



THE DOG BY-LAW

BY LAW # 2021- 01

WHEREAS under Section 172 (1) (a) of the Municipal Government Act (1998), Council may make by-laws, for municipal purposes, respecting the health, wellbeing, safety and protection of persons;

AND WHEREAS under Sections, 175 and 176 of the Municipal Government Act (1998), Council may make by-laws respecting Dogs and dangerous Dogs and activities in relation to them.

NOW THEREFORE, the Council of the Municipality of the Town of Digby in open meeting assembled, enacts as follows:

1. This By-law is entitled the "Dog By-law and is intended to control Dogs in the Town of Digby

Definitions

2. In this By-law;
 - a. **"Chief Administrative Officer"** means the Chief Administrative Officer of the Town of Digby;
 - b. **"Council"** means the Council of the Town of Digby;
 - c. **"Dog"** includes any Dog, male or female;
 - d. **"Dog Control Officer"** means a Police Officer, Peace officer, Special Constable or the By-law Enforcement Officer or a person appointed by the Town Council to carry out the provisions of this By-law.
 - e. **"Dogs Running At Large"** any Dog which is off the premises occupied by the Owner without being under the continuous restraint and control of some person is deemed to be running at large for the purposes of this By-Law. A Dog which is tethered on a tether of sufficient length to permit the Dog to leave the property boundaries of the premises occupied by the Owner is deemed to be running at large. Provided that a Dog that is under continuous human restraint and control shall not be deemed to be running at large if at the time the Dog is:
 - i. participating in an organized hunt, Dog exhibition event or Dog field trials;

- ii. participating in a search and rescue operation or law-enforcement operation;
 - iii. assisting a person with a disability, provided the Dog is trained for such purposes;
or
 - iv. within a municipal public park where the area is designated by signage as an area in which Dogs are permitted to be without a leash subject to such limitations as are posted.
- f. **"Dog Registration Fee"** means such fee as is set out in Schedule "2" attached to and forming part of this By-law
- g. **"Extraordinary Expenses"** means any expense incurred by Staff in relation to a Dog except for the provision of food and shelter.
- h. **"Fierce or Dangerous Dogs"** for the purpose of this By-Law a Dog that is fierce or dangerous means any Dog:
- i. that, in the absence of a mitigating factor as defined herein, inflicts bites to or attacks a human being or a domestic animal either on public or private property;
 - ii. that, in the absence of a mitigating factor as defined herein, when unmuzzled or unleashed, or unattended by its Owner, or some other person having care or control of the Dog, approaches any person in a vicious or fierce manner;
 - iii. owned or harboured in whole or in part for the purpose of Dog fighting; or
 - iv. trained for Dog fighting;
- i. **"Guide Dog"** means a Dog which has been trained to lead, assist, or guide a person who is visually or physically impaired.
- j. **"Impound Fees"** mean such fees as set out in Schedule "2" for the cost of impounding a Dog by the by the Dog Control Officer.
- k. **"Leashing Area of Town"** means all areas of Town of Digby within any of the Residential Zones or Commercial Zones designated in the Town of Digby Land Use By-law.
- l. **"Owner"** means the Owner of a Dog and any person other than the Dog Control Officer who possesses, has the care, custody or control of, or harbours a Dog and, where such a person is a minor, includes a parent, guardian or custodian of such a person;
- m. **"mitigating factor"** means a circumstance which excuses the aggressive behaviour of a Dog where:

- i. the Dog, at the time of the aggressive behaviour, attacked or injured any trespasser on property occupied by its Owner;
 - ii. the Dog, or its young, immediately prior to the aggressive behaviour, was being abused or tormented by the person attacked or injured;
 - iii. the Dog is a professionally trained guard Dog while lawfully engaged for law enforcement.
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- n. **“muzzled”** means to wear upon a Dog a covering device of sufficient strength placed over a Dog’s mouth to prevent it from biting;
 - o. **“Pound Fees”** means such fees as are set out in Schedule “2” for the provision of food and shelter to Dogs harboured at the Pound.
 - p. **“Redemption Period”** means that period of time which commences with the possession of a Dog by the pound keeper and expires 72 hours later, except where the period expires when the pound is closed the period shall be extended to expiry of the next business day.
 - q. **“Registration Tag”** means a tag bearing a serial number which is issued by Staff to the Owner of a Dog upon registration of the Dog to identify the Dog and included a replacement tag issued to replace a missing tag.
 - r. **“Replacement Tag Fee”** means such fee as is set out in Schedule “2” for providing a replacement tag to an Owner of a Dog when a registration tag is lost or destroyed.
 - s. **“Staff”** means those persons assigned by Council or the Chief Administrative Officer to administer the provisions of this By-law and for the purposes of this By-law shall also include individuals at locations other than the Town Hall in Digby who are authorized by Council or the Chief Administrative officer to register Dogs or issue registration tags and shall also include the Pound Keeper.
 - t. **“Town”** means the Town of Digby

3. Dog Registration

- a. Every Owner of a Dog shall register such Dog with Staff or within ten (10) days of becoming an Owner of a Dog and pay the applicable dog registration fee.
- b. The Owner of a kennel of purebred Dogs which are registered in the Canada Kennel Register shall in any year, pay to the Town the annual fee (Schedule “2”) as a tax upon the kennel for the fiscal year and such Owner is then exempt from the assessment and any other tax for the Dogs for that year.

- c. The following persons are exempt from registering a Dog and paying a Dog registration fee:
 - i. A veterinarian who temporarily harbours a Dog for the sole purpose of providing it with medical care;
 - ii. An Owner of a Dog that is trained to assist and assists the Owner with a disability, and such Owner is exempt from the payment of a Dog registration fee for such Dog if the Owner chooses to register the Dog;
 - iii. An Owner of a Dog that is less than three (3) months old;
 - iv. A person who harbours a stray Dog for less than seven (7) days; and an agent for the SPCA, and the onus is on such persons to prove the exemption.

4. Registration Tag

- a. The registration tag shall be valid and effective for the life of the Dog or the repeal of this By-law, whichever occurs first.
- b. A registration tag is non-transferrable thus a new Owner of a Dog shall reregister the Dog and obtain a new registration tag pursuant to this by-law.
- c. In the event that a registration tag has been lost or destroyed, a replacement may be purchased for the replacement tag fee. (Schedule "2")

5. Registration Process

- a. To register a Dog, the Owner shall provide to Staff the following:
 - i. Name, civic address, mailing address and telephone number of the Owner.
 - ii. Name of Dog
 - iii. Description of the Dog including the breed, whether the Dog is male or female, any identifying characteristics including micro-chip implants, tattoos or special markings, and when applicable, proof that the Dog has been spayed or neutered; and
 - iv. Applicable Dog registration fee. (Schedule "2")
- b. Staff shall keep a record of every Dog registered, recording the following information:
 - i. Registration date;

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- ii. Registration number;
 - iii. Name of Dog;
 - iv. Description of the breed of Dog and any identifying characteristics;
 - v. Name, civic address, mailing address, and telephone number of the Owner;
 - vi. Any other information provided by the Owner that may assist in identifying the Dog.
- c. Staff shall supply to each Owner of a registered Dog, a metal registration tag.
- d. The Owner of every Dog shall keep on the Dog a collar, with the registration tag issued for that Dog, attached thereto while the Dog is off the property occupied by the Owner.
- e. Where a registration tag issued by Staff to an Owner of a Dog becomes lost or destroyed the Owner shall obtain a Replacement Tag from Staff upon payment of a replacement Tag Fee. (Schedule "2")
- f. Where an Owner has registered a Dog and subsequently ceases to be the Owner of the Dog as a result of death, sale or transfer of the Dog, the Owner shall provide to Staff within 30 days of ceasing to be the Owner of the Dog written notice of:
- i. Name, civic address, mailing address, and telephone number of the person to whom the Dog was sold or transferred;
 - ii. The Dogs' name and description;
 - iii. the Dogs registration number; and
 - iv. the reason for ceasing to be the Owner of the Dog
- g. the Owner of a Dog shall deliver in writing to Staff a statement of the number of Dogs owned, harboured, or that are habitually kept upon the premises occupied by the Owner, within ten (10) days after receiving notice from Staff requiring such information to be provided.
- h. No more than three Dogs may be kept on any property.
- i. Any person who is a resident within the Town who purchases a Dog from the Pound Keeper shall register the Dog, pay the appropriate fee, and obtain a Registration Tag for such Dog before taking it from the pound.

- j. Staff shall immediately notify every person reported to them as the Owner of an unregistered Dog in the Town by letter, by ordinary mail, postage paid and addressed to the Owner's address, requesting such Owner forthwith to register the Dog, and to comply with this By-law.

6. Responsibilities of Owners

- a. The Owner of a Dog shall ensure, while the Dog is off the property occupied by the Owner, that the Dog is under control by means of either a harness or a leash.
- b. The Owner of a Dog shall ensure that the Dog is not running at large, anywhere in Town.
- c. The Owner of a Dog shall ensure that the Dog:
 - i. does not, without provocation, attack, chase, bite or injure any other domestic animal or person,
 - ii. does not, without provocation, damage any property,
 - iii. if left unattended on a harness or a leash, does not frighten or harass any passerby.
 - iv. does not disturb the quiet of the neighbourhood by howling, barking or in any other manner.
- d. Every Owner of a Dog which defecates on public or private property other than the property of its Owner, shall immediately remove the defecation. Failure to immediately remove the defecation shall constitute a nuisance and every Owner causes such nuisance is guilty of an offence.

7. Enforcement and Offences

- a. The Dog control Officer shall enforce this By-law.
- b. A Dog runs at large in the Town when:
 - i. The Dog is off the property owned and occupied by the Dog's Owner without the animal being under the apparent restraint or control of some person;
 - ii. The Dog is tethered on a tether of sufficient length to permit the Dog to leave the property owned and occupied by the Dog's Owner;

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- iii. The Dog is on property not owned by the Dog's Owner where a sign has been erected prohibiting a Dog from being on the property; or
 - iv. The Dog is on property not owned by the Dog's Owner where a sign has been erected requiring Dogs to be under the control of some person by means of a harness or leash while on the property and the Dog is not under such control.
- c. A Dog is fierce or dangerous if:
- i. The Dog has bitten a person or domestic animal;
 - ii. The Dog when either unmuzzled or unleashed, has approached any person in a vicious or terrorizing manner in an apparent attitude of attack at any place other than the property owned or occupied by the Dog's Owner;
 - iii. The Dog has a known propensity, tendency or disposition to attack, to cause injury to, or otherwise endanger the safety of human beings or domestic animals;
 - iv. The Dog is owned or harboured in whole or in part for the purpose of Dog fighting; or
 - v. The Dog is trained for Dog fighting.
- d. Evidence that one person is unreasonably disturbed by a Dog barking, howling or otherwise is prima facie evidence that the quiet of the neighbourhood is disturbed.
- e. Every Owner of a Dog:
- i. Whose Dog is not registered pursuant to this By-law;
 - ii. Whose Dog is not wearing a Registration Tag pursuant to this By-law;
 - iii. Who fails to notify Staff of cessation of Ownership of a Dog pursuant to this By-law;
 - iv. Whose Dog runs at large in the Town;
 - v. Whose Dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise, or unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;
 - vi. Who harbours keeps, or has under care, control, or direction of a Dog that is fierce or dangerous; or

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vii. Whose Dog without provocation, attack, chase, bite or injure any other domestic animal or person, or, without provocation, damage any property,

viii. Who fails to remove the Dog's feces from public property or private property other than the Owner's:

Is guilty of an offense.

f. It shall be a defense to a charge under subsection 7.e.iv of this By-law that at the time of running at large the Dog is:

i. Participating in a Dog exhibition event;

ii. Participating in a search and rescue operation or law enforcement operation;

iii. Or assisting a person with a disability provided the Dog is trained for such purpose.

g. It shall be a defense to a charge under subsection 7.e.vii of this by-law that at the time of an attack or biting:

i. The Dog was being tormented or abused by the person or domestic animal attacked or bitten;

ii. The Dog was acting in defense of itself or a person;

iii. The Dog was acting as a professionally trained guard Dog while lawfully engaged for law enforcement or guard duties; or

iv. The attack or bite was inflicted upon or sustained by a person who was committing one or more of the following:

1. Willful trespass or other tort;

2. A criminal act upon premises owned or occupied by the Owner of the Dog; or

3. A trespass contrary to Provincial or Federal legislation.

h. It shall be a defense to a charge under subsection 7.e.viii of this By-law that at the time of the failure to remove the Dog feces, the Owner had a disability that prevented the Owner from complying with the subsection and the Dog was trained to assist a person with such a disability and the Dog was assisting the Owner with such a disability.

- i. Every person who keeps more than three (3) Dogs on any property contrary to this By-law is guilty of an offence.
 - i. It shall be a defense to a charge under this section that the property on which the Dogs are kept is a veterinary hospital and the Dogs are present for the purpose of receiving medical care.
 - ii. It shall be a defence to a charge under this section that the Dogs are kept more than 300 feet from neighbouring residential property boundaries.
 - iii. It shall be a defense to a charge under this section that the property on which the Dogs are kept is a temporary shelter for Dogs and is approved by the SPCA, the shelter is in good standing with the SPCA, and any Dogs in excess of the three permitted Dogs are kept on the property on behalf of and at the written request of the SPCA and the person shall produce written proof from the SPCA upon demand of the Dog Control Officer which request shall specifically identify the Dogs.
 - iv. It shall be a defense to a charge under this section that the property on which the Dogs are kept in a kennel of purebred Dogs which are registered in the Canada Kennel Register and that is licensed under this By-law.

8. Dog Pound and Pound Keeper

- a. Town Council shall appoint a Pound Keeper and provide a pound to keep all Dogs delivered to the Pound Keeper and to furnish the Dogs with food and water.

9. Impounding

- a. The Dog Control Officer may without notice to or complaint against the Owner of a Dog impound any Dog that:
 - i. is running at large in the Town;
 - ii. is not registered or not wearing a registration tag required by this By-law;
 - iii. is fierce or dangerous
 - iv. is rapid or appears to be rabid or exhibits symptoms of canine madness
 - v. persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise;
- b. The Pound Keeper Shall:

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this by-law, or any combination thereof, within a period of 24 months and the Pound Keeper shall dispose of the Dog as if the Redemption Period had expired.

- i. The Dog Control Officer may without notice to or complaint against the Owner, kill on sight any Dog that:
 - i. Is fierce and dangerous or appears to be fierce and dangerous;
 - ii. Is rabid or appears to be rabid;
 - iii. Exhibits signs of canine madness;
 - iv. Is running at large and eludes capture by the officer; or
 - v. Is running at large and which the officer believes to pose a danger to a person or a domestic animal or to property of persons other than the Owner.
- j. The Dog Control Officer or member of the Police force may pass over the land of any person while pursuing a Dog under this By-law but this section is not to be construed to provide immunity against the action for actual damage to the property of any person.

10. Procedure after Impounding

- a. When a Dog wearing a Registration Tag is impounded, the Dog Control Officer or Pound Keeper, shall mail to the Owner, by ordinary mail, postage prepaid, a notice (Schedule "3") in time to be delivered before twenty-four (24) hours before the expiry of the Redemption Period; and
- b. Shall post a notice in the Town Hall and at two other public places in the Town, at least twenty-four (24) hours before the expiry of the Redemption Period; (Schedule "3")
- c. When a Dog not wearing a registration Tag is impounded, the Dog Control Officer or Pound Keeper, shall post a notice in the Town Hall and at two other public places in the Town, at least twenty-four (24) hours before expiry of the Redemption Period; (Schedule "3")

11. Sale or Destruction

- a. If the Dog is not claimed and registered, if applicable, under this By-law, and pound fees are not paid before the expiry of the Redemption Period stated in the Dog Impound Notice, the Pound Keeper shall sell, for the best price obtainable, or may kill the Dog.
- b. If the Pound Keeper, the Dog Control Officer or member of the Police force kills a Dog under this By-law, that person shall cause the body of the Dog to be retained for up to twenty-four (24) hours.

- c. Within that time, the Pound Keeper, Dog Control Officer or member shall notify the Owner, if the Pound Keeper, Dog Control Officer or member can determine the Owner.
- d. If the Owner pays the Pound Keeper's fees, the Owner shall be permitted to claim the body of the Dog.
- e. If the Pound Keeper sells the Dog, the Pound Keeper shall report to the Dog Control Officer:
 - i. the name and address of the purchaser, and
 - ii. the amount paid for the Dog.
 - iii. The Pound Keeper shall deliver to the Dog Control Officer all proceeds from the sale of any Dog, and any other monies received by the Pound Keeper under this By-law, after deduction of the Pound Keeper's commission and fees.

12. Pound Keeper's Fees and Commission

- a. The Owner, or the Town, if the Owner does not pay, shall pay to the Pound Keeper, the following fees as set by Policy of Town Council. (Schedule "2")
 - i. for board for each Dog, for each twenty-four (24) hour period and for any portion of a twenty-four (24) hour period;
 - ii. for impounding a Dog,
 - iii. for room and board,
 - iv. any extraordinary expenses incurred by the Pound Keeper for the Dog.
- b. The Pound Keeper is entitled to retain from the sale proceeds of any Dog under this By-law, a commission of twenty (20%) percent of the sale price.
- c. The Dog Control Officer shall charge a fee (Schedule "2") to be paid by any Owner requesting the services of the Dog Control Officer or Pound Keeper in euthanasia of their Dog. The Fee shall be appropriate to cover all necessary expenses incurred by the Town in carrying out the euthanasia of the Dog.

13. Offences and Penalties

- a. Any person who contravenes any provision of this By-law is guilty of an offence and is liable upon summary conviction to a fine, and in default of payment, to a term of imprisonment as set forth in Schedule 1 of this By-law.

- b. In imposing a penalty under Section **7.e.vii.** in addition to the penalties set out in Schedule 1 of the By-law, the judge may order that the Dog be destroyed by the Pound Keeper or otherwise dealt with.
- c. The levying and payment of any fine or the imprisonment for any period under Schedule 1 of this By-law does not relieve a person from the necessity of paying any fees, charges or costs for which the person is liable under this By-law.

14.Registration, Impound and Pound Fees

- a. Council may set Registration, Impound and Pound Fees by Policy, as is set out in Schedule "2" attached to and forming part of this By-law.
- b. Dog Registration Fees are to be set considering the cost of maintaining and improving a registry system for Dogs and enforcing this By-law, and may set different registration fee amounts for neutered/spayed and non-neutered/non-spayed Dogs.
- c. Impound and Pound Fees are to set considering the cost of maintaining and improving the Pound and associated expenses.
- d. Schedule "2" of this by-law and will be reviewed and amended as necessary on an annual basis.

15.Repeal

- a. The Town of Digby Dog By-law # 2006-06 is hereby repealed.

Clerk's Annotation for Official By-law Book

Date of First Reading: July 5, 2021

Date of Advertisement of Notice of Intent to Consider: July 14, 2021

Date of Second Reading: August 3, 2021

Date of Advertisement of Passage of By-law: August 11, 2021

Date of mailing to Minister a Certified copy of By-law: August 11, 2021

I certify that The Dog By-law was adopted by Council and published as indicated above.

Clerk: *E. Thomas Ossinger*
E. Thomas Ossinger

Date: August 11, 2021

SCHEDULE "1"

OFFENCES AND PENALTIES

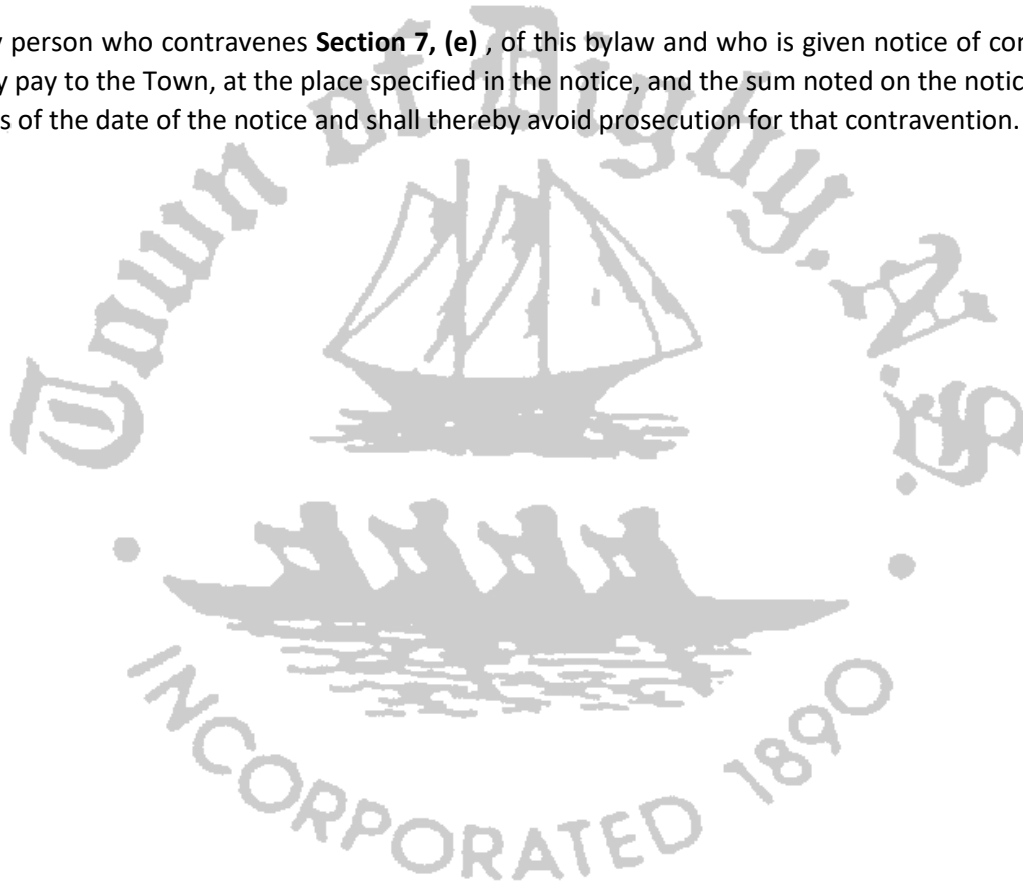
Any person who contravenes any provision of this By-law is guilty of an offense and is liable upon summary conviction under:

1. **Section 7.e.i.**, In the case of a first offence, whose Dog is not registered pursuant to this By-law one hundred **(\$100.00)** dollars and in default of payment term of imprisonment of not more than thirty **(30)** days.
2. **Section 7.e.i.** in the case of a second offense, whose Dog is not registered pursuant to this By-law one hundred fifty **(\$150.00)** dollars and in default of payment term of imprisonment of not more than thirty **(30)** days.
3. **Section 7.e.i.** in the case of a third offense, whose Dog is not registered pursuant to this By-law two hundred **(\$200.00)** dollars and in default of payment term of imprisonment of not more than thirty **(30)** days.
4. **Section 7.e.ii.**, Owner who fails to affix a Registration Tag on Dog, to a fine of ten **(\$10.00)** dollars and in default of payment to a term of imprisonment of not less than one **(1)** day and not more than thirty **(30)** days.
5. **Section 7.e.iii.** Owner who fails to notify Staff of cessation of Ownership of a Dog Pursuant to this By-law to a fine of not more than twenty **(\$20.00)** dollars, and in default of payment, to term of imprisonment of not less than one **(1)** day and not more than thirty **(30)** days.
6. **Section 7.e.iv.** Owner fails to prevent Dog from running at large, to a fine of two hundred **(\$200.00)** dollars and in default of payment to a term of imprisonment of not more than thirty **(30)** days.
7. **Section 7.e.v** owning a Dog which disturbs the quiet of the neighbourhood by howling, barking or in any other manner, to a fine of two hundred **(\$200.00)** dollars and in default of payment to a term of imprisonment of not more than thirty **(30)** days.
8. **Section 7.e.vi.** Who harbours, keeps, or has under care, control, or direction of a Dog that is fierce or dangerous to a fine of two hundred **(\$200.00)** dollars and in default of payment to a term of imprisonment of not more than thirty **(30)** days.
9. **Section 7.e.vii** owning a Dog which without provocation has attacked, chased, bitten or injured any other domestic animal or person or damaged property, to a fine of three hundred

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(\$300.00) dollars and in default of payment to a term of imprisonment of not more than sixty **(60)** days.

- 10. Section 7.e.vii.** Owner failing to remove from public or private property the defecation of a Dog, to a fine of one hundred sixty-five **(\$165.00)** dollars and in default of payment to a term of imprisonment of not more than thirty **(30)** days.
- 11.** Any other Section of this By-law shall be liable upon summary conviction to a penalty of not exceeding one thousand **(\$1000.00)** dollars and in default of payment to a term of imprisonment of not more than thirty **(30)** days.
- 12.** Any person who contravenes **Section 7, (e)** , of this bylaw and who is given notice of contravention may pay to the Town, at the place specified in the notice, and the sum noted on the notice within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.



SCHEDULE "2"

Dog Registration, Pound, and Impound Fees

1. Dog Registration Fee

- a. \$25.00 per dog (*good for the life of the Dog*)

2. Kennels,

- a. the Annual Fee (based on Fiscal Year) **\$25.00**

3. Registration Tag Replacement Fee

- a. (lost or Destroyed) **\$5.00**

4. Impound Fees

- a. First Offence **\$20.00**
- b. Second Offense (within a 12 month period) **\$40.00**
- c. Third Offense (within a 12 month period) **\$60.00**

5. Pound Fees

- a. Boarding fee for each 24 hour period , or any portion thereof, of retention at the pound **\$5.00**
- b. Euthanasia (at Owners Request) **\$60.00**
- c. Any extraordinary expenses incurred in relation to the capture, impounding, maintenance or care of impounded Dog **Reimbursed at cost**

I certify this is a true copy of the amendments to the Dog Tax by resolution of Council on August 11, 2021.

E. Tom Ossinger, CAO

Schedule "3"



DOG IMPOUND NOTICE

Take Notice that a Dog (insert Picture and brief description with number tag, if any) has been impounded in the Dog pound of the Town of Digby at (insert location of Dog pound). Unless such Dog is claimed and (and registered, if applicable) no later than (hour, day and date), the Dog may be destroyed or disposed of according to law.

Dated at Digby, this _____ day of _____ 20__ .

Dog Control Officer / Peace Officer