

Town of Souris By-laws

BY-LAW No. 2004-05 COMPANION ANIMAL CONTROL

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF SOURIS
PURSUANT TO THE MUNICIPALITIES ACT, R.S.P.E.I.

PART I: TITLE

1. 1.1 This By-law shall be cited as the “Town of Souris Companion Animal Control By-law, and may be cited as the “Animal Control By-law” from time to time.

PART II: SCOPE

2. 1.1 This By-law shall apply to the Town of Souris.

PART III: DEFINITIONS

3. In this By-law:

3.1 “Animal” includes but is not limited to dogs, and other domesticated pets;

3.2 “Animal Shelter” means any place designated by the Town of Souris for the detention of animals impounded as set out in this By-law;

3.3 “Athletic Park” means an area designed for the formal individual, team or competitive sport activities and shall include all property within the external boundaries of such fields;

3.4 “At Large” means an unleashed companion animal in a public place or on private property other than that of the owner of the companion animal without the permission of the owner or occupant of said property or a companion animal not under control;

3.5 “Enforcement Officer” means any authorized person or organization designated, or contracted by the Town of Souris, or a member of the Royal Canadian Mounted Police;

3.6 “Cat” reserved;

3.7 “Cemetery” means all cemeteries located within the municipality of Souris;

3.8 “Companion Animal” means any dog, male or female, or any animal that is the result of the breeding of a companion animal;

3.9 “Council” means the Town Council of the Town of Souris;

- 3.10 “Dog” means a male or female dog, and does not include an unweaned pup;
- 3.11 “Former Owner” means the person who at the time of impoundment was the owner of an animal which has subsequently been sold or destroyed;
- 3.12 “Fowl” includes but is not limited to chickens, ducks, turkeys and geese;
- 3.14 “Identification System” means any system either external or internal, for the purpose of the identification of an animal which contains a serial number or other means of prescribed identification;
- 3.15 “Judge” means a Judge of the Provincial Court of Prince Edward Island;
- 3.16 “Kennel” means an establishment for the breeding and/or boarding of animals;
- 3.17 “Leash” means a chain or other material capable of restricting the animal on which it is being used;
- 3.18 “Municipality” means the Town of Souris;
- 3.19 “Microchip” means an encoded electronic device implanted in an animal by or under the supervision of a veterinarian, which contains a unique code number that provides owner information that is stored in a central database;
- 3.20 “Muzzle” means a humane fastening or covering device of adequate strength over the mouth of an animal to prevent it from biting;
- 3.21 “Neutered” means any animal that is sexually sterile;
- 3.22 “Noise” means barking, howling, or any other noise made by an animal;
- 3.23 “Owner” means any person who possesses, has care of, control of or harbors a companion animal, or registers a companion animal and where the person is a minor, includes the person responsible for the custody of the minor;
- 3.24 “Park” means the area over which the Town has ownership or exercises control, and so as not to restrict the generality of the foregoing, includes:
- (a) the lands and facilities designated, for use as a public park including boardwalks, pathways, and roads within the designated area;
 - (b) lands and facilities placed under the jurisdiction of the Parks and Recreational Manager, or Parks and Recreational Committee;
- 3.25 “P.E.I.H.S.” means the Prince Edward Island Humane Society;

3.26 “Provincial Court” means the Provincial Court of Prince Edward Island;

3.27 “Playground” means an area on which various children’s play apparatus is located. The area may be isolated on a site or may be part of a larger park and shall include that area within twenty (20) meters in all directions from the outside dimensions of any such play apparatus unless the park boundary is lesser in distance;

3.28 “School Ground” means that area of land which is property owned by the Eastern School District of Prince Edward Island;

3.29 “Trap” means snare, spring trap, deadfall, box trap, net, leg hold, and killing trap or any other device used to capture animals;

3.30 “Vicious Dog” means any dog, whatever its age, whether on public or private property, which has:

(a) without provocation, chased, injured or bitten any other domestic animal, or human;

(b) without provocation, damaged or destroyed any public or private property; or

(c) without provocation, threatened or created the reasonable apprehension of a threat to other domestic animals or humans; and

which, in the opinion of an Enforcement Officer, or Animal Control Officer, presents a threat of serious harm to other domestic animals or humans; or

(d) been determined to be a vicious dog under this By-law.

No dog shall be deemed vicious if it is professionally trained and while lawfully engaged for law enforcement;

3.31 “Wading or Swimming Area” means any area designed as an outdoor wading or swimming area. This shall include any private or public beaches, decks, backyard wading or swimming areas and shall include that area within (20) meters in all directions of the outside dimensions of such areas.

PART IV: ADMINISTRATION

4. 4.1 This by-law shall be administered and or enforced by the Chief Administrative Officer, By-law Enforcement Officer, and the Prince Edward Island Humane Society.

PART V: RESPONSIBILITY OF DOG OWNERS

5. 5.1 (a) The owner of a dog shall ensure that such dog shall not:

(i) bite a person or persons whether on the property of the owner or not;

(ii) do any other act that injures a person or persons whether on the property of the owner or not:

(iii) chase or otherwise threaten a person or persons whether on the property of the owner or not, unless the person chased or threatened is a trespasser on the property of the owner;

(iv) bite, bark at, or chase bicycles, automobiles, or other vehicles:

(v) bark, howl, or otherwise disturb any person;

(vi) cause damage to property or other animals;

(vii) upset any waste receptacles or scatter the contents thereof either in or about a street, lane, or other public property or in or about premises not belonging to or in the possession of the owner of the dog:

(viii) be left unattended in any motor vehicle unless the dog is restricted so as to prevent access to any persons as long as such restraint provides for suitable ventilation;

(ix) be running at large:

(b) The owner of a dog shall ensure that such dog is on a leash at all times when off the owner's property;

(c) The owner of a dog shall not permit his/her dog on any School Ground, Playground, Athletic Park, Park, Cemetery, Wading or Swimming Area, unless otherwise posted, and under his/her control by way of proper leash at all times:

(d) If a dog defecates on any public or private property other than the property of its owner the owner shall remove defecation immediately;

(e) The owner of a dog shall:

(i) provide the necessary sustenance and conditions for the dog to maintain proper health.

5.2 No person shall keep a vicious dog within the Town of Souris.

5.3 The owner of a dog alleged to be vicious shall be provided a notice of a hearing for the determination by the Provincial Court (10) clear days, not including Saturdays and Sundays, before the date of the hearing.

5.4 Upon application, if it appears to the Judge that the dog should be declared to be a vicious dog, he shall make an order declaring the dog to be a vicious dog.

5.5 Upon declaration by a Judge declaring a dog to be vicious, the owner of a vicious dog shall ensure that:

(a) such dog does not:

(i) chase a person; or

(ii) injure a person; or

(iii) bite a person; or

(iv) chase other domestic animals; or

(v) injure other domestic animals; or

(vi) bite other domestic animals; or

(vii) damage or destroy public or private property.

5.6 Every owner of a female dog in heat shall confine such dog within a building or other secure enclosure on the property in a manner as to prevent the dog from coming in contact with a male dog. Such confinement shall continue for the whole period that the dog is in heat, except that such dog may be released from confinement for intentional breeding.

5.7 Upon being declared a vicious dog, such dog shall not be permitted within the Town of Souris after seven (7) calendar days.

5.8 The owner of a vicious dog shall, ensure that during the (7) calendar days referred to in section 5.7:

(a) such dog is confined on the owner's property and under the control of a person over the age of eighteen (18) years; or

(b) when such dog is outdoors it is locked in a pen or other structure, constructed to prevent the escape of the vicious dog and capable of preventing the entry of any person not in control of the dog; or

(c) the locked pen or structure shall have secure sides, the sides must be embedded in the ground to a minimum depth of (15) centimetres (6 inches);

(d) the locked pen or structure shall provide the vicious dog with shelter from the elements and is constructed to meet provincial standards;

(e) the locked pen or structure complies with the set back requirements as defined in the Town Zoning By-laws.

5.9 The owner of a vicious dog shall ensure that:

(a) it is not running at large;

(b) such dog is disposed of or removed from the community as per disposition of court.

PART VI: KENNELS

6. 6.1 Owners/Operators of a licensed kennel shall:

(a) obtain a license to operate, and at such time pay a fee as established by resolution of Council;

(b) comply with the requirements set out in the “Code of Practice for Canadian Kennel Operations” (Canadian Veterinary Medical Association, September, 1994);

(c) comply with the By-laws of the Municipality of the Town of Souris;

(d) permit a By-law Enforcement Officer to enter and inspect the kennel under the authority of a search warrant at any time, or prescribed time as per warrant; and

(e) keep the dog thereof confined to the kennel property and not permit the said dog to become a nuisance to neighbours.

6.2 A kennel license shall be renewable and become expired as per resolution of Council.

6.3 Where the owner/operator of a kennel fails to comply with a by-law of the Town of Souris, the license to operate may be suspended or revoked.

6.4 No person, other than the holder of a kennel license or a veterinary clinic, shall keep on, in, or about the property owned or occupied by such person more than three (3) dogs over the age of three (3) months.

6.5 Where a By-law Enforcement Officer or Chief Administrative Officer finds that by-laws of the Town are not being complied with, he/she may direct that the animals be seized and impounded with the Prince Edward Island Humane Society.

PART VII: COMMUNICABLE DISEASES

7. 7.1 (a) an owner of a dog or vicious dog suspected of having rabies:

(i) shall immediately report the matter to the Agriculture Canada, Provincial Veterinarian, inspector for the Animal Health and Protection Act of Prince Edward Island, Chief Administrative Officer of the Town of Souris;

(ii) shall confine or isolate the dog, in such a manner as prescribed so as to prevent further spread of the disease; and

(iii) shall keep the dog confined for not less than ten (10) days at the cost of the owner.

7.2 The Chief Administrative Officer or an Enforcement Officer may demand that the owner of a dog/vicious dog suspected of having rabies shall immediately report the matter to the proper authorities as outlined in Section 7.1 (a)(i) of this By-law.

7.3 An owner of a dog or vicious dog that does not comply with the provisions of Section 7 of this By-law shall be subject to a penalty as provided in this By-law for each consecutive demand made payable by the Chief Administrative Officer, By-law Enforcement Officer.

PART VIII: LICENSING

8. 8.1 The owner of a dog shall:

(a) obtain the life of an animal license and at such time and pay a fee as established by resolution of Council;

(b) when requested by a By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer, shall submit to the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer a spay/neuter certificate, or if unavailable a statutory declaration or other acceptable documentation establishing the dog's or vicious dog's age, or that the dog or vicious dog is neutered or spayed, and such other information as the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer may require, in order to determine the license payable by the owner;

(c) not give false information when applying for a companion animal license;

(d) obtain a license for a companion animal on the first day on which the Town Hall is open for business and after the dog becomes three months old;

(e) obtain a companion animal license on the first day on which the Town Hall is open for business after he/she becomes owner of the companion animal;

(f) obtain a license for a companion animal notwithstanding that it is under the age of three months, where the companion animal is found running at large;

(g) obtain a license for the companion animal on the day specified by the By-law Enforcement Officer, Animal Control Office, or the Chief Administrative Officer;

(h) upon losing a companion animals license, an owner of a companion animal shall present the receipt of payment of the life of the animal license fee to the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer, who will issue a new tag to the owner for the fee as set out by resolution of Council;

(i) ensure that the dog wears the current license tag purchased for that dog, when the dog is off the owner's property; and

(j) not be entitled to a rebate under this By-law.

8.2 Where a license required pursuant to this Section has been paid for by the tender of an uncertified cheque, the license:

(i) is issued subject to the cheque being accepted and cashed by the bank without any mention of the condition being made on the license; and

(ii) is automatically revoked if the cheque is not accepted and cashed by the bank on which it is issued.

PART IX: DOGS IN TRUCKS

9. 9.1 (a) No person shall allow a dog to be in any part of a motor vehicle on a roadway outside of the passenger cab unless being tethered, regardless of whether the motor vehicle is moving or parked;

(b) Notwithstanding Section (a), a person may allow a dog to be outside the passenger cab of a motor vehicle, including riding in the back of a pickup truck or flatbed truck if the dog is:

(i) in a fully enclosed trailer;

(ii) in a topper enclosing the bed area of a truck;

(iii) contained in a ventilated kennel or similar device securely fastened to the bed or the truck; or

(iv) securely tethered in such a manner that it is not standing on bare metal, cannot jump or be thrown from the vehicle, is not in danger of strangulation, and cannot reach beyond the outside edges of the vehicle;

(c) For the purposes of this Section, "roadway" means any street or highway, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles;

(d) The owner of a vehicle involved in an offence referred to in this Section is guilty of the offence, unless that vehicle owner satisfies the Court that the vehicle was:

(i) not being driven or was not parked by the owner; and

(ii) that the person driving or parking the vehicle at the time of the offence did so without the vehicle owner's express or implied consent.

PARK X: HANDICAPPED OWNERS

10. 10.1 (a) Notwithstanding Section 5.4, where the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer is satisfied that a person who is handicapped is the owner of a dog trained and used to assist such handicapped person, there shall be no fee payable by the owner for a license under Section 8.;

(b) Section 5.1(a)(ix) does not apply where a person who is handicapped is the owner of a dog trained and used to assist such handicapped person and such dog is under his/her control;

(i) where the owner is physically handicapped in such a way that the owner cannot control the dog by means of a leash, requires the use of a walker or cane, or is confined to a wheelchair and allows his/her dog in a park other than a park where dogs are prohibited and such dog is under his/her control, and wearing a current issued tag;

(c) Section 5.1(c) does not apply where a person who is handicapped in such a way as to reasonably preclude compliance if the owner of a dog trained is used to assist such handicapped person.

PART XI: HORSES

11. 11.1 No person shall allow a horse owned or controlled by him/her to be within the Town of Souris without first obtaining the proper permits from the Town of Souris.

PART XII: FOWL

12. 12.1 No person shall allow any fowl owned or controlled by him/her to disturb any person by any means.

PART XIII: ANIMAL CONTROL OPERATION – AUTHORITY

13. 13.1 A By-law Enforcement Officer, Animal Control Officer or a member of the Royal Canadian Mounted Police may capture and impound any companion animal or vicious dog:

(a) found running at large;

(b) which is required to be impounded pursuant to the provisions of the By-laws of the Municipality, any Statute of Canada or the Province of Prince Edward Island, or Regulation made thereunder.

PART XIV: OBSTRUCTION

14. 14.1 No person, whether or not he/she is the owner of a companion animal or vicious dog which is being or has been pursued shall interfere with or attempt to obstruct a By-law Enforcement Officer, Animal Control Officer, or a member of the Royal Canadian Mounted Police who is attempting to capture or who has captured a companion animal or vicious dog which is subject to impoundment.

PART XV: INTERFERENCE WITH ANIMALS

15. 15.1 No person shall:

(a) untie, loosen or otherwise free a companion animal which has been tied or otherwise restrained; or

(b) negligently or wilfully open a gate, door or other opening in a fence or enclosure in which an animal has been confined and thereby allow a companion animal to run at large in the Town of Souris.

PART XVI: NOTIFICATION

16. 16.1 If a By-law Enforcement Officer, Animal Control Officer, or a member of the Royal Canadian Mounted Police knows or can ascertain the owner's name of any impounded companion animal or vicious dog, he/she shall serve the owner with a copy of the Notice in Schedule "B" of this By-law, either personally or by leaving it, or by mailing it to the last known address of the owner.

16.2 An owner of a companion animal or vicious dog to whom a Notice is mailed pursuant to subsection (16.1) is deemed to have received a Notice within two business days from the time it is mailed.

PART XVII: RECLAIMING

17. 17.1 The owner of any impounded companion animal may:

(a) reclaim the companion animal or vicious dog from the Animal Control Officer; or

(b) where it is deemed feasible by the By-law Enforcement Officer, the Animal Control Officer or the Chief Administrative Officer prior to taking the animal to the impound center, reclaim the companion animal or vicious dog when it is returned to the owner; by paying, in either case to a By-law Enforcement Officer, the Animal Control Officer or the Chief Administrative Officer the cost of impoundment as set out in Schedule "B" to this

By-law, and by obtaining the license for such companion animal should a license be required under this By-law.

17.2 Where a companion animal is claimed, the owner shall provide proof of ownership of the companion animal, or vicious dog.

17.3 The owner of a companion animal or vicious dog who has been found not guilty of committing an offence under this By-law may request the return of any fees paid by him for reclaiming the companion animal or vicious dog.

PART XVIII: SALE OR DESTRUCTION

18. 18.1 The Animal Control Officer, By-law Enforcement Officer, or the Chief Administrative Officer shall not sell, destroy, order sale of or destruction of an impounded companion animal or vicious dog until the following conditions are met:

(a) After a companion animal or vicious dog has been retained at the impoundment center for;

(i) five (5) days after the owner has received notice that the companion animal or vicious dog is deemed by Section XVI to have received notice that the companion animal or vicious dog is in the impoundment center; or

(ii) five (5) days, if the name and address of the owner is nor known, or unless a person having the authority orders the retention or the destruction of the companion animal or vicious dog, or unless the owner of the companion animal or vicious dog makes arrangements with By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer for the further retention of the companion animal or vicious dog, the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer may cause the companion animal or vicious dog to be sold or destroyed;

(b) The purchaser of an unclaimed companion animal from the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer pursuant to the provisions of this Section shall obtain full rights and title to it and the right and title of the former owner of the companion animal shall cease to exist;

(c) When the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer agrees to put a companion animal or vicious dog to death the owner shall pay to the By-law Enforcement Officer, Animal Control Officer, or the Chief Administrative Officer a fee as set out in Schedule "C" of this By-law;

PART XVIII: SALE OR DESTRUCTION

19. 19.1 It is the intention of the Town Council that each separate provision of this Bylaw shall be deemed independent from all other provisions of this By-law, such that, if any

provision of this By-law is declared invalid, all other provisions of this By-law shall remain valid and enforceable.

PART XX: INTERPRETATION

20. 20.1 In this By-law words impounding the singular shall include the plural and words impounding the masculine gender shall include the female gender and vice versa.

PART XXI: CATS

21 21.1 Reserved.

PART XXII: PENALTIES

22. 22.1 (a) Where a By-law Enforcement Officer, or a member of the Royal Canadian Mounted Police believes that a person has contravened any provision of this By-law, he/she may commence proceedings by serving a Notice pursuant to Schedule "A" of this By-law.

(b) The specified penalty payable in respect to a contravention of a provision of this By-law is the amount shown in Schedule "C" of this By-law in respect of that provision.

(i) where any person contravenes the same provision of this By-law twice within a twelve (12) month period, the specified penalty payable in respect of the second contravention is double the amount shown in Schedule "C" of this By-law in respect of that provision, and

(ii) where any person contravenes the same provision of this By-law three or more times within one twelve month period, the specified penalty payable in respect of the third or subsequent contravention is triple the amount shown in Schedule "C" of this By-law in respect to that provision.

PART XXIII: SUMMARY CONVICTION

23. 23.1 (a) Any person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine of not more than FIFTEEN HUNDRED DOLLARS (\$1,500.00) and in default of payment is liable to imprisonment for a term not exceeding six (6) months.

(a.1) The minimum fines on summary conviction in respect to a contravention of this By-law with respect to vicious dogs shall be the same amounts as shown in Schedule "C" regarding vicious dogs.

(b) The levying and payment of any fine or the imprisonment for any period provided in this By-law shall not relieve a person from the necessity of paying any fees, charges or costs from which he/she is liable under the provisions of this By-law.

(c) A Justice, in addition to the penalties provided in this Section, may if he/she considers the offence sufficiently serious direct or order the owner of the companion animal to stop the companion animal from doing mischief or causing the disturbance or nuisance complained of, or to have the companion animal removed from the Town, or have the companion animal destroyed.

23.2 A Justice, after convicting the owner of a dog of an offence under this By-law, may, in addition to any other penalties impose orders made, and without further notice or hearing declare the subject dog as a vicious dog, pursuant to the provisions of this By-law.

PART XXIV: REPEAL

24. 24.1 All former animal control and dog control by-laws of the Town of Souris are hereby repealed.

SCHEDULE A

You are hereby notified that an animal bearing License tag No. _____ for 20____, registered under the above name and address, was impounded on _____, 20____, pursuant to the provisions of By-law #2004-05 of the Town of Souris, Prince Edward Island, and that unless the said animal is claimed and impoundment charges are paid, on or before _____, 20__, the said animal will be sold, destroyed or otherwise disposed of pursuant to the said By-law.

SCHEDULE B

AMOUNT TO BE PAID TO THE BYLAW ENFORCEMENT OFFICER, ANIMAL CONTROL OFFICER, OR THE CHIEF ADMINISTRATIVE OFFICER IN ORDER TO RECLAIM OR DESTROY A COMPANION ANIMAL OR VICIOUS DOG AT THE ANIMAL IMPOUND CENTER.

AMOUNT

1. Impoundment fee as per P.E.I.H.S.
 - 1.1 Vicious dog impoundment fees as per P.E.I.H.S.
2. Care and sustenance as per P.E.I.H.S.
(per day or portion thereof)
(commence at midnight on the day of impoundment)
3. Veterinary fees Amount Expended

4. Destruction of Animal Control as per P.E.I.H.S.

APPENDIX C FINE STRUCTURE

Section Offence Minimum Penalty

Section 5.1 (a) (i) Biting a Person(s) \$350.00 per person

(ii) Injure a Person(s) \$200.00 per person

(iii) Chasing a Person(s) \$200.00

(iv) Biting, barking at, chasing other animals, bicycles, automobiles, or other vehicles.
\$200.00

(v) Barking, howling or disturbing \$100.00

(vi) Damage to property or injuring other animals. \$250.00

(vii) Upsetting waste receptacles. \$100.00

(viii) Dog left unattended in vehicle \$100.00

(ix) Running at large \$100.00

(b) Dog not on leash \$100.00

(c) Dog in prohibited area \$100.00

(d) Defecation \$250.00

(e) Fail to provide shelter, etc. \$100.00

Section 5.2 Keeping a vicious dog \$1,500.00

Section 5.5 (a) (i)-(vii) Vicious Dog \$1,000.00

Section 5.6 Fail to confine female in heat. \$200.00

Section 5.8 (a)(b) Fail to confine vicious dog on property \$1,500.00

Section 5.8 (c)(d) Improper pen or structure \$1,000.00

Section 5.9 (a) Vicious dog at large \$1,000.00

Section 5.9 (b) Disregarding Court Order \$500.00

Section 6.1 (a) Fail to license Kennel \$250.00

(e) Fail to confine. \$200.00

Section 6.4 Keeping more than three dogs \$250.00

Section 7.1 (a) (i) Fail to report rabies \$100.00

(ii) Fail to confine \$200.00

(iii) Fail to confine \$200.00

Section 7.2 Fail to report on demand \$100.00

Section 7.3 Subsequent demand (s) \$100.00 per demand

Section 8.1 (a) Unlicensed companion animal \$250.00

(c) Giving false information when applying for a dog license. \$500.00

(i) Dog not wearing license \$25.00

Section 9.1 (a) Dog outside of cab of vehicle \$50.00

Section 11.1 Horses in prohibited areas without proper permits. \$100.00

Section 12.1 Fowl disturbing the peace \$100.00

Section 14.1 Obstruction \$500.00

Section 15.1 Interference \$500.00

Read for the first time on June 12, 2004, Town Council Meeting
Read a second time on June 29, 2004, Town Council Meeting

MAYOR Joe O'Keefe
ADMINISTRATOR Mildred Ehler