

THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

BY-LAW 2012-26

BEING A BY-LAW FOR THE LICENCING AND REQUIRING THE REGISTRATION OF DOGS AND FOR THE CONTROL AND KEEPING OF DOGS WITHIN THE MUNICIPALITY OF KILLARNEY

WHEREAS Section 103 of the Municipal Act S.O. 2001, c. 25, as amended provides that by-laws may be passed by the council of a local municipality respecting the regulation of animals;

AND WHEREAS the Council of the Municipality of Killarney deems it expedient to pass such a by-law to licence and regulate the keeping of dogs within the municipal boundaries;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY ENACTS AS FOLLOWS:

DEFINITIONS:

1. Short Title: The Short Title of this By-law is “Animal Control By-Law”.
2. Enforcement of By-law: The By-law shall be enforced by the “Animal Control Officer”.
3. “Municipality” shall mean the Corporation of the Municipality of Killarney.
4.
 1. “Animal Control Officer” includes the person or association who has entered into a contract with the Municipality to control dogs and to operate a dog pound and any servants of such person or association and all servants thereof are hereby appointed Municipal Law Enforcement Officers pursuant to Bill 74 and the Provincial Offences Act, who shall be Peace Officers for the purpose of enforcing the animal control and dog licensing By-law and related legal process serving.
 2. “Dog” means a male or female dog;
 3. “Kennel” includes any building, part of a building or area used for the keeping of dogs.
 4. “Licence Issuer” means the Clerk of the Municipality and/or Animal Control Officer;
 5. “Licence Agent” means the Rainbow District Animal Control Agency;
 6. “Muzzle” means a humane device designed to fit over the mouth of a dog to prevent the dog from biting. A muzzled dog means a dog wearing a muzzle in the manner anticipated by the manufacturer of the muzzle.
 7. “Owner” of a dog includes a person who possesses or harbours a dog and “owns” and “owner” have corresponding meaning, and where the owner is a minor, the person responsible for the custody of the minor.
 8. “Leash” means a chain, rope, or other restraining device of not more than two (2) metres.
 9. “Vicious Dog” means a dog which has been declared to be vicious pursuant to section 23 of this By-law.

PART 1 – LICENCING

5. No person in the Municipality shall own, harbour or possess a dog unless or until he has procured a licence to do so as herein provided and every owner of a dog shall be subject to the provision of the By-Law. No person shall own, harbour or possess more than two (2) dogs in or about any dwelling house.
6. The Rainbow District Animal Control is hereby appointed Licence Agent, and authorized to issue under this By-law, and every such licence shall be issued for and on behalf of the Municipality and on behalf of the Licence Issuer by the Licence Agent.
7. A licence shall be procured and, issued or renewed pursuant to this By-law by applying to the Licence Agent for said Licence or renewed Licence as the case may be and by paying the Licence Agent the fee.

8. Any Licence procured, issued or renewed pursuant to this By-law shall be in the form of a dog tag.
9.
 1. Every dog tag must bear a serial number, year of issue and the name of the Licence Issuer or Licence Agent.
 2. A record shall be kept by the Licence Agent showing the Name and Address of the owner and the serial number of the tag.
10.
 1. 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. Failure to do so constitutes a breach of the By-law.
 2. No owner of a dog tag shall use a tag on a dog other than for which it was issued.
11.
 1. In the event the tag issued for a dog is lost, the owner may obtain a second tag upon the payment of a fee.
 2. If there is a change of ownership of a dog during the licence year, the licence holder shall notify the Licence Agent immediately of the change of ownership and the new owner must pay a licence transfer fee for this service. Failure to do so constitutes a breach of the By-law.
 3. Where a certificate is produced from the Canadian National Institute for the Blind or a certificate from a recognized dog guide training school stating that a dog is being used as a guide for a blind person, no fee shall be charged for a licence and a tag under this By-law.
 4. Where a certificate is produced from Hearing Ear Dogs of Canada stating that a dog is being used for the assistance of a deaf person, no fee shall be charged for a licence or tag under this By-law.
12.
 1. Every licence issued pursuant to this By-law shall expire on the 31st day of December of the year in respect of which it was issued.
 2. Every Licence shall be renewed yearly on or before the 15th day of February and the fee to be paid to the Licence Agent.
13. The licence fees to be paid to the Licence Agent at the time of the issuing of the Licence shall be specified in Schedule 'A', which schedule is hereby incorporated as part of this By-law.

PART 2 – KENNELS

14.
 1. Notwithstanding the provisions of section 12 and 13 above, no person in the municipality shall own, harbour or possess a kennel of dogs that are pure-bred until he has paid an annual licence fee of one hundred dollars (\$100.00) to the Clerk as a licence fee for the kennel he is not liable to pay in respect of such pure-bred dogs any licence fee under this By-law.
 2. The Kennel Licence fee to be paid to the Clerk at the time of issuing of the licence shall be specified in Schedule 'C', which schedule is hereby incorporated as part of this By-law.
 3. Owners and operators of kennels shall comply with the following regulations:
 - 14.3.1 The licence shall expire on the 31st day of December.
 - 14.3.2 Every licence shall be renewed yearly between the 1st day of January and the 15th day of February of the next year, inclusive.
 - 14.3.3 A Kennel shall be permitted only in premises zoned for the purpose of the boarding and breeding of dogs.
 - 14.3.4 No Kennel shall be permitted on a property of less than 10 acres.
 - 14.3.5 No Part of a Kennel shall be constructed or maintained closer than 30 metres from the nearest property line of any adjacent residence.
 - 14.3.6 The floors of each room in which dogs are kept shall be:
 - 14.3.6.1 Constructed of an impermeable material and;
 - 14.3.6.2 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;

- 14.3.6.3 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.
- 14.3.7 Each room that is used for the housing of dogs shall be equipped with a lighting system that is designed, constructed and maintained to:
 - 14.3.7.1 Distribute light as evenly and with as little glare as possible and;
 - 14.3.7.2 Provide adequate light for the proper observation of every animal in the room, and;
 - 14.3.7.3 Adequately stay lit for a continuous period of at least eight hours in every twenty-four hour period.
- 14.3.8 Each room that is used for the housing of dogs shall provide ventilation for the health, welfare, and comfort of every dog by either:
 - 14.3.8.1 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
 - 14.3.8.2 Having a mechanical ventilation device in working order which changes the air at least two times each hour.
- 14.3.9 Each room that is used for the housing of dogs shall at all times, be maintained at a minimum temperature of nine degrees Celsius for the health, welfare and comfort of every dog therein
- 14.3.10 Each cage or pen used for the housing of dogs shall be so constructed and maintained that:
 - 14.3.10.1 Every dog in the cage or pen may comfortably extend it's legs to their full extent, stand, sit, turn around, and lie down in a fully extended position;
 - 14.3.10.2 It is not likely to harm any therein;
 - 14.3.10.3 Any dog therein cannot readily escape there from; and
 - 14.3.10.4 It may be readily cleaned.
- 14.3.11 Each doorway, window, and outside openings shall be screened during the period of May 1st to October 1st of each year.
- 14.3.12 The yards and runways shall be:
 - 14.3.12.1 Fenced so any dogs therein cannot readily escape there from; and
 - 14.3.12.2 Gravelled and well drained or;
 - 14.3.12.3 Paved with concrete, asphalt, or other impermeable material;
 - 14.3.12.4 Graded to an adequate drain or gutter, and;
 - 14.3.12.5 Cleaned at least once daily when in use.
- 14.3.13 Each area in which dogs are kept shall, at all times be maintained in a clean and sanitary condition.
- 14.3.14 Excreta, dead animals, and other waste resulting from the keeping of dogs shall be removed daily from the premises.
- 14.3.15 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.
- 14.3.16 Every dog shall be supplied:
 - 14.3.16.1 With food of a type and in amounts nutritionally adequate for the dog, and;

- 14.3.16.2 With adequate amounts of potable water, and;
- 14.3.16.3 With medical service for any disease or injury from which the dog may be suffering.
- 14.3.17 The owner, operator or a person designated by the owner or operator shall attend at the kennel at least once every 12 hours.
- 14.3.18 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.
- 14.3.19 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.
- 14.3.20 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.

PART 3 – RUNNING AT LARGE

- 15.
 - 1. No person shall, within the Municipality of Killarney, fail to prohibit any dog for which he or she is the owner from running at large or permit a dog to run at large.
 - 2. For the purpose of this By-law, a dog shall be deemed to be running 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.
 - 3. For the purpose of the By-law, a dog shall be deemed not to be under the control of any person when the dog is not on a leash of a maximum length of two (2) metres held by a person, or is not on a leash which is securely affixed to some permanent structure from which the dog cannot escape.
 - 4. No person shall allow or permit a dog under his control or of which he is the registered owner to trespass on private property whether on a leash or not unless permission for said trespass in first obtained from the property owner.
 - 5. No person shall allow or permit a dog under his control or of which he is the registered owner to be on a Public Beach whether on a leash or not.
- 16. Every person who is the owner of a dog at a time when the dog fouls a property anywhere within the municipality, shall forthwith remove, or cause the removal of the excrement from such property and sanitarily dispose of the excrement. Failure to do so constitutes a breach of this By-law.
- 17.
 - 1. Subject to subsection 17.5 of this section, a Peace Officer or Animal Control Officer may:
 - 17.1.1 Seize and impound any dog found running at large, and;
 - 17.1.2 Restore possession of the dog to the owner thereof where:
 - 17.1.2.1 The owner claims possession of the dog within three (3) days (exclusive of the day of its impounding and of statutory holidays) after the date of seizure, and;
 - 17.1.2.2 The owner pays to the Peace Officer or Animal Control Officer a pound fee for a dog seized and a maintenance fee for each day subsequent to the day of seizure that the dog remains impounded.
 - 17.1.2.3 The owner has procured a current licence for the dog pursuant to Part 1 Licensing of this By-law.
 - 2. Where a dog is seized and impounded under section 17.1.1 of this section, the owner if known and whether the dog is claimed from the pound or not, shall be liable for the pound and maintenance fees prescribed and shall pay all fees on demand by the Animal Control Officer or Licence Agent.

3. Where at the end of three (3) days mentioned in subsection 17.1.2.2 of this section, the dog has not been restored to the owner, the Animal Control Officer may sell the dog for such price as he deems reasonable.
 4. Where the owner of a dog, has not claimed the dog within three (3) days after its seizure under section 17.1.1 above, and where the dog has not been sold, the Animal Control Officer may euthanize the dog in a humane manner or otherwise dispose of the dogs as he sees fit in accordance with the provisions of the Province of Ontario Animals for Research Act as it relates to pounds and no damages or compensation shall be recovered by the dog owner on account of its being euthanized or other disposition.
 5. Where a dog seized under section 17.1.1 of this section is injured or should be destroyed without delay for humane reasons or for reasons of safety to persons or animals. The Peace Officer or Animal Control Officer may euthanize the dog in a humane manner as soon after 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 being euthanized.
 6. In the opinion of an Animal Control Officer, where a dog cannot be captured and where the safety of persons or animals are endangered, the Animal Control Officer may euthanize the dog and no damages or compensation shall be recovered by the owner of the dog for said destruction.
18. Dogs shall be accepted by the Animal Control Officer appointed by the Municipality.
 19. Fees for the services outlined in Part 3 are as specified in schedule 'B', which schedule is hereby incorporated as part of this By-law.

PART 4 – KEEPING OF DOGS

20. Every person who owns a dog in the Municipality of Killarney shall provide such dog or cause it to be provided with such food, potable water, exercise, and attention as may be required from time to time to keep it in good health.
21. If a dog is customarily kept out of doors, the person who owns such a dog shall, at all times, provide for its use, a structurally sound, weatherproof enclosure with off the ground flooring.
22. No person shall in the Municipality of Killarney keep a dog tethered on a chain, rope or similar restraining device of less than 2.4 metres in length.

PART 5 – VICIOUS DOGS

23.
 1. Declaring a dog as vicious:
The Animal Control Officer may investigate any dog bite incident which has been reported to the Medical Officer of Health for the District of Sudbury. 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.
 2. Service of a Declaration:
Where a dog has been declared a vicious dog, pursuant to section 23.1 of this by-law, the dog owner shall be provided with a copy of a written declaration to that effect. See schedule 'F'.
 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 with ten (10) business days of the date of delivery of the notice of declaration.
24.
 1. No person shall, within the municipality, fail to restrain a vicious dog for which he is the owner.
 2. 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:
 - 24.2.1 Kept indoors in a manner respective of its environmental needs which prevents contact with persons who have not consented to contact; or
 - 24.2.2 Kept in a pen or other outdoor enclosure respective of its environmental needs which prevents the dog from:

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

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

3. 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:

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

25. 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.

26. 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 14 or 23.

PART 6 – BARKING DOGS

27. The owner of a dog shall not permit or allow the dog to make or continue to make any sound which has the effect of disturbing the peace, quiet, comfort or repose of any individual.

28. 1. No person shall, within the Municipality of Killarney, forcibly retrieve a dog from an Animal Control Officer or a vehicle under an Officer's control.

2. No person shall forcibly retrieve a dog from the pound keeper, an Animal Control Officer or, break and enter into a patrol vehicle of the Animal Control Enforcement Agency or retrieve a dog without payment in full of all fees and charges required to be paid under this By-law.

29. If any Part, Section, Subsection, Clause or Paragraph of this By-law is, for any reasons, held invalid, such portion shall be deemed separate, distinct, and independent and such holding shall not affect the validity of the by-law as a whole or any part thereof, other than the provisions so declared to be invalid.

30. Any person who contravenes any of the provisions of this By-law is guilty of an offence.

31. By-law No. 2001-07, No. 2002-16 and all former relative By-Laws are hereby rescinded.

32. This By-law shall come into full force and effect on the date of its final passing thereof.

***READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
IN OPEN COUNCIL THIS 16th DAY OF MAY 2012.***

ORIGINAL DOCUMENT SIGNED

MORGAN T. PITFIELD, MAYOR

ORIGINAL DOCUMENT SIGNED

CANDY K. BEAUVAIS, CLERK

BY-LAW NO. 2012-26

Schedule "A"

Licence Fees

FIRST APPLICATION

Dog Licence Fee - 1st Dog - \$20.00

Dog License Fee - 2nd Dog - \$20.00

For Senior Citizens (over 65 years of age) Dog Licence fee - \$10.00

LATE RENEWALS:

Renewal Licence Applications received after Feb. 15, add \$10.00 to each licence fee.

MISCELLANEOUS

Seeing Eye Dog - no charge

Hearing Ear Dog - no charge

Replacement Tag - \$ 2.50

Transfer - \$ 2.50

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Schedule "B"

Animal Control Service Fees

1. Dog Redemption:

Impound Fee	\$ 50.00
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2. Per Diem Animal Maintenance Fee	\$ 15.00
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3. Animal Surrender Fee Dogs (If dog has to be re-homed or euthanized)	\$120.00
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All fees are subject to HST.

BY-LAW NO. 2012-26

Schedule “C”

Kennel Licence Fee

1. Kennel Licence Fee	\$100.00
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Schedule “D”

SET FINES

Municipality: The Corporation of the Municipality of Killarney

By-Law No: 2012-26

Address: 32 Commissioner Street, Killarney, Ontario, P0M 2A0

ITEM	COLUMN 1 Short Form Wording	COLUMN 2	COLUMN 3 Set Fine Not Including Court Costs
1.	Failure to procure a license	Section 5	\$100.00
2.	Failure to affix the dog license	Section 10 (1)	\$100.00
3.	Misuse of a dog license	Section 10 (2)	\$100.00
4.	Failure to notify change of ownership	Section 11 (2)	\$100.00
5.	Failure to register a kennel	Section 14	\$100.00
6.	Fail to prohibit dog from running at large	Section 15	\$100.00
7.	Fail to clean up and dispose of dog excrement	Section 16	\$100.00
8.	Fail to keep dog in good health	Section 20	\$100.00
9.	Fail to provide outside enclosure	Section 21	\$100.00
10.	Keep dog on improper chain or rope	Section 22	\$100.00
11.	Fail to restrain a vicious dog	Section 24	\$300.00
12.	Fail to notify change of address	Section 25	\$100.00
13.	Permit/allow a dog to make a disturbing noise	Section 27	\$100.00
14.	Forcibly retrieve dog from Animal Control (officer/vehicle)	Section 28 (1) (2)	\$100.00

The penalty provision for the offences indicated above is Section 29 of By-Law No. 2012-26 as amended, a certified copy of which has been filed.

BY-LAW NO. 2012-26

Schedule "E"

Kennel Licence Application

Kennel Name _____ Application: New _____ Or Renewal _____

Registration affiliation: CKC _____ AKC _____ Other _____

Applicant _____ Phone # _____

Full Address _____

Location: Lot _____ Conc. _____ Twp. _____

Kennel Premises: Separate Building _____ Part of Building _____

Year Established _____ Distance to Closest Property Line _____

Zoning _____

Purpose of Kennel: Breeding or Raising of Dogs _____ Boarding _____ Other _____

Kennel Premises: Briefly describe facilities: (include floor area, material, number of windows, plumbing, running water, electrical, types of cages, outside runs)

Annual fee of \$100 must be enclosed, payable to the Municipality of Killarney.

I _____ Hereby give permission to the Municipality of Killarney
Animal Control Officer or other duly authorized person to enter at any time, this kennel and the
lands upon which the kennel is situated for the purpose of inspection.

Date _____ Signature of Applicant _____

BY-LAW NO. 2012-26

Schedule "F"

VICIOUS DOG DECLARATION

Owner's Name _____ Animal Name _____

Address _____

Licence Number _____

Breed _____ Colour _____ Age _____ Sex _____

An investigation of an incident involving your above described animal, and:

Victim: _____

Address _____

On (date) _____ an investigation was conducted and it has been determined that your animal has bitten a person/domestic animal in an unprovoked attack.

Accordingly, this animal is therefore declared 'vicious' pursuant to By-law _____, as may be Amended, and you, as the owner, are hereby notified that if you wish to keep this dog in the Municipality of Killarney you must:

1. Keep the dog muzzled, leashed and under the control of a person at least 16 years old at all times when it is off your property.
2. At all times, when on your property or on the property of the person who has the care and control of the dog, the dog must be restrained. This is accomplished by keeping the animal inside a building, or house, or in an enclosed pen or other enclosed area of sufficient dimension and strength to be humane. And to prevent the dog from either leaving the building or property or from coming in contact with persons who are not at that building or property.
3. If you transfer ownership or possession of this dog, or relocate your place of residence with the Municipality of Killarney, you **must immediately notify** the Animal Control Agency.

Contravention of By-law No. 2012-26, as may be amended, may result in prosecution of you, as the owner of a vicious dog, and if convicted, a fine of up to five thousand dollars (\$5,000) may be levied for each offence. You may appeal this Declaration by making Application to the Town Clerk within ten (10) business days of the date of delivery of this Notice of Declaration.

Animal Control Officer _____ Date of Declaration _____

Notice was served upon: _____

At _____ Date _____

By _____ Time _____