

THE CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE
BY-LAW NO. 2007-16

Being a By-law to regulate the keeping and control of animals, or any class thereof, the animal identification system licencing and restraint of dogs and certain other aspects of animal control within the Corporation of the Township of McNab/Braeside.

WHEREAS the Municipal Act, S.O. 2001, C. 25 Sec. 391 (1) provides that a Municipality may pass By-laws prohibiting, regulating and restricting the keeping of animals or any class thereof, the destruction thereof and allow for a licencing and animal identification system pursuant to the Provisions thereof;

AND WHEREAS Section 20 of the Animals for Research Act, R.S.O. 1990, Chapter A. 22, provides for the impounding and sale or destruction of a dog pursuant to the provisions thereof;

AND WHEREAS the Dog Owners Liability Act, R.S.O. 1990 Chapter D. 16, provides for the protection of persons and property; (See Schedule “D”)

AND WHEREAS the Ontario Police Services Act, R.S.O. 1990 Chapter P. 15 as amended, provides that Council may appoint Municipal Law Enforcement Officers to enforce all municipal By-Laws;

NOW THEREFORE The Council of the Corporation of the Township of McNab/Braeside enacts as follows:

1. **TITLE**

- a) This By-Law shall be known and may be cited as “**THE ANIMAL CONTROL BY-LAW.**”

2. **DEFINITIONS:**

As used in this By-Law, the following terms shall have the meaning hereinafter ascribed to them:

- a) “**Animal Control Officer**” means a person appointed or employed by the Corporation of the Township of McNab/Braeside for the purposes of supervising all animal husbandry matters within the limits of the Township of McNab/Braeside and shall also be appointed a Municipal Law Enforcement Officer responsible for the enforcement and provision of this By-Law and related Provincial Offences by authority of the Ontario Police Services Act.
- b) “**Animal Control Officer - Municipal Law Enforcement Officer**” means a person appointed by the Corporation of the Township of McNab/Braeside for the purposes of enforcing the provisions of this By-Law and related provincial offences by authority of the Ontario Police Services Act, 1990, Chapter P. 15, Section 15.
- c) “**Animal Shelter**” means any premises designated by the Township of McNab/Braeside for the purpose of impounding and caring for animals taken by the agents of the Corporation in violation of this By-Law.
- d) “**Clerk**” shall mean the CAO/Clerk of the Corporation of the Township of McNab/Braeside or that person appointed to act in his capacity.
- e) “**Corporation**” shall mean the Corporation of the Township of McNab/Braeside.
- f) “**Dangerous Dog**” shall mean any individual dog that:
- (i) has killed a domestic animal without provocation while off the owner’s property;
 - (ii) has bitten or injured a human being or domestic animal without provocation on public or private property;
 - (iii) is attack trained;
 - (iv) is trained and kept for the purpose of security or protection, whether residential, commercial, or industrial, or persons or property; and/or
 - (v) has shown the disposition or tendency to be threatening or aggressive.

- g) **“Dog”** shall mean any domesticated dog, male or female.
- h) **“Fenced Yard”** means a yard which is completely enclosed by a fence constructed in accordance with the specifications set out in Schedule **“C”** to this By-law provided that the walls of a continuously occupied building are considered as portions of the required fence, provided that all doors in such walls are equipped with locks and that all doors providing access to the fenced yard are locked when a vicious dog or dog included in Schedule **“B”** to this By-law is inside the fenced yard.
- i) **“Gate”** means a swinging or sliding barrier used to fill or close an access and includes a door.
- j) **“His”** or other words importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females as well as males and vice versa.
- k) **“Inspector”** shall mean any municipal employee of the Township of McNab/Braeside delegated with enforcing or maintaining the provision of this by-law.
- l) **“Kennel”** means any premises where four (4) to twelve (12) adult dogs are lodged, bred, treated, kept, boarded or raised for gain or profit.
- m) **“Leash”** - includes any form of material lead or restraint which does not exceed two (2) metres in length and has the capability to control an animal from annoying, bothering or irritating persons or other animals.
- n) **“Licence”** shall mean a licence issued under this By-Law.
- o) **“Muzzled”** means to have securely affixed around the snout or the mouth and nose of a dog a device commonly known as a muzzle manufactured by a recognized manufacturer of muzzles for dogs such that the dog when muzzled will be prevented from biting a person or animal.
- p) **“Nuisance Animal”** shall mean any animal that unreasonably annoys humans, endangers the life or health of domestic animals or persons, or substantially interferes with the rights of citizens, other than its owner, to enjoyment of life or property. The term shall include, but is not limited to, any animal that:
 - (i) is repeatedly at large;
 - (ii) damages the property of anyone other than it’s owner;
 - (iii) molests or intimidates pedestrians or passerby;
 - (iv) chases vehicles;
 - (v) excessively makes disturbing noises, including, but not limited to, continued or repeated howling, barking, whining, or other utterances causing unreasonable annoyances, disturbance, or discomfort to neighbors, or others in close proximity to the premises where the animal is kept or harboured;
 - (vi) causes unsanitary conditions in enclosures or surroundings where the animal is kept or harboured due to the neglect of the animal’s owner;
 - (vii) is offensive or dangerous to the public health, safety, or welfare; or
 - (viii) attacks other domestic animals or livestock.
- q) **“Open Space”** shall mean any portion of a lot which is unoccupied by buildings or structures above ground level and is open to the sky, and shall include Landscaped Open Space.
- r) **“Owner of a Dog”** includes any person who owns, possesses, harbours or has the care and control of a dog and "owns" and "owned" have a corresponding meaning. Where the owner is a minor, the person responsible for the custody of the minor.
- s) **“Park”** shall mean an area of land consisting largely of open space which may include a recreational area, playground, sports field or similar use.

- t) **“Person”** includes any physical or corporate entity, partnership or any association and the heirs, executors, administrators, successors and assigns or other legal representative thereof to whom the context may apply.
- u) **“Pure-Bred”** means registered or eligible for registration with an Association incorporated under the Animal Pedigree Act (Canada).
- v) **“Residential Zone”** means those areas designated as residential in the zoning by-laws of the Corporation of the Township of McNab/Braeside.
- w) **“Township”** shall mean all lands contained within the geographical limits of the Township of McNab/Braeside.
- x) **“Vicious Dog”** means
 - i) any dog with a known propensity, tendency or disposition to attack without provocation other domestic animals, livestock or persons; or
 - ii) any animal that displays vicious tendencies such as growling, baring of teeth, charging or lunging, attacking or biting a person or other domestic animal or livestock.

3. **LICENCING AND ANIMAL IDENTIFICATION SYSTEM**

- 3.1 Every owner of a dog shall annually, not later than March 31st in each year or within seven (7) days of becoming an owner of a dog, cause the dog to be licenced with the municipality.
- 3.2 On application for a licence the owner of a dog must be required to provide a certificate signed by a practicing veterinarian, that the dog has been inoculated with an anti-rabies vaccine within the period to twenty-four (24) months immediately prior to the date of application for licence.
- 3.3 All licences and tags issued pursuant to this By-law shall be serially numbered and a record of their issue be kept by the Municipal Office. Such record shall set out the name and address of the owner, the name of the dog and may include information as to the date of the dog's last anti-rabies inoculation.
- 3.4 At the time of registration, the owner/applicant shall be required to pay to the municipality the required licence fee pursuant to Schedule “A” of this By-law.
- 3.5 On payment of the licence fee for a dog, the owner shall be furnished with a dog tag which shall bear the serial number relating to the application, and the year in which the tag is valid.
- 3.6 The owner of a dog shall:
 - a) keep the dog tag securely affixed on the dog for which it was issued at all times until renewed or replaced but the tag may be removed while the dog is being lawfully used for hunting in the bush; and
 - b) not use the tag upon a dog other than the one for which it was issued.
- 3.7 The fee charged for the replacement of lost dog tags shall be that set out in Schedule “A” to this By-law.
- 3.8 No owner shall assign or transfer the licence which has been issued for a dog to any other owner.

4. **KENNELS**

- 4.1 No person shall operate a Kennel as defined in this By-law within the Corporate boundaries of the Township of McNab/Braeside, on property that is not zoned for a Kennel under the Township’s current Comprehensive Zoning By-law and complies with the requirements of the Zoning By-Law for Kennels as defined in that By-Law.

- 4.2 Every person who owns, operates or conducts a kennel shall annually and not later than March 31st in each year obtain a licence from the municipality to operate a kennel and shall pay the licence fee set out in Schedule “A” to this By-law. A Kennel shall mean an establishment in which greater than three dogs are housed, groomed, boarded, bred or trained for gain or profit. An inspection by the Township Animal Control Officer shall be made at least twice per calendar year. Each dog under the kennel licence shall be individually tagged by the Township with the exception of unweaned pups. This includes kennels for purebred dogs which are registered with the Canadian Kennel Club pursuant to the Statutes of Ontario.
- 4.3 If there is a change of ownership of a kennel during the licence year the new owner must purchase a new licence.

5. **RESTRAINT**

- 5.1 The running at large of dogs is prohibited within the municipality and no owner of a dog shall allow the dog to run at large.
- 5.2 A dog shall be deemed to be running at large when it is found not under control of the owner unless the dog is on the lands of its owner or a person who has consented to it being on his lands. For the purposes of this section a dog shall be deemed to be not under the control of its owner if it is located in any conservation area, institutional area, open space, park, or residential zone within the municipality and is not on a leash securely attached to the owner.
- 5.3 No owner of a dog shall permit or allow it to trespass on any private property.
- 5.4 No person shall permit a dog to become a nuisance by barking excessively at anytime so as to disturb the peace or quiet of any residence or any persons in the vicinity.

6. **IMPOUNDMENT**

- 6.1 Any dog found to be running at large shall be seized and impounded by the Animal Control Officer /Municipal Law Enforcement Officer or any person acting under his authority.
- 6.2 The Animal Control Officer/Municipal Law Enforcement Officer or any person acting under his authority may kill any dog he finds running at large if:
- i) he reasonably believes the dog is likely to cause imminent harm to any person or animal; or
 - ii) the dog is injured or should be destroyed without delay for humane reasons, and no damages or compensation shall be recovered on account of such disposition by the owner.
- 6.3 Upon discovery, a dog found running at large shall be taken to the pound of the municipality and therein confined for a maximum period of redemption of three days excluding the day on which the dog was impounded, a Saturday, a Sunday or a holiday.
- 6.4 During the redemption period the operator of such pound shall, when the dog which is impounded has a tag, name plate or other means of identification, take all reasonable steps to find the owner of the dog and shall forthwith notify the owner, if found, that the dog can be redeemed.
- 6.5 Possession of a dog impounded under the authority of this by-law may be restored to the owner if the owner claims possession of the dog prior to it being sold or disposed of in accordance with the rules and regulations of the Pound Keepers Act upon obtaining a release from the Animal Control Officer/Municipal Law Enforcement Officer or such other person as he may designate as well as payment of the pound and maintenance fees imposed by the Township of McNab/Braeside set out in Schedule “A” to this By-law.

6.6 A release form can be obtained by the owner upon payment of the fee set out in Schedule “A” to this By-law provided however that if the dog does not have a valid and subsisting licence, the owner shall be required to pay in addition to the release fee, the licence fee set out in Schedule “A” to this By-law.

6.7 Where an animal is captured or taken into custody, and the services of a veterinarian are secured by the Township or its appointed agents, the owner shall pay to the Township, all fees and charges of the veterinarian in addition to all other fees and charges payable under this By-law, whether the animal is alive, dies or is euthanized.

7. **DANGEROUS OR VICIOUS ANIMAL RESTRICTION**

7.1 No owner shall permit his dog to attack any person, livestock, domestic animal or domestic bird or to fight with another dog and shall maintain effective control by means of a muzzle and/or leash as defined in this by law.

7.2 Any dangerous or vicious dog or dog included in Schedule “B” to this by-law shall not be kept within the limits of the Township and any owner, keeper or harbourer of such animal found to be fierce, dangerous or vicious as defined in this By-Law shall be subject to the penalty provided for in this By-Law.

8. **REPORT OF BITE CASES**

8.1 It shall be expected that every Physician or other practitioner shall report the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control to the Renfrew County and District Health Unit.

9. **INVESTIGATION**

9.1 For the purpose of discharging the duties imposed by this By-Law and to enforce it's provisions, any agent of the Township or any Police Officer may enter onto any public property and into the structures thereon with the consent of the owner or occupant upon any premises upon which a dog or animal is kept or harboured and to demand the exhibition by the Owner of such dog or the licence/identification of such dog.

10. **EXEMPTIONS**

10.1 Guide dogs within the meaning of the Blind Persons' Rights Act, and hearing ear dogs, where a certificate is produced from a recognized training establishment stating the dog is being used as a hearing assistance dog, are exempt from the payment of all licence fees applicable pursuant to this By-law. Said dog shall be licenced and wear the current years licence tag issued by the licencing agent.

10.2 Every owner of a dog shall remove forthwith and dispose of any excrements left by his dog on any property in the municipality other than his own property.

10.3 The provisions of Section 10(2) of this By-law do not apply to a blind person accompanied by a dog used as a guide or lead dog.

11. **OFFENCES**

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

11.2 Each day a contravention continues may be deemed to be a separate offence.

12. **SEVERABILITY**

12.1 It is hereby declared that each and every of the foregoing provisions of this By-law is severable and that, if any provision of this By-law should for any reason be declared

invalid by any Court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

This by-law shall come into full force and take effect upon the passing thereof.

BE IT FURTHER ENACTED, that all By-Laws, or parts thereof, and all or any Resolutions of Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed.

READ a first time **this 20th day of March 2007.**

READ a second time **this 20th day of March 2007.**

READ a third and final time and passed **20th day of March 2007.**

MAYOR

CAO/CLERK

SCHEDULE "A"

- a) Licence Fee:
- | | | |
|---------------------------------|---------------------|----------|
| Before March 31 st : | one dog | \$ 12.00 |
| | 2 nd dog | \$ 20.00 |
| | 3 rd dog | \$ 30.00 |
| After March 31 st : | one dog | \$ 24.00 |
| | 2 nd dog | \$ 40.00 |
| | 3 rd dog | \$ 60.00 |
- b) Kennel Licence Fee:
- | | |
|---------------------------------|----------|
| Before March 31 st : | \$150.00 |
| After March 31 st : | \$250.00 |
- c) Release Fee:
- | | |
|---------------------|-------------|
| Fines chargeable | \$20.00 |
| Services chargeable | \$10.00 |
| Other (food) | \$ 3.00/day |
- d) Replacement tag: \$1.00/day

SCHEDULE "B"

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.

SCHEDULE "C"**FENCE**

- a) Fences shall be 1.98 meters (6 feet) in height and installed such that no gap greater than 150 mm (4 inches) exists between the underside of the fence and the finished grade. Fences shall be of a design that will reasonably deter children from climbing it to gain access to the fenced-in area and that will prevent a vicious dog or a dog included in Schedule "A" to this By-law from digging its way out of or otherwise escaping from the enclosed yard. If a fence contains an opening for access, the opening shall be closed with a gate which shall provide protection equivalent to the fence and shall be equipped with self-closing, self-latching devices, and locks located at the top of and inside the gates.
- b) A fence shall:
- i) If of chainlink construction:
 1. Be of not greater than 50 mm (2 inches) diamond mesh;
 2. Be construction of galvanized steel wire not less than 3.6 mm diameter (No. 11 gauge) steel wire covered with a vinyl coating forming a total thickness equivalent to 3.6 mm diameter (No. 9 gauge);
 3. Be supported by at least 38 mm (1.5 inches) diameter galvanized steel posts installed in accordance with good fencing techniques. Such posts shall be spaced not more than 3 m (10 feet) apart. Top horizontal rails shall be at least 32 mm (1.25 inches) diameter galvanized steel. Bottom horizontal rails shall be a 12 mm (.5 inch) diameter galvanized tension rail or a 32 mm (1.25 inches) diameter galvanized rail.
 - ii) If of wood construction:
 1. Be of alternating vertical boards attached to supporting horizontal members. Such vertical boards shall have a minimum dimension of 19 x 88 mm (1 x 4 inches nominal) and spaced at a maximum of 100 mm (4 inches).
 2. Supporting horizontal members shall have a minimum dimension of 38 x 38 mm (2 x 4 inches nominal) and shall be spaced a minimum of 1.4 m (4 feet 6 inches) apart;
 3. Horizontal members shall be supported by posts spaced not more than 2.4 m (8 feet) on center. Such posts shall be 88 mm (4 inches nominal) square or in diameter and securely placed to a minimum of 0.6 m (2 feet) below grade. That portion below grade shall be treated with a wood preservative or the post shall be of pressure treated wood.
 - iii) If the fence design is other than specified in (i) or (ii) either in material or otherwise, such fence shall require approval by the Municipal Law Enforcement Officer.

SCHEDULE "D"**DOG OWNERS' LIABILITY ACT R.S.O. 1990, c.D.16**

1. In this Act, "owner", when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor. ("propriétaire") R.S.O. 1990, c. D.16, s.1.
2.
 - (1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal. R.S.O. 1990, c. D.16, s.2 (1).
 - (2) Where there is more than one owner of a dog, they are jointly and severally liable under this section. R.S.O. 1990, c. D.16, s.2 (2).
 - (3) The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages. R.S.O. 1990, c. D.16, s.2 (3).
 - (4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damages. R.S.O. 1990, c. D.16, s.2 (4).
3.
 - (1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers' Liability Act*. R.S.O. 1990, c. D.16, s.3 (1).
 - (2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. R.S.O. 1990, c. D.16, s.3 (2).
4.
 - (1) If it is alleged that a dog has bitten or attacked a person or domestic animal, a proceeding may be commenced against the owner of the dog and the proceeding is one to which Part IX of the *Provincial Offences Act* applies. 2000, c.26, Sched. A, s.6.
 - (2) When a proceeding has been commenced under subsection (1), the Ontario Court of Justice may, pending a determination of whether an order should be made under subsection (3) or pending an appeal of such an order, make an interim order requiring the owner to take measures specified in the interim order for the more effective control of the dog. 2000, c. 26, Sched. A, s.6.
 - (3) If, in a proceeding under subsection (1), the Ontario Court (Provincial Division) finds that the dog has bitten or attacked a person or domestic animal, and the court is satisfied that an order is necessary for the protection of the public, the court may order,
 - (a) that the dog be destroyed in the manner specified in the order; or
 - (b) that the owner of the dog take such the measures specified in the order for the more effective control of the dog. 2000, c. 26, Sched. A, s. 6.
 - (4) Some examples of measures that may be ordered under subsection (2) or clause (3) (b) are:
 1. Confirming the dog to its owner's property.
 2. Restraining the dog by means of a leash.
 3. Restraining the dog by means of a muzzle. 2000,c. 26, Sched. A, s. 6
 - (5) If a dog whose destruction has been ordered under clause (3) (a) is not taken into custody immediately, the owner shall restrain the dog by means of a leash and muzzle until the dog is taken into custody. 2000, c. 26, Sched. A, s. 6.

- (6) In exercising its powers to make an order under subsection (3), the court may take into consideration the following circumstances:
 1. The past and present temperament and behavior of the dog.
 2. The seriousness of the injuries caused by the biting or attack.
 3. Unusual contributing circumstances tending to justify the action of the dog.
 4. The improbability that a similar attack will be repeated.
 5. The dog's physical potential for inflicting harm.
 6. Precautions taken by the owner to preclude similar attacks in the future.
 7. Any other circumstances that the court considers to be relevant. 2000, c. 26, Sched. A, s. 6.
5. When, in a proceeding under subsection 4 (1), the court finds that the dog has bitten or attacked a person or domestic animal, the court may make an order prohibiting the dog's owner from owning another dog during a specified period of time. 2000, c. 26, Sched. A, s. 6.
6. (1) The owner of a dog shall exercise reasonable precautions to prevent the dog from biting or attacking a person or domestic animal. 2000, c. 26, Sched. A, s. 6.
 - (2) A person who contravenes subsection 4 (5) or section 6 or contravenes an order made under subsection 4 (2) or (3) or section 5 is guilty of an offence and liable, on conviction, to a fine not exceeding \$5,000. 2000, c. 26, Sched. A, s. 6.

SCHEDULE "E"**Set Fines for Use Under Part 1
of the Provincial Offences Act**

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (includes court costs)
1.	Own, Keep, or Harbour Unlicensed Dog	3.1	\$55
2.	Operate Illegal Kennel	4	\$250
3.	Use Licence Receipt/Tag for Another Dog	3.6 (b)	\$155
4.	Owner - Permit Dog to Run at Large	5	\$55
5.	Dog - Not Under Control	5	\$55
6.	Fail to Pick Up Excrement	10.2	\$55
7.	Permit Excessive Noise by Dog	5.4	\$75
8.	Fail to Secure Dangerous or Potentially Dangerous Dog	7.1	\$250
9.	Fail to Muzzle Dangerous or Potentially Dangerous Dog	7.1	\$250
10.	Fail to Leash Dangerous or Potentially Dangerous Dog	7.1	\$250

Note: The penalty provision for the offences as indicated above is Section 11.1 of By-Law # 2007-16.