

THE CORPORATION OF THE MUNICIPALITY OF MACHIN

BY-LAW NUMBER 38-2011

BEING a By-law to rescind By-law 04-2006 and

BEING a By-law to provide for the Licensing and Regulating of Dogs
and Public Nuisance within the Municipality.

1. Definitions

- 1.1. "Dog" means a male or female dog;
- 1.2. "Municipality" means the Municipality of Machin
- 1.3. "Owner" of a dog includes the person who possesses or harbours a dog, and "owns" or "owned" having a corresponding meaning.
- 1.4. "Kennel" means an establishment of five or more dogs, whether or not for profit or gain, and shall include the following:
 - Boarding Kennel – means a place, including buildings and property, where animals are kept, for a fee, and operated as a commercial business;
 - Breeding Kennel – means a place, including buildings and property, where animals are kept for the purposes of reproduction and the use of or sale of the offspring, as a hobby or a professional enterprise, and there are no more than two breeding animals of no more than two breeds;
 - Shelter Kennel – means a place, including building and premises, where stray or homeless animals are kept as a service to the community, generally on a non-profit basis by a service organization (i.e. a humane society).
 - Working Kennel – means a place, including buildings and property where a group of animals are kept for a specific purpose such as hunting, security, tracking, obedience, rescue, or mushing.
- 1.5. "Working Animal" – while such animals are actively in use for such purposes, includes, but is not limited to, an animal that is trained to assist a person with a disability and includes those trained for vision impaired, hearing impaired or other special needs; an animal that is used for herding animals; an animal trained to aid law enforcement officers; an animal properly licensed through the Ministry of Natural Resources for the purpose of hunting.
- 1.6. "Dwelling, Single Detached" – means a detached building containing one dwelling unit only.
- 1.7. "Dwelling, Multi-Unit" – means a dwelling containing more than one dwelling unit and includes an apartment building, a duplex, a quadruplex, a semi-detached dwelling, a town house, and a triplex.

2. Keeping of Animals

2.1 Single-Detached Dwellings

2.1.1 Subject to the provisions of this By-law, no person shall harbour more than four animals on the premises of a single-detached dwelling.

2.2 Multi-Unit Dwellings

2.2.1 Subject to the provisions of this By-law, no person shall harbour more than two animals per unit on the premises of a multi-unit dwelling.

2.3 For the purposes of this Section, animals 12 weeks old and younger shall not be counted in determining the number of animals on the premises.

2.4 For the purposes of this Section, it shall be construed that the number of animals permitted is per dwelling or per premises or per unit and not per person occupying said dwelling, premises, or unit.

3. Dog Registration and Identification

3.1 Every person residing temporarily or permanently within the limits of the Municipality, being the owner of a dog shall, on or before the 31st day of March in each and every year cause such dog to be registered with the Municipality and shall procure a new or renew Municipal identification therefore which shall be renewed annually as directed by the Municipality.

3.2 Notwithstanding the provisions of Subsection 3.1 hereof, no license shall be required for a dog during the first six (6) months of its life and such dog need not be registered until six (6) months old when the owner shall immediately obtain a license for it and register it as provided herein.

3.3 Every owner of a dog shall keep Municipal identification securely fixed on the dog when it is not on the owner's premises.

3.4 Notwithstanding Section 3.3, if Municipal identification is required on a Working Animal as defined in Section 1.5, Municipal identification may be removed while the animal is actively in use for the purposes set out therein.

3.5 Every person residing temporarily or permanently within the limits of the Municipality, being the owner of a dog within the limits of the Municipality, shall, within 15 days after becoming the owner of such dog, cause the dog to be registered with the Municipality and procure Municipal identification therefore, which shall be renewed annually as directed by the Municipality.

- 3.6 Municipal identification shall bear a serial number and a record shall be kept by the Clerk or other Officer designated for that purpose showing the serial number of the Municipal identification and the name, address and other applicable information of the owner and of the dog.
- 3.7 The license fee for the first four dogs shall be ten (\$10.00) dollars each.
- 3.8 A tag which has been lost may be replaced upon payment of a fee of one (\$1.00) dollar upon application thereof and upon proof that the license fee for the current year has been paid.
- 3.9 Every owner of a dog who fails to obtain a tag required by Section 2 & 3 of this By-law and keep it securely fixed on his dog, or who uses the tag upon a dog other than that for which it was issued, is guilty of an offence hereunder.

4. Kennels

- 4.1 No person shall operate or continue to operate a kennel without a valid licence.
- 4.2 An owner of a kennel registered with the Municipality of Machin on the date of passing of this By-law, shall pay an annual license fee of twenty-five (\$25.00) dollars to the Clerk Treasurer of the Municipality as a license fee for the Kennel, in addition to the \$10.00 annual license fee per dog.
- 4.3 An owner of a kennel shall ensure that the kennel conforms to the provisions of the Municipality's Official Plan and Zoning By-law and no kennel, run, pen or exercise yard shall be erected contrary to the provisions of those documents.
- 4.4 Notwithstanding the provisions of this By-law, the Municipality may, in its absolute discretion, limit the number of animals which may be kept in the kennel as a condition of the licence.

5. Running at Large or Trespassing of Dogs

- 5.1 For the purpose of this by-law, a dog shall be deemed to be running at large when found in other than the premises of the owner of the dog and not under control of any person.
- 5.2 No person shall suffer, allow or permit any dog of which he or she is the owner to run at large or trespass within the limits of the Municipality.
- 5.3 An Officer may seize an animal running at large or trespassing. Said Officer may enter onto any public property, or private property with the consent of the owner or tenant, for the purpose of seizing any animal running at large or trespassing.

6. Exemptions to Running at Large

- 6.1 A working animal, as defined in Section 1(e), shall not be considered running at large if it is actively in use for purposes as set out in that Section.
- 6.2 An animal shall not be considered to be running at large if it is on the owner's property, or on a leash, or "at heel" beside a person and is obedient to that person's command.

7. Vicious/Dangerous Dogs

In Section 7.1 to 7.13, both inclusive, of this Part:

- 7.1 "Dog" means a male or female dog at least eight (8) weeks old;
- 7.2 "Pit Bull" is not a breed of dog, it is defined as a Pit Bull Terrier, a Staffordshire Bull Terrier, an American Staffordshire Terrier, and American Pit Bull Terrier or any dog that has an appearance and physical characteristics that are substantially similar to those dog reported. It is up to the owner to prove that the dog is not a Pit Bull even though the owner of a mix-breed or non-registered dog may have no way of establishing the dog's lineage.
- 7.3 "Owner" of a vicious/dangerous dog includes a person who possesses or harbours a vicious/dangerous dog, and "own" or "owned" have corresponding meaning;
- 7.4 "Vicious/Dangerous Dog" means:
- 7.4.1 A dog that has killed a person or domestic animal, regardless of the circumstances.
- 7.4.2 A dog that has bitten or injured a person or domestic animal or that poses a menace to public safety.
- Guidelines include: the dog's past and present temperament and behaviour, the seriousness of the injuries caused by the biting or attack, unusual contributing circumstances tending to justify the dogs actions, the improbability that a similar attack will be repeated, the dog's physical potential to inflicting harm. Exceptions may be made if the dog was teased, abused, assaulted or it the dog was reacting to a person trespassing on the property owned by the dog's owner.
- 7.4.3 A dog that has shown the disposition or tendency to be threatening or aggressive.
- 7.5 "Bite" means piercing or puncturing the skin as a result of contact with a dog's tooth or teeth.

- 7.6 "Confirmation of a bite" will include a visual inspection or the wound by the Animal Services/Control Officer if possible or written confirmation from The Public Health Inspector assigned to the Animal Exposure, the attending medical personnel (physician or nurse) or a police report, outlining the details of the bite.
- 7.7 "Animal Control Officer" could include a peace officer, a police officer including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of the police force, a municipal by-law enforcement officer, an inspector or agent under the *Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act* or a public officer designated as a peace officer for the purposes of the *Dog Owners Liability Act*.
- 7.8 "Muzzled" means a humane fastening or covering device of adequate strength over the mouth to prevent a dog from biting.
- 7.9 "Restrained" means being kept inside a building or house or in an enclosed pen of sufficient dimension, and to prevent a dog from coming into contact with persons other than the owner of the dog.
- 7.10 Every owner of a vicious/dangerous dog shall muzzle it except when it is on the premises of the owners. Pit Bulls must be leashed and muzzled. The muzzling and leashing requirement does not apply when the Pit Bull is within the enclosed property occupied by the owner of the Pit Bull or occupied by a person who consents to the Pit Bull being off leash or muzzle. A Pit Bull is within the enclosed property when it is enclosed in a way that can be relied on to prevent the pit bull from breaking out of the property. The owner's property shall be posted with warning signs. It is up to the owner of the Pit Bull to be familiar with the requirements of Bill 132 "Dog Owners Liability Act". Individuals are prohibited from owning Pit Bulls, breeding, transferring or importing Pit Bulls into Ontario. Also prohibited from abandoning a Pit Bull, training a Pit Bull to fight and allowing a Pit Bull to stray. Individuals who owned Pit Bulls before August 29, 2005 may keep them, provided that they have complied with regulations set out which require that all "grandfathered pit" bulls have been sterilized by October 28, 2005. Exemptions are "show" dogs which participate at least once a year in a sanctioned dog show or flyball tournament.
- 7.11 Every owner of a vicious/dangerous dog shall keep it restrained when on the premises of the owner.
- 7.12 Except to the extent to which is required to enforce this by-law, no person shall keep a vicious/dangerous dog in the Municipality of Machin if it has been found not muzzled when off the premises of the owner thereof or running at large in the Municipality of Machin, or not restrained when on the premises of the owner thereof.

- 7.13 Every person who transfers the ownership of a vicious/dangerous dog to any other person shall immediately notify the Municipality's Pet Control Officer or the Municipal Office of such transfer and shall give full and complete particulars of the name and address of the new owner, together with such other information as such Officer may require in order to identify and locate the new owner and the dog.

NOTE: Section 7.10 to 7.13, both inclusive, of this part does not apply to a police work dog.

8. Public Nuisance

- 8.1 No owner shall allow an animal or premises to become a public nuisance.
- 8.2 The following shall be considered a public nuisance:
- 8.2.1 an animal persistently or excessively barking, howling or making other noise;
 - 8.2.2 an animal dumping or scattering garbage or trash;
 - 8.2.3 an animal persistently chasing vehicles or pedestrians who are using public or private property adjacent to the owner's premises;
 - 8.2.4 an animal excreting feces on property other than the owner's premises;
 - 8.2.5 an offensive odour which unreasonably disturbs the comfort of neighbours or residents emanates from the premises.
- 8.3 No owner shall allow a kennel to become a public nuisance.
- 8.4 A kennel shall be considered a public nuisance if:
- 8.4.1 persistent or excessive barking, howling or other noise emanates from the premises; or
 - 8.4.2 an offensive odour which unreasonably disturbs the comfort of neighbours or residents emanates from the premises.
- 8.5 Every person who owns, harbours, possesses or is in control of any dog within the settlement areas of the Municipality shall remove forthwith and dispose of any excrement left by said dog on any public or private property in the Municipality other than the premises of the owner of the dog.

9. Keeping of Prohibited Animals

- 9.1 No person shall keep any of the kind of animals listed in Schedule A attached to and forming part of this By-law within the limits of the Municipality of Machin.

10. Penalties and Enforcement

10.1 Where a dog is found running at large, not licensed or tagged, or causing excessive noise, contrary to the provisions of this By-law the Pet Control Officer, By-law Enforcement Officer, or such other person as is duly appointed to enforce this By-law, finding or becoming aware of such offence may deliver or mail to the address of the owner of such a dog a ticket in the form of a serially numbered notice stating:

10.1.1 The tag number, if any, and a description of the dog.

10.1.2 That the dog was found running at large, not licensed or tagged or causing a disturbance by excessive noise whichever the offence may be.

10.1.3 The date, time and location of the alleged offence.

10.1.4 That the owner thereof may make a voluntary payment in the manner set forth hereafter.

10.1.5 That in the event of his failure to make such payment an information and complaint will be laid and a summons issued.

10.1.6 The address of the places for making payment.

10.2 The person issuing same shall give or send one copy to the owner as aforesaid and deliver the other copy to the Municipality.

10.3 The owner of the dog may, within seven (7) days next following the date of issuance of the ticket, make payment as prescribed in Schedule B of this By-law by attending at the address designated by the Municipality and shown on the said ticket, or by mailing the ticket by prepaid first class mail to such address, with the required sum in payment.

10.4 Provided that the payment is made as hereinbefore provided, such payment shall be accepted as a payment of a penalty in full satisfaction of the alleged offence and the receipt therefore shall be given to the person making the payment, provided that such receipt shall be sent to persons remitting such sum by mail only if the name and address of the remitter is inserted in a self-addressed stamped envelope and mailed with payment and the ticket.

10.5 A defect in the ticket or in respect of the procedure relating thereto, or the failure to issue a ticket shall not prejudice a prosecution.

11. Any person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction, shall be subject to a fine or penalty of not more than two thousand dollars (\$2,000.00), exclusive of costs, and all such penalties shall be recoverable under the Provincial Offences Act.

12. A court in which the conviction has been entered, or any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted and such Order shall be in addition to any other penalty imposed on the person convicted.

13. Effective Date of By-law

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

14. Repeal of Previous By-law

By-law No. 04-2006 shall be repealed on the date the Ministry of the Attorney General approves the Set Fines under By-law No. 38-2011.

READ a FIRST time this 26th day of September, 2011

READ a SECOND and THIRD time, and FINALLY passed this 27th day of February, 2012.

THE CORPORATION OF THE
MUNICIPALITY OF MACHIN

Gord Dingman, Mayor

Tammy Rob, Clerk-Treasurer

SCHEDULE A

Attached to and forming part of By-law No. 38-2011

Being a list of animals prohibited to be kept as pets
Within the Municipality of Machin (subject to Section 9)

1. All Marsupials (such as Kangaroos and Opossums)
2. All Non-Human Primates (such as Gorillas and Monkeys)
3. All Felids, except domestic cat
4. All Canids, except domestic dog
5. All viverrinus (such as Mongoose, Civets and Genets)
6. All Ursids (Bears)
7. All Artiodactylus Ungulates, except domestic goats, sheep pigs and cattle, bison, elk, llamas (unless prohibited by other Municipal By-laws)
8. All Procyonids (such as Racoon, Coadis and Cacomistles)
9. All Hyenas
10. All Perisspdactylus Ungulates, except the domestic horse and ass
11. All Elephants
12. All Pinnipedia (such as Seals, Fur Seals and Walruses)
13. All Snakes of the Families Pythonidas and Boas
14. All venomous Snakes
15. All Venomous Reptiles
16. All Raititae Birds (such as Ostriches, Rhea, Cassowaries)
17. All Diurnusand Nocturnal Raptors (such as Eagles, Hawks and Owls)
18. All Edentatus (such as Anteaters, Sloths and Armadillos)
19. All Bats
20. All Crocodilians (such as Alligators and Crocodiles)
21. All venomous Arthropoda (such as venomous spiders)
22. All venomous Amphibians (such as venomous frogs)
23. All Mustelidae or Mustelid such as skunks, weasels, otters, minks, badgers, martens
24. All Castoridae such as beavers

Examples of animals are provided for information and shall not be construed as limiting the generality of the group.

THE CORPORATION OF THE MUNICIPALITY OF MACHIN

Schedule B to By-law 38-2011

**Title: To Regulate the Licensing of Dogs and Public Nuisance
Within the Municipality of Machin**

Set Fines

Part 1 – Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Harbouring more than four animals – single-detached dwelling	Section 2.1.1	\$250.00
2.	Harbouring more than two animals – multi-unit dwelling	Section 2.2.1	\$250.00
3.	Failure to purchase or renew Municipal identification on dog	Section 3.1	\$ 50.00
4.	Failure to purchase Municipal identification within 15 days of becoming owner of dog	Section 3.5	\$ 50.00
5.	Operating a kennel without a valid licence	Section 4.1	\$250.00
6.	Allowing a dog to run at large/trespass	Section 5.2	\$100.00
7.	Failure to muzzle and/or leash a vicious/dangerous dog	Section 7.10	\$250.00
8.	Public nuisance – animal noise	Section 8.2.1	\$125.00
9.	Public nuisance - animal – scattering garbage/trash	Section 8.2.2	\$100.00
10.	Public nuisance – animal – chasing vehicles/pedestrians	Section 8.2.3	\$100.00
11.	Public nuisance – animal – excreting feces	Section 8.2.4	\$100.00
12.	Public nuisance – premises – odour	Section 8.2.5	\$100.00
13.	Public nuisance – kennel – noise	Section 8.4.1	\$150.00
14.	Public nuisance – kennel – odour	Section 8.4.2	\$200.00
14.	Failure to remove excrement	Section 8.5	\$100.00
15.	Keeping a prohibited animal	Section 9.1	\$250.00

Note: The general penalty provisions for the offences listed above is s.61 of *the Provincial Offences Act*.