

**THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY-WARREN  
BY-LAW 2013-58**

**Being a by-law to prohibit and regulate the keeping of animals or any class thereof within the municipality.**

**WHEREAS** Section 11 of the Municipal Act, 2001, SO. 2001 \* c. 25 authorizes the council of a single-tier municipality to pass by-laws respecting animals

**AND WHEREAS** the Council of the Corporation of the Municipality of Markstay-Warren deems it expedient to pass such a by-law to license and regulate the keeping of dogs within the municipal boundaries;

**AND WHEREAS** the Council of the Corporation of the Municipality of Markstay-Warren deems it expedient to pass such a by-law to regulate and/or prohibit the keeping of certain animals within specified areas of the municipality;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY-WARREN HEREBY ENACTS AS FOLLOWS:**

**1. Definitions**

-“Animal Control Officer” shall mean the person or corporation who has entered into an agreement with the municipality to provide services in accordance with this by-law and the said agreement, and shall include any police officer or and any agent of the Ontario Society for the Prevention of Cruelty to Animals.

- “Dog” shall mean a male or female dog.

-“foster” means individual members of a rescue group who are keeping dogs for or on behalf of that rescue group.

-“Licensing Agent” shall mean the person or corporation who has entered into an agreement with the municipality to provide services in accordance with this by-law and their designates.

-“Municipality” shall mean the Corporation of the Municipality of Markstay-Warren.

- “Owner” includes any person who keeps, possesses, harbours a dog, or allows the animal to remain on his premises, and shall include any person who fosters any animal from a recognized shelter or animal rescue; and, where the owner is a minor, the person responsible for the custody of the minor, and, “owns” has a corresponding meaning.

-“Pound Keeper” shall mean a person or corporation appointed by the municipality to provide the services of Pound Keeper as herein described.

-“Recognized animal shelter or rescue” A not-for-profit or charitable organization, registered

with the Licence Issuer, whose mandate and practices are predominately the rescue and placement of animals, and facilitating the spaying or neutering of animals, or for animal welfare purposes.

-“Tether” - a rope or chain or similar restraining device that prevents an animal from moving, beyond a localized area.

-“Treasurer” shall mean the Treasurer of the Municipality.

-“Village Boundaries” shall mean the limits of the villages of Hagar, Markstay and Warren.

## **Ownership and Licensing**

2.1 (Reserved)

2.2 No person within the boundaries of the municipality shall own, harbor or possess a dog unless he procures a license to do so as herein provided, and every owner of a dog shall be subject to the provisions of this by-law.

2.3 The licensing agent is authorized to issue licences under this by-law, and every such licence shall be issued for and on behalf of the municipality.

2.4 A valid licence shall be procured or renewed pursuant to this by-law by applying to the licensing agent for said licence or renewal licence as the case may be and by paying the prescribed fee.

2.5 Any licence procured, issued or renewed pursuant to this by-law shall be in the form of a dog tag.

2.6 The owner shall keep the dog tag securely fixed on the dog at all times until the tag is renewed or replaced, but the tag may be removed while the dog is within the premises of the owner.

2.7 The onus of proving a person has a valid and subsisting licence is on the person alleging the licence which must be produced upon request of an Animal Control Officer.

2.8 A detailed record shall be maintained by the licensing agent showing the name and address of all dog owners and the serial number of all tags.

2.9 If there is a change of ownership of a dog during the licence term, the licence holder shall notify the licensing agent immediately of the change of ownership.

2.10 Every licence issued pursuant to this by-law shall expire on the 31st day of December of the licence year.

## **Licence fees**

3.1 Unless subject to an exception under Subsection 3.3 the owner of a dog shall pay a registration fee defined in Appendix "A" to register the dog for that calendar year; and if registering the dog after February 15<sup>th</sup>, in any year, shall pay a surcharge defined in Appendix "A", unless the dog was registered after February 15<sup>th</sup> was acquired within the previous seven days or a reason identified in Subsection 3(3).

3.2 The registration fee otherwise payable by an owner to register a dog will be reduced as per Appendix "A" provided the applicant provides at the time of registration, evidence satisfactory to the Licence Agent that the owner of the dog is 65 years of age or older.

3.3 The registration fee otherwise payable to register a dog shall be reduced to nil provided the owner of the dog produces to the Licence Agent at the time of registration, evidence satisfactory to the Licence Agent that the dog is:

- (a) a seeing eye dog and is used in that capacity by the owner of the dog or by a minor child forming part of the family of the owner of the dog;
- (b) a hearing ear dog and used in that capacity by the owner of the dog or by a minor child forming part of the family of the owner of the dog; or
- (c) a police work dog.
- (d) the dog is fostered from a recognized animal shelter or rescue.

## **Animal Care**

4.1. Every person who keeps an animal within the municipal boundaries shall provide the animal, or cause it to be provided with, adequate and appropriate care as may be required to meet the need of the species.

4.2 For the purposes of Section 4.1, adequate and appropriate care includes care sufficient to preserve the health and well - being of an animal and, except for emergencies or circumstances beyond the reasonable control of the person keeping the animal, includes, but is not limited to, the following requirements:

- 4.2.1 Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- 4.2.2 Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal's needs;
- 4.2.3 Access to a barn, house or other enclosed structure sufficient to protect the animal from wind, rain, snow and sun, and that has adequate bedding to protect against cold and dampness;
- 4.2.4 Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease; and
- 4.2.5 Continuous access to an area:

- (a) With adequate space for exercise necessary for the health of the animal.  
Inadequate space may be indicated by evidence of debility, stress or abnormal behaviour patterns;
- (b) With air temperature suitable for the health of the animal;
- (c) With adequate ventilation;
- (d) With regular diurnal lighting cycles of either natural or artificial light; and
- (e) Kept reasonably clean and free from excess waste, fecal matter or any other contaminants that could affect the animal's health.

4.2.6 No person shall torment, annoy, tease, abuse, or injure any animal.

4.2.7 No person shall allow a female dog that is in heat to be left unattended at any time outside the secure confines of a dwelling unit.

### **Enclosures for dogs kept out of doors**

4.3 (Reserved)

### **Tethers**

4.4 No person shall keep any animal in the Municipality tethered on a chain, rope or similar restraining device of less than three metres in length. Every person who has tethered an animal shall ensure, at all times, that the animal has unrestricted movement within the range of the tether, and that the animal cannot suffer injury resulting from the tether.

### **Unsanitary conditions.**

5.1 No person shall keep an animal within the Municipality in an unsanitary condition.

5.2 (Reserved)

### **Kennels - operation - without licence - prohibited**

6.1 Notwithstanding the provisions of this by-law, the owner of a kennel of dogs that are used for breeding resale, racing and show dog shall be deemed to be operating a kennel and shall be charged such licence fee as established by the fees and charges by-law as approved by Council from time to time.

6.2 No person shall, within the Municipality of Markstay-Warren, keep a dog kennel without a licence.

6.3. Owners and operators of kennels shall comply with the following regulations:

6.3.1. The licence shall expire on the 31<sup>st</sup> day of December.

6.3.2. Every licence shall be renewed yearly between the 1<sup>st</sup> day of January and the 15<sup>th</sup> day of February of the next year, inclusive.

- 6.3.3. A Kennel shall be permitted only in premises zoned for the purpose of the boarding and breeding of dogs.
- 6.3.4. No Kennel shall be permitted on a property of less than 10 acres.
- 6.3.5. No Part of a Kennel shall be constructed or maintained closer than 30 metres from the nearest property line of any adjacent residence.
- 6.3.6. The floors of each room in which dogs are kept shall be:
  - 6.3.6.1 Constructed of an impermeable material and;
  - 6.3.6.2 Flushed with water and deodorized with a suitable disinfectant daily or more often if necessary and that the animals should be removed when this is being done, and;
  - 6.3.6.3 If such room is physically attached to a building used for human habitation, graded to an adequate drain which shall be connected to a municipal sewage system or sewage disposal system.
- 6.3.7. Each room that is used for the housing of dogs shall be equipped with a lighting system that is designed, constructed and maintained to:
  - 6.3.7.1 Distribute light as evenly and with as little glare as possible and;
  - 6.3.7.2 Provide adequate light for the proper observation of every animal in the room, and;
  - 6.3.7.3 Adequately stay lit for a continuous period of at least eight hours in every twenty-four hour period.
- 6.3.8. Each room that is used for the housing of dogs shall provide ventilation for the health, welfare, and comfort of every dog by either:
  - 6.3.8.1 Having an opening for natural ventilation with a minimum aggregate unobstructed free flow area of one percent (1%) of the floor area of the room, or
  - 6.3.8.2 Having a mechanical ventilation device in working order which changes the air at least two times each hour.
- 6.3.9. Each room that is used for the housing of dogs shall at all times, be maintained at a temperature suitable for the health, welfare and comfort of every dog therein
- 6.3.10. Each cage or pen used for the housing of dogs shall be so constructed and maintained that:
  - 6.3.10.1 Every dog in the cage or pen may comfortably extend its legs to their full extent, stand, sit, turn around, and lie down in a fully extended position;
  - 6.3.10.2 It is not likely to harm any therein;
  - 6.3.10.3 Any dog therein cannot readily escape there from; and
  - 6.3.10.4 It may be readily cleaned.
- 6.3.11. Each doorway, window, and outside openings shall be screened during the period of May 1<sup>st</sup> to October 1<sup>st</sup> of each year.
- 6.3.12. The yards and runways shall be:
  - 6.3.12.1 Fenced so any dogs therein cannot readily escape there from; and
  - 6.3.12.2 Gravelled and well drained or;
  - 6.3.12.3 Paved with concrete, asphalt, or other impermeable material;
  - 6.3.12.4 Graded to an adequate drain or gutter, and;

- 6.3.12.5 Cleaned at least once daily when in use.
- 6.3.13. Each area in which dogs are kept shall, at all times be maintained in a clean and sanitary condition.
- 6.3.14. Excreta, dead animals, and other waste resulting from the keeping of dogs shall be removed in a timely fashion from the premises.
- 6.3.15. The Medical Officer of Health for the District of Sudbury shall enter any building and order the removal of any matter or thing which is dangerous or injurious to the public health including any or all of the above mentioned dogs, whenever it appears to the Medical Officer of Health that it is necessary for the preservation of the public or for the abatement of anything dangerous or injurious to the public health.
- 6.3.16. Every dog shall be supplied:
- 16.3.16.1 With food of a type and in amounts nutritionally adequate for the dog, and;
- 16.3.16.2 With adequate amounts of potable water, and;
- 16.3.16.3 With medical service for any disease or injury from which the dog may be suffering.
- 6.3.17. The owner, operator or a person designated by the owner or operator shall attend at the kennel at least once every 12 hours.
- 6.3.18. An Animal Control Officer or any other duly authorized person may enter upon, and may inspect without notice any kennel or any place where dogs are kept at any reasonable time.
- 6.3.19. The Animal Control Officer or any other authorized person may revoke any licence where the owner or operator of the kennel does not comply with the provision of this By-law or any applicable municipal by-laws, provincial or federal statutes or regulations.
- 6.3.20. Where a kennel licence has been revoked, the kennel owner may apply to the municipality for a hearing as to whether or not the kennel licence should be revoked. An application for a hearing shall be filed with the Clerk within ten (10) business days of the date of delivery of the written notice that the kennel licence has been revoked.

### **At Large**

7.1 No owner shall allow or permit any dog under his/her possession to be at large within the municipal boundaries.

7.2 For the purposes of this by-law, a dog shall be deemed to be at large when found in any place other than the property of the owner of the dog and not under the control of any person.

7.3 For the purposes of this by-law, a dog shall be deemed not to be under the control of any person when the dog is not on a leash held by a person.

### **8. Trespass**

8.1 No person shall allow or permit a dog under his/her control or of which he/she is the registered owner to trespass on private property whether on a leash or not, unless permission for a said trespass is first obtained from the property owner.

### **Stoop and Scoop**

9.1 No person shall fail to clean up the excrement of a dog in the possession of such person along public property or on property not owned by such person.

9.2 Subject to Section 9.3 any person in the control of a dog on any property except the property owned by the person shall have in their possession a suitable means of facilitating the removal of the animal's excrement.

9.3 Section 9.1 shall not apply to a person who owns or uses a seeing-eye dog registered with the Canadian National Institute for the Blind.

### **Impoundment**

10.1.1 Subject to subsection 10.5, the Animal Control Officer for the municipality may seize and impound any dog found at large or tethered unattended except on the premises of its owner or on private property with the consent of the owner of that private property.

10.1.2 Subject to subsection 10.5 any person may seize a dog at large provided that:

- (a) they turn the dog over to an Animal Control Officer for impoundment or,
- (b) make every effort to return the dog to its rightful owner; and
- (c) they forthwith report the seizure to an Animal Control Officer; and
- (d) keep the Animal Control Officer apprised of the disposition of the animal.

10.1.3 The animal Control Officer may restore possession of the dog to the owner thereof where the owner claims possession of the dog within 3 days (exclusive of the day of its impounding and of statutory holidays) after the date of seizure, and the owner pays to the Pound Keeper fees as provided for in Schedule "A" of this by-law.

10.2 Where a dog has been seized and impounded in accordance with this by-law, the owner, if known and whether the dog claimed from the pound or not, shall be liable for the pound fees as provided for in Schedule "A" of this by-law and shall pay all such fees on demand by the Animal Control Officer or the Pound Keeper.

10.3 Where, at the period described in subsection 10.1.3 the dog has not been restored to the owner, the Pound Keeper may sell the dog for such price as he deems reasonable.

10.4 Where the owner of the dog has not claimed the dog in the period described in subsection 10.1.3 and where the dog has not been sold, the Pound Keeper may euthanize the dog in a humane manner as it relates to pounds and no damage or compensation shall be recovered by the dog owner on account of its euthanasia or other disposition.

10.5 Where the dog seized is injured or should be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the Pound Keeper may euthanize the dog in a humane manner as soon after the seizure as he thinks fit without permitting any person to reclaim the dog or without offering it for sale and no damages or compensation shall be recovered by the owner on account of its euthanasia.

### **Protective Care**

10.6 The Animal Control Officer is authorized, upon request of a police officer, to impound a dog for protective care purposes, pursuant to an incarceration, fire, medical emergency or for any other situation that the Animal Control Officer deems appropriate and to keep such animals for a maximum of five days. In the event that the owner of the dog impounded for protective care does not claim the dog and pay the impound fees, board fees and veterinarian fees in accordance with Schedule "A" to this By-law, within 5 days, then on the sixth day it shall be treated as an impounded animal and subsequently if the dog is not redeemed within the time frame specified in subsection 10.3, the pound keeper may dispose of the dog as it sees fit without liability to any person for the disposition of the dog or the manner thereof.

### **Dog bites or attacks**

11.1 No owner of a dog shall permit his or her dog to attack without provocation or to bite a person or domestic animal.

### **Declaring a dog as vicious**

12.1 Any Animal Control Officer may investigate any allegation of a dog bite incident in the Municipality. Where the Animal Control Officer is satisfied that the dog has, without provocation, bitten a person or a domesticated animal, he or she may declare the dog to be a vicious dog.

12.2 Where the dog has been declared a Dangerous dog pursuant to section 12.1 the dog owner shall be provided with a copy of a written declaration to that effect

12.3 Where a dog has been declared as a vicious dog, the dog owner may apply to the Municipality for a hearing as to whether or not the declaration should be revoked. An application for a hearing shall be filed with the Clerk within ten (10,) business days of the date of delivery of the notice of declaration. The declaration shall remain in full force and effect until revoked by a hearing panel.

### **Requirement to Muzzle**

12.4. No person shall, within the municipality, fail to restrain a vicious dog for which he is the owner.



12.5 For the purpose of this by-law where restrain is used in connection with a vicious dog at the owner's property shall be deemed to mean:

12.5.1 Kept indoors in a manner respective of its environmental needs which prevents contact with persons who have not consented to contact; or

12.5.2 Kept in a pen or other outdoor enclosure respective of its environmental needs which prevents the dog from:

12.5.2.1 Leaving the owners household (except in accordance with provisions of this By-law), and;

12.5.2.2 Coming into contact with persons who are not at the owner's household.

12.6. For the purpose of this by-law where restrain is used in connection with a vicious dog at a place other than the owner's property it shall be deemed to mean:

12.6.1 Vicious dog muzzled, leashed and under the control of a person.

12.7. Every person who owns a vicious dog, upon relocation of his or her residence, shall immediately notify the Licence Agent of the change of address. Failure to do so constitutes a breach of this By-law.

12.8 Hearing Panel: The council hereby delegates the Standing Committee for Animal Control, or such persons as that Committee may designate, to hear matters arising out of section 6 or 12.

### **Severability/Conflict**

13.1 If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or *ultra vires*, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

13.2 Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

13.3 Where a provision of this By-law conflicts with the provisions of another By-law in force in the Municipality the provision that establishes the higher standard to protect the health, safety and welfare of persons or the environmental well-being of the Municipality shall prevail.

### **Contravention of this By-law**

14.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and subject to a fine recoverable under the *Provincial Offences Act*.

### **Schedule**

15. Schedule 'A", being a Schedule of Impound Fees, attached hereto is hereby incorporated into and forms a part of the within By-law.

**Short title and repeal**

16. This By-law shall be known as the "Animal Control Bylaw"

17. The following by-laws are hereby repealed:

(a) By-laws 2012-04

18. Where a by law is repealed by this By-law, the repeal does not:

- (a) revive any By-law not in force or existing at the time of which the repeal takes effect;
- (b) affect the previous operation of any By-law so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the By-law so repealed;
- (d) affect any offence committed against any By-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

19. The repeal of a By-law under Section 20 hereof shall be deemed not to be or involve a declaration that the by-law was considered by the Council of the Municipality of Markstay-Warren to have been previously in force.

20. The repeal of a By-law under Section 20 hereof shall be deemed not to be or to involve any declaration as to the previous state of the law.

21. This By-law shall come into effect and take force January 1, 2014

**READ A FIRST, SECOND AND THIRD TIME**

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**MAYOR**

**AND FINALLY PASSED THIS 16TH DAY OF**

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**DECEMBER, 2013**

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**CLERK**

**SCHEDULE "A"**  
**TO BY-LAW 2013-58**  
**FEEES AND CHARGES**

**Pound Fees**

Impound fee	\$50.
Board fee per diem	\$15.
Any veterinary bill for the dog in the amount incurred	

**Registration Fees**

Registration Fee (Dog Tag)	\$20
Registration Fee (Dog Tag - Seniors)	\$10
Registration Surcharge fee after February 15 <sup>th</sup>	\$10
Kennel Registration Fee	\$50

**Note: The term for all dog tags is from January 1st to December 31st.**

The Corporation of the Municipality of Markstay-Warren

SET FINE SCHEDULE - PART 1 Provincial Offences Act

By-law No. 2013-58

**Being a by-law to prohibit and regulate the keeping of animals or any class thereof within the municipality**

Title	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Failure to procure a licence	Section 2.2	\$100.00
2	Failure to affix the dog licence	Section 2.6	\$100.00
3	Failure to produce licence upon request	Section 2.7	\$100.00
4	Failure to notify change of ownership	Section 2.9	\$100.00
5	Failure to provide appropriate care for an animal	Section 4.1	\$100.00
6	Failure to keep animal on appropriate tether	Section 4.4	\$100.00
7	Keep animal in unsanitary condition	Section 5.1	\$100.00
8	Keep dog kennel without a licence	Section 6.2	\$250.00
9	Fail to prohibit dog from being at large	Section 7.1	\$100.00
10	Fail to prohibit dog from trespassing	Section 8.1	\$100.00
11	Fail to clean up and dispose of dog excrement	Section 9.1	\$100.00
12	Fail to possess suitable means of cleaning up dog excrement	Section 9.2	\$100.00
13	Fail to pay fees on demand by Animal Control Officer	Section 10.2	\$100.00
14	Permit dog to bite or attack without provocation	Section 11.1	\$250.00
15	Fail to restrain a vicious dog	Section 12.4	\$250.00
16	Fail to notify change of address	Section 12.7	\$100.00

**Note: The penalty provision for the offences indicated above is Section 14 of Bylaw 2013-58, a certified copy of which has been filed**

The Corporation of the Municipality of Markstay-Warren

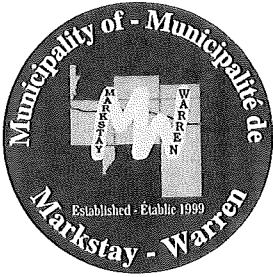
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The Corporation of the Municipality of  
**Markstay - Warren**

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December 19<sup>th</sup>, 2013

Ministry of the Attorney General  
Crown Law Office – Criminal  
720 Bay St., 10<sup>th</sup> Floor  
Toronto, ON  
M5G 2K1

Attention: Kerry Lee Thompson – Crown Counsel

**Re: Provincial Offences – Application for Set Fines – and applicable by-law**

Dear Kerry Lee:

I am submitting certified copy of By-law 2013-58 to regulate noise within the Municipality of Markstay-Warren.

Also please find schedule of set fines- fines included and schedule of set fines – fines not included.

Thanking you in advance for your review and subsequent action on the foregoing and enclosed documentation.

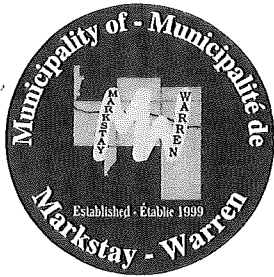
Yours truly,

A handwritten signature in black ink that reads 'Denis Turcot'.

Denis Turcot  
CAO/Clerk

Encl. (1)

c.c. File



The Corporation of the Municipality of  
**Markstay - Warren**

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January 06<sup>th</sup>, 2014

Ministry of the Attorney General  
Crown Law Office – Criminal  
720 Bay St., 10<sup>th</sup> Floor  
Toronto, ON  
M5G 2K1

Attention: Kerry Lee Thompson – Crown Counsel

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Denis Turcot  
CAO/Clerk

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The Corporation of the Municipality of Markstay-Warren

SET FINE SCHEDULE - PART 1 Provincial Offences Act

By-law No. 2013-58

**Being a by-law to prohibit and regulate the keeping of animals or any class thereof within the municipality**

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