension and design to prevent the dog from escaping from the yard, and any gate in such fenced yard shall be locked at all times when the Biting Dog is in the fenced yard; or
- ii. The Biting Dog shall be located within a fully enclosed pen or run of sufficient dimension, design and strength to be humane and to prevent the Biting Dog from digging its way out of or otherwise escaping from the enclosed pen or run; or
- iii. The Biting Dog shall be muzzled so as to prevent it from biting a person or domestic animal and securely restrained by means of a leash or chain to prevent the Biting Dog from escaping from the yard; and
- iv. The Biting Dog shall not be kept in the front yard of the owner's property when the property is zoned residential.

- (b) The Owner shall securely attach a muzzle to the Biting Dog at all times when the Biting Dog is in any place other than the Owner's property.
- (c) The Owner shall keep the Biting Dog under the physical control of a person eighteen (18) years of age or older by means of a non-retractable leash with a maximum length of two (2) meters held by the said person at all times when the Biting Dog is in any place other than the Owner's property.
- (d) The Owner shall provide to the Dog Control Officer a copy of a current municipal dog tag receipt within forty-eight (48) hours of receiving the Animal Control Order.
- (e) The Owner shall provide to the Dog Control Officer a copy of all immunization records of the Biting Dog within forty-eight (48) hours of receiving the Animal Control Order.
- (f) The Owner shall notify the Dog Control Officer within forty-eight (48) hours of any changes to the residency or ownership of the Biting Dog.
- (g) The Owner shall notify the Dog Control Officer within forty-eight (48) hours of the death of the Biting Dog.

2 (3) Where a Dog Control Officer has reason to believe that a dog is a potentially dangerous dog, the Dog Control Officer may issue and serve upon the owner an Animal Control Order declaring the dog to be a potentially dangerous dog.

- 2 (4) An Animal Control Order declaring a dog to be a potentially dangerous dog shall set out such measures as are required by the Owner of the potentially dangerous dog to take in respect of such dog, which may include all or some of the requirements set out in subsection 2 (2).
- 2 (5) An Animal Control Order may be served on the Owner personally by handing it to the Owner, but where the Animal Control Order cannot be given or served by reason of the Owner's absence from the Owner's property or by reason of evasion of service, the Animal Control Order may be given or served:
- (a) by handing it to an adult person on the Owner's property; or
 - (b) by sending it by prepaid registered mail to the Owner at the address where he or she resides.
- 2 (6) An Owner of a dog may appeal an Animal Control Order, provided the appeal is made in writing and delivered to the Township Clerk within thirty (30) days after the Animal Control Order has been served.
- 2 (7) An Animal Control Order takes effect when it is served on the person to whom it is directed, and remains fully in effect unless it has been varied by the Clerk.
- 2 (8) An appeal of an Animal Control Order by the Owner of a dog under this By-law does not act as a stay of any requirement imposed.
- 2 (9) Upon receipt of an appeal of an Animal Control Order pursuant to the provisions of this By-law, the Township Clerk within ten (10) days may:
- (a) confirm, vary or reverse the declaration in an Animal Control Order that the subject dog is a Biting Dog or a Potentially Dangerous dog, as the case may be; or
 - (b) confirm or vary any of the requirements of an Animal Control Order as the Clerk considers appropriate; or
 - (c) exempt the Owner of the dog in whole or in part from any of the requirements of an Animal Control Order, subject to such terms and conditions as the Clerk considers appropriate; or
 - (d) impose conditions which, if fulfilled to the satisfaction of the Clerk, will permit the Clerk in its sole discretion to vary or exempt the owner from some or all of the terms or restrictions in the Animal Control Order; or
 - (e) combine any confirmation, variance, condition, or exemption of any of the requirements in an Animal Control Order as the Clerk considers appropriate.

- 2 (10) Any notice or document that has been served pursuant to the provisions of this By-law by prepaid registered mail shall be deemed to have been received by the person to whom it is addressed on the fifth (5th) day after the day it is mailed.
- 2 (11) No person shall:
- (a) fail to comply with an Animal Control Order;
 - (b) fail to restrain a dog that is required to be restrained pursuant to an Animal Control Order;
 - (c) fail to muzzle a dog that is required to be muzzled pursuant to an Animal Control Order;
 - (d) fail to leash a dog that is required to be leashed pursuant to an Animal Control Order;
 - (e) permit his or her dog to attack or bite any person or domestic animal.

Section 3 – Exemptions

This By-law does not apply to:

- (a) a police work dog actually engaged in law enforcement or other law enforcement agency;
- (b) a Service Dog.

Section 4 – Offence

- i. Every person who contravenes any provisions of this By-law, is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than five thousand dollars (\$5,000.00), exclusive of costs and every such fine is recoverable under the Provincial Offences Act.

Section 5 – Severability of Provisions

- i. If any section of this By-law, or parts thereof may be found by a court of law to be illegal or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts to this By-law shall be deemed to be separate and independent there from and to be enacted as such.

Section 6 – Effective Date

This By-law comes into force and effect on its day of passing.

Read a first, second and third time and passed this 5th day of August, 2014.

John Fallis
Mayor

Elana Arthurs
Clerk

**The Township of Cavan Monaghan
Animal Control Order:
Pursuant to By-law No. 2014 - 48**

Owner:

(Name)

(Address)

(Phone Number)

Description of Dog:

Name: _____ Sex _____

Breed: _____ Age _____

Colour: _____

I _____, Animal Control Officer for the Township of

Cavan Monaghan believe that on or about the ____ day of _____, 20____

a _____ dog, belonging to _____
(breed of dog) (Owner's name)

did bite or attack a person or a domestic animal and hereby declare the dog as a biting dog.

You are hereby ordered to immediately muzzle and restrain your dog as required in the attached "Method of Restraining Dog" which forms part of this Order.

The owner may appeal this Order by making an appeal, in writing, to the Township Clerk within thirty (30) days of the owner receiving this notice. A notice that is not appealed within thirty (30) days is deemed to be confirmed.

Pursuant to the Dog Owner's Liability Act, R.S.O. 1990, c. D.16, as amended, the owner of a dog is liable for damages resulting from a bite or attack by a dog on a person or domestic animal.

Note: Failure to comply with the requirements of By-law No. 2014-48 and this Order may result in the owner of the dog being subject to a fine not exceeding \$5,000.00.

Dated this ____ day of _____, 20____.

Animal Control Officer / Provincial Offences Officer

**The Township of Cavan Monaghan
Animal Control Order
Pursuant to By-law No. 2014-48**

Method of Restraining Dog

- The owner shall, when the dog is not securely inside the owner's dwelling but is otherwise on the owner's property, at all times keep the dog securely restrained in one of the following manners so as to prevent the dog from escaping and to prevent the dog from biting or causing injury to any person or domestic animal entering onto the owner's property:

The dog shall be located within a securely fenced yard where the fence is of sufficient dimension and design to prevent the dog from escaping from the yard, and any gate in such fenced yard shall be locked at all times when the dog is in the fenced yard; or

The dog shall be located within a fully enclosed pen or run of sufficient dimension, design and strength to be humane and to prevent the dog from digging its way out or otherwise escaping from the enclosed pen or run; or

The dog shall be muzzled so as to prevent it from biting a person or domestic animal and securely restrained by means of a leash or chain to prevent the dog from escaping from the yard; and

The dog shall not be kept in the front yard of the owner's property when the property is zoned residential.

- The owner shall securely attach a muzzle to the dog at all times when the dog is in any place other than the owner's property.
 - The owner shall keep the dog under the physical control of a person eighteen (18) years of age or older by means of a non-retractable leash with a maximum length of two (2) meters held by the said person at all times when the dog is in any place other than the owner's property.
 - The owner shall provide to the Dog Control Officer a copy of a current municipal dog tag receipt within forty-eight (48) hours of receiving the Animal Control Order.
 - The owner shall provide to the Dog Control Officer a copy of all immunization records of the dog within forty-eight (48) hours of receiving the Animal Control Order.
 - The owner shall notify the Dog Control Officer within forty-eight (48) hours of any changes to the residency or ownership of the dog.
 - The owner shall notify the Dog Control Officer within forty-eight (48) hours of the death of the dog.
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