

**Town of Montague
Bylaw Number 2004-01**

Companion Animal Control Bylaw

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

PART 1: TITLE

1. 1.1 This Bylaw shall be referred to as the "Town of Montague Companion Animal Control Bylaw, and may be cited as the "Animal Control Bylaw" from time to time.

PART 11: SCOPE

2. 2.1 This Bylaw shall apply to the Town of Montague

PART 111: DEFINITIONS

3. In this Bylaw:
 - 3.1 "Animal" includes but is not limited to dogs, cats, and other domesticated pets;
 - 3.2 "Animal Shelter" means any place designated by the Town of Montague for the detention of animals impounded as set out in this Bylaw;
 - 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 "Cat" does not include an unweaned kitten;
 - 3.6 "Cemetery" means all cemeteries located within the Town of Montague;
 - 3.7 "Companion Animal" means any dog or cat, male or female, or any animal that is the result of the breeding of a companion animal
 - 3.8 "Council" means the Town Council of the Town of Montague;
 - 3.9 "Dog" means a male or female dog, and does not include an unweaned pup;
 - 3.10 "Enforcement Officer" means a duly authorized person appointed by the Town, including a Bylaw Enforcement Officer and Animal Control Officer, or a member of the Royal Canadian Mounted Police.
 - 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 **“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;
- 3.13 **“Judge”** means a Judge of the Provincial Court of Prince Edward Island;
- 3.14 **“Kennel”** means an establishment for the breeding and/or boarding of animals;
- 3.15 **“Leash”** means a chain or other material capable of restricting the animal on which it is being used.
- 3.16 **“Municipality”** means the Town of Montague;
- 3.17 **“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;
- 3.18 **“Muzzle”** means a humane fastening or covering device of adequate strength over the mouth of an animal to prevent it from biting;
- 3.19 **“Neutered”** means any animal that is sexually sterile;
- 3.20 **“Noise”** means barking, howling, or any other noise made by an animal;
- 3.21 **“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;
- 3.22 **“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;
- 3.23 **“Provincial Court”** means the Provincial Court of Prince Edward Island;
- 3.24 **“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.
- 3.25 **“School Ground”** means that area of land which is property owned by the Eastern School District of Prince Edward Island.
- 3.26 **“Trap”** means snare, spring trap, deadfall, box trap, net, leg hold, and killing trap or any other device used to capture animals.

- 3.27 **“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; or
 - (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, presents a threat of serious harm to other domestic animals or Humans; or

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

provided that no dog shall be deemed vicious if it is a professionally trained guard dog while lawfully engaged for law enforcement.

- 3.28 **“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 70 feet in all directions of the outside dimensions of such areas.

PART IV: ADMINISTRATION

- 4 4.1 This bylaw shall be administered and enforced by the Chief Administrative Officer and the Enforcement Officer(s).

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 companion animal shall provide the necessary sustenance and conditions for the animal to maintain proper health.
- 5.2 No person shall keep a vicious dog within the Town of Montague.
- 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 ten (10) clear days, not including Saturdays and Sundays, before the date of the hearing.
- 5.4 Upon application, if it appears to the Justice that the dog should be declared to be a vicious dog, he shall make an order in a summary way declaring the dog to be a vicious dog.
- 5.5 From the time of being declared a vicious dog until the dog is removed from the town, no later than 7 calendar days after declaration, the owner shall ensure:
- (a) such dog is confined indoors 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.
 - (c) the locked pen or structure has secure sides and a secure top, and if it has no bottom secured to the sides, the sides must be imbedded in the ground to a minimum depth of six (6) inches.
 - (d) the locked pen or structure provides the vicious dog with shelter from the elements and is constructed to provincial standards.
 - (e) the locked pen or structure complies with the set back requirements as defined in the Town's Zoning Bylaw.
- 5.6 Every owner of a female dog in heat shall confine such dog within a building or secure enclosure on the owner's property in a manner as to prevent the dog from coming into 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 An Enforcement Officer may seize any female dog in heat off its owner's property and not confined humanely as outlined in Section 5.6 as required and may thereupon impound such dog in the animal shelter.

PART VI: KENNELS

6. 6.1 Owners/ Operators of a licensed kennel shall:
- (a) obtain an annual license to operate such kennel; and shall pay the fee as set 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 Bylaws of the Town of Montague;
 - (d) permit an Enforcement Officer to enter and inspect the kennel under the authority of a search warrant at any time, or prescribed time;
 - (e) keep the dogs thereof confined to the kennel property and not permit the dogs to become a nuisance to neighbours.
- 6.2 Where the owner of a kennel fails to comply with the Bylaw of the Town, the license to operate may be suspended or revoked and the animals may be seized and impounded.
- 6.3 No person, other than the holder of a kennel license, or a veterinary clinic, shall keep on, in or about any property owned or occupied by such person more than three (3) dogs over the age of three (3) months.

PART VII: COMMUNICABLE DISEASES

7. 7.1 An owner of a companion animal suspected of having rabies:
- (a) shall immediately report the matter to the Agriculture Canada, Provincial Veterinarian, inspector for the Animal Health and Protection Act of Prince Edward Island, and the Chief Administrative Officer of the Town of Montague.
 - (b) shall confine or isolate the companion animal, in such a manner as prescribed so as to prevent further spread of the disease; and
 - (c) shall keep the companion animal confined for not less than ten (10) days at the cost of the owner.
- 7.2 The Chief Administrative Officer or Enforcement Officer may demand that the owner of a companion animal suspected of having rabies shall immediately report the matter to proper authorities as specified in 7.1(a) of this Bylaw.
- 7.3 An owner of a companion animal that does not comply with the provisions of Section 7.1 or 7.2 shall be subject to a penalty as provided in the penalty section of this Bylaw

PART VIII: LICENSING

- 8 8.1 The owner of a dog, or a cat shall:
- (a) obtain an annual license at such time and pay an annual fee as established by Council resolution.
 - (b) 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.
 - (c) obtain a license for a companion animal on the first day on which the Town Hall is open for business and after the companion animal becomes three months old.
 - (d) 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;
 - (e) obtain an annual license for the companion animal on the day specified by the Bylaw Enforcement Officer, Animal Control Office, or the Chief Administrative Officer.
 - (f) when requested by an Enforcement Officer, or the Chief Administrative Officer, submit to the Enforcement Officer, or the Chief Administrative Officer a spay/neuter certificate, or if unavailable a statutory declaration or other acceptable documentation establishing the animal's age, or that the animal is neutered or spayed, and such other information as the Enforcement Officer, or the Chief Administrative Officer may require, in order to determine the license payable by the owner.
 - (g) not give false information when applying for a companion animal license.
 - (h) upon losing a companion animals license, present the receipt for payment of the current year's license fee to the Enforcement Officer, or the Chief Administrative Officer, who will issue a new tag to the owner for the fee set by resolution of Council.
 - (i) ensure that the companion animal wears the current license purchased for that animal, when the animal is off the owners property.
 - (j) not be entitled to a rebate under this Bylaw.
- 8.2 Where a license required pursuant to this Section has been paid for by the tender of an uncertified cheque, the license:
- (a) 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
 - (b) 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 outside of the passenger cab if such motor vehicle is on a roadway, 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 owners express or implied consent.

PART X: HANDICAPPED OWNERS

- 10. 10.1 Where the Enforcement Officer, or the Chief Administrative Officer is satisfied that 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 this bylaw
- 10.2 Section 5.1(a)(ix) of this Bylaw does not apply
 - (i) 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; or
 - (ii) 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 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.
- 10.3 Section 5.1 (c) does not apply where a person who is handicapped in such a way as to reasonably preclude compliance is the owner of a dog trained and 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 in a park within the Town of Montague without first obtaining written permission from the Town of Montague.

PART XI: ANIMAL CONTROL OPERATION - AUTHORITY

12. 12.1 An Enforcement Officer, or a member of the Royal Canadian Mounted Police may capture and impound any companion animal
- (a) found running at large
 - (b) which is required to be impounded pursuant to the provisions of any Statute of Canada or the Province of Prince Edward Island, Regulations made thereunder, or Bylaws of the Town.

PART XIII: OBSTRUCTION

13. 13.1 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 Bylaw 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 which is subject to impoundment.

PART XIII: INTERFERENCE WITH ANIMALS

- 14 14.1 No person shall:
- (a) untie, loosen or otherwise free a companion animal which has been tied or otherwise restrained; or
 - (b) negligently or willfully 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 Montague.

PART XV: NOTIFICATION

- 15 15.1 If an Enforcement Officer, or a member of the Royal Canadian Mounted Police knows or can ascertain the owner of any impounded companion animal, he/she shall serve the owner with a copy of the Notice in Schedule "A" of this Bylaw, either personally or by leaving it at, or by mailing it to, the last known address of the owner.
- 15.2 An owner of a companion animal to whom a Notice is mailed pursuant to subsection 15.1 is deemed to have received a Notice within two business days from the time it is mailed.

PART XVI: RECLAIMING

16. 16.1 The owner of any impounded companion animal may:
- (a) reclaim the companion animal from the Animal Control Officer; or
 - (c) where it is deemed feasible by the Bylaw Enforcement Officer, the Animal Control Officer or the Chief Administrative Officer prior to taking the animal to the impound center, reclaim the companion animal, by paying, in either case to a Bylaw Enforcement Officer, the Animal Control Officer or the Chief Administrative Officer the cost of impoundment as set out in Schedule "B" to this Bylaw, and by obtaining the license for such companion animal, should a license be required under this Bylaw.
- 16.2 Where a companion animal is claimed, the owner shall provide proof of ownership of the companion animal.
- 16.3 The owner of a companion animal who has been found not guilty of committing an offence under this Bylaw may request the return of any fees paid by him for reclaiming the companion animal.

PART XVII: SALE OR DESTRUCTION

- 17 17.1 The Enforcement Officer, or the Chief Administrative Officer shall not sell, destroy, order sale of or destruction of an impounded companion animal until
- (a) after a companion animal has been retained at the impoundment center for:
 - (i) five (5) days after the owner has received notice under Section XV that the companion animal is in the impoundment center; or
 - (ii) five (5) days, if the name and address of the owner is not known.
 - (b) Unless a person having the authority orders the retention or the destruction of the companion animal, or unless the owner of the companion animal makes arrangements with the Enforcement Officer, or the Chief Administrative Officer for the further retention of the companion animal, the Enforcement Officer, or the Chief Administrative Officer may cause the companion animal to be sold or destroyed.
- 17.2 The Enforcement Officer, or the Chief Administrative Officer may retain a companion for a longer period of time, if in his/her opinion the circumstances warrant the expense;
- 17.3 The Enforcement Officer, or the Chief Administrative Officer may, before selling an unclaimed companion animal require that the animal be spayed or neutered.
- 17.4 The purchaser of an unclaimed companion animal from the Enforcement 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.

- 17.5 When the Enforcement Officer, or the Chief Administrative Officer agrees to put a companion animal to death the owner shall pay to the Enforcement Officer, or the Chief Administrative Officer a fee as set out in Schedule "B" of this Bylaw.

PART XVIII: CATS

- 18 18.1 All provisions of this Bylaw shall apply to cats, with the exception of Sections referring to vicious dogs.

PART XIX SEVERABILITY

- 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 Bylaw, such that, if any provision of this Bylaw is declared invalid, all other provisions of this Bylaw shall remain valid and enforceable.

PART XX: PENALTIES

- 20 20.1 (a) Where an Enforcement Officer, or a member of the Royal Canadian Mounted Police believes that a person has contravened any provision of this Bylaw, he/she may commence proceedings by serving a Notice pursuant to Schedule "A" of this Bylaw.
- (b) The specified penalty payable in respect to a contravention of a provision of this Bylaw is the amount shown in Schedule "C" of this Bylaw in respect of that provision.
- (c) Notwithstanding Section 20.1 (b):
- (i) where any person contravenes the same provision of this Bylaw 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 Bylaw in respect of that provision, and
- (ii) where any person contravenes the same provision of this Bylaw 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 Bylaw in respect to that provision.

PART XXI: SUMMARY CONVICTION

- 21 21.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a fine of not more than ONE THOUSAND, FIVE HUNDRED DOLLARS (\$1,500.00) and in default of payment is liable to imprisonment for a term not exceeding six (6) months.
- 21.2 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw 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 Bylaw.

- 21.3 A Judge, in addition to the penalties provided in this Bylaw, 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.
- 21.4 A Judge, after convicting the owner of a dog of an offence under this Bylaw, may, in addition to any other penalties impose orders made, and without further notice or hearing declare the subject dog a vicious dog, pursuant to the provisions of this Bylaw.

PART XXII: INTERPRETATION

- 22 22.1 In this Bylaw, words impounding the singular shall include the plural and words impounding the masculine gender shall include the feminine gender and vice versa.

PART XXIII: REPEAL

- 23 23.1 All former Companion Animal Bylaws and Dog Bylaws of the Town of Montague are hereby repealed.

SCHEDULE "A"

**You are hereby notified that an animal bearing Licence tag
No. _____ for 20__ registered under the above name and address, was
impounded on _____ A.D 20__ pursuant to the provisions of Bylaw #
2004-01 of the Town of Montague, 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 Bylaw.**

Authorized Signature

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.

	<u>AMOUNT</u>
1. Impoundment fees	\$ 25.00
2. Vicious dog impoundment fees	\$250.00
3. Care and sustenance (per day, or portion thereof commencing at midnight on the day of impoundment)	\$ 7.00
3. Veterinary fees	Amount Expended
4. Destruction of Animal	\$ 40.00 plus Amount Expended

SCHEDULE "C"

FINE STRUCTURE

<u>Section</u>	<u>Offence</u>	<u>Minimum Penalty</u>
Section 5.1(a)(i)	Biting a Person(s)	\$ 350.00 (Per person)
5.1(a)(ii)	Injure a Person(s)	\$ 200.00 (Per person)
5.1(a)(iii)	Chasing a Person(s)	\$ 200.00
5.1(a)(iv)	Biting, barking at, chasing other animals, bicycles, automobiles, or other vehicles.	\$ 200.00
5.1(a)(v)	Barking, howling or disturbing	\$ 100.00
5.1(a)(vi)	Damage to property or injuring other animals.	\$ 250.00
5.1(a)(vii)	Upsetting waste receptacles.	\$ 100.00
5.1(a)(viii)	Unattended in Motor Vehicle	\$ 100.00
5.1(a)(ix)	Running at large	\$ 100.00
5.1(b)	Dog not on leash	\$ 100.00
5.1(c)	Dog in prohibited area	\$ 100.00
5.1(d)	Defecation	\$ 250.00
Section 5.2	Keeping a vicious dog	\$1,500.00
Section 5.5(a) or (b)	Failure to confine a vicious dog	\$1,500.00
Section 5.5(c) or (d)	Improper pen or structure	\$1,000.00
Section 5.6	Failure to confine female in heat	\$ 200.00
Section 6.1(a)	Failure to license kennel	\$ 250.00
6.1(e)	Failure to confine on property	\$ 200.00

Section 6.3	Keeping more than 3 dogs	\$ 250.00
Section 7.1(a)	Failure to report rabies	\$ 100.00
7.1(b)	Failure to confine	\$ 200.00
7.1(c)	Failure to confine	\$ 200.00
7.2	Failure to report on demand	\$ 100.00
Section 8.1(a)	Unlicensed animal	\$ 250.00
8.1(g)	Giving false information	\$ 500.00
8.1(i)	Not wearing current license	\$ 25.00
Section 9.1(a)	Dog outside vehicle cab	\$ 50.00
Section 11.1	Horses in prohibited areas without proper permits.	\$ 100.00
Section 13.1	Obstruction	\$ 500.00
Section 14.1	Interference	\$ 500.00

EFFECTIVE DATE

The effective date of the Companion Animal Control Bylaw is the date on which the bylaw was adopted by Town Council.

FIRST READING

This Bylaw was read a first time by a majority of Councillors present at the Council meeting held on the 14th day of June, 2004.

This Bylaw was approved by a majority of the Councillors present at the Council meeting held on the 14th day of June, 2004.

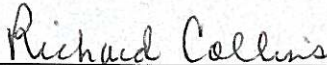
SECOND READING

This Bylaw was read a second time by a majority of Councillors present at the Council meeting held on the 12th day of July, 2004.


This Bylaw was approved by a majority of the Councillors present at the Council meeting held on the 12th day of July, 2004.

ADOPTION AND APPROVAL

This Bylaw was adopted and approved by a majority of the Councillors present at the Council meeting held on the 12th day of July, 2004.



Richard Collins, Mayor



Robin Campbell, CAO

