



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 026-2015

**A BY-LAW TO ESTABLISH AND REGULATE THE USE OF OFF-LEASH DOG PARKS IN THE TOWN OF COBOURG**

**WHEREAS** pursuant to section 5 of the *Municipal Act 2001*, S.O. 2001, c.25 requires that a municipal power is exercised through by-law;

**AND WHEREAS** pursuant to section 10 (2) of the *Municipal Act, 2001*, S.O. 2001, C.25 provides that a municipality may pass by-laws respecting the social well-being of the municipality, animals and protection of persons and property;

**AND WHEREAS** the Town of Cobourg Municipal Council considers it desirable for the public to enact a by-law providing for Off-Leash Dog Parks in the Town;

**AND WHEREAS** pursuant to section 11 of the *Dog Owners' Liability Act*, R.S.O. 1990, c.16 provides that if there is a conflict between a provision of that Act or of a regulation under that Act and a municipal by-law relating to pit bulls the provision that is most restrictive in relation to controls or bans on pit bulls prevails.

**AND WHEREAS** pursuant to section 1 of the *Trespass to Property Act, 1990* defines "occupier" as "a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises";

**AND WHEREAS** pursuant to section 1 of the *Trespass to Property Act, 1990* defines "premises" as "lands and structures, or either of them, and includes, water, ships and vessels, trailers and portable structures designed or used for residence, business or shelter, trains, railway cars, vehicles and aircraft, except while in operation";

**AND WHEREAS** pursuant to section 2(1) of the *Trespass to Property Act, 1990* states that "Every person who, without the express permission of the occupier, the proof of which rests on the defendant, enters on premises when entry is prohibited under this Act, or engages in an activity on premises when the activity is prohibited under this Act, or does not leave the premises immediately after he or she is directed to do so by the occupier of the premises or a person authorized by the occupier, is guilty of an offence";

**AND WHEREAS** at the Committee of the Whole meeting of March 30, 2015 Council authorized preparation of a by-law to establish and regulate the use of off-leash dog parks in the Town of Cobourg

**NOW THEREFORE** the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

## 1. DEFINITIONS

**“Aggressive Dog”** shall mean in the absence of a ‘mitigating factor’ any threatening or harmful behavior from a dog that is directed toward an individual and/or another dog. Aggression can include threatening displays such as; lunging, growling, snarling, snapping, and biting.

**“Animal”** shall mean any mammal, bird or reptile, but does not include a dog;

**“Animal Control By-law”** shall mean being a By-law for the licensing and registration of dogs and for the regulation of dogs and prohibiting the running at large of animals within the Town of Cobourg;

**“Authorized Hours of Use”** shall mean the hours of use for an Off-Leash Dog Park, and the times during which persons, other than Town employees or agents, may enter a Dog Park, as determined by the Town;

**“Authorized Sign”** shall mean a sign authorized by the Town of Cobourg in accordance with the Sign By-law;

**“Colour of Right”** shall mean an honest belief in a set of facts that, if they existed, would provide a legal justification or excuse for the act committed;

**“Dog”** shall mean a male or female of a domesticated canine species;

**“Dog Park”** shall mean the lands enclosed by fence in a Designated Dog Park Area attached as Schedule “B” to this By-law;

**“Dog Tag”** shall mean a numbered tag issued by the Municipality when the owner of a dog licenses such dog with the Municipality, or Animal Control Officer or Shelter of Hope;

**“Leash Free”** shall mean without human control by a device, such as a leash, lead, chain, harness, line or rope or devices of a similar nature;

**“Mitigating Factor”** shall mean a circumstance that may excuse aggressive behaviour of a dog and, without limiting the generality of the foregoing, may include circumstances where:

- I. the dog was, at the time of the aggressive behaviour, acting in defence of an attack by a person or aggressive animal;
- II. the dog was, at the time of the aggressive behaviour, acting in defence of its young or reacting to a person or domestic animal trespassing without permission or colour of right on the property of its owner; or
- III. the dog was, at the time of the aggressive behaviour, being teased, provoked or tormented;

**“Minor”** shall mean a person who has not reached the age of 18 years;

**“Municipal By-law Enforcement Officer”** shall mean any person appointed by the municipality to enforce by-laws, or any delegate or agent thereof.

**“Owner”** shall mean and include any person who possess a dog as defined herein, and where the owner is a minor, the person responsible for the custody of the minor shall be deemed to be the owner.

“**Restricted Dog**” shall mean a restricted dog under the *Dog Owners’ Liability Act*, R.S.O. 1990, C. D.16 or a Dog deemed vicious under the Animal Control By-law.

## **2. ESTABLISHMENT OF DOG PARK, RULES AND CODE OF CONDUCT**

- 2.1 The use of a Dog Park in the Town of Cobourg is a privilege and not a right.
- 2.2 Dog Parks are established in the fenced areas on the lands, attached as Schedule “B” of this By-law as Designated Dog Park Areas.
- 2.3 In addition to the provisions in this by-law, rules for the use of a Dog Park and acceptable behaviors of persons and Dogs in a Dog Park, attached as Schedule “C” to this By-law.

## **3. OFF-LEASH PERMITTED**

- 3.1 Despite Section 7 of the Animal Control By-law a person may permit or cause a Dog wearing a Dog Tag issued for the current year to be Leash Free in a Dog Park.
- 3.2 Despite section 3.1, a person may not permit or cause more than three (3) Dogs to be Leash Free in a Dog Park at one time.
- 3.3 All Owners shall at all times supervise their dog(s) when using the Off-leash Dog Park. The Owner must always be in view of their Dog(s) in order to preempt any prohibited behavior in the Dog Park.

## **4. RESTRICTED DOGS PROHIBITED**

- 4.1 Despite section 3, no person shall permit or cause a Restricted Dog to enter or be in a Dog Park.

## **5. POSSESSION OF A LEASH AT ALL TIMES**

- 5.1 A person that has permitted or caused a Dog to be leash free in a Dog Park shall possess a leash for each Dog that he or she has permitted or caused to be leash free.
- 5.2 No person shall leave a Dog that he or she has permitted or caused to be leash free in a Dog Park unattended.

## **6. DOG PARK PROHIBITIONS**

- 6.1 No person shall convey to or on, or enter or be in any area in a Dog Park while in the possession of any bottles, containers or any other articles, equipment, or utensils, made of glass, china, ceramic or any other breakable substance.
- 6.2 No person shall permit or cause any animal other than a Dog to be in a Dog Park.
- 6.3 No person shall Smoke or use any tobacco product within the Dog Park in accordance with Smoking and Tobacco Use By-law for the Town of Cobourg.

## 7. PARK CLOSURES

7.1 No person shall be in the Dog Park when the Dog Park is closed in accordance with the attached Schedule "C" of this By-law.

## 8. ENFORCEMENT

8.1 An appointed Municipal By-law Enforcement Officer may:

- a) Enforce the provisions of this By-law; and
- b) where the Municipal By-law Enforcement Officer has reason to believe that a By-law has been contravened, ask a person in a Designated Dog Park Area to leave a Dog Park or the Designated Dog Park Area.

8.2 Any person who contravenes any provision of this By-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*, and is subject to a Set Fine attached in Schedule "A" to this by-law.

## 9. NOTICE TO CEASE, LEAVE PARK

9.1 Where a person contravenes a provision of this By-law, the permission of such person to remain in a Dog Park is revoked.

9.2 A Municipal By-law Enforcement Officer or Animal Control Officer may issue a verbal warning or written notice to a person believed to be in contravention of this By-law to cease that activity that is in contravention of the By-law.

9.3 A Municipal By-law Enforcement Officer or Animal Control Officer may make a written order to a person believed to be in contravention of this By-law to:

- a) cease an activity that is in contravention of the By-law; or
- b) leave the Dog Park or Designated Dog Park Area.

9.4 Where a person is believed to have contravened any provisions of this By-law, such person is subject to the provisions of the *Trespass to Property Act*, R.S.O. 1990, c. T. 21.

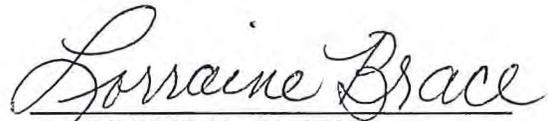
9.5 If any section, clause or provision of this By-law is for any reason declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council that the remaining sections, clauses or provisions of the by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions of this by-law shall have been declared to be invalid.

**10. GENERAL**

- 10.1 This by-law shall come into force and take effect on the date that it is approved by the Council of the Corporation of the Town of Cobourg, and, subject to the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule "A" for the offences listed under this by-law, and in accordance with the *Provincial Offences Act*, R.S.O 1990 CHAPTER P.33.

READ a first, second and third time and finally passed in Open Council this day 7<sup>th</sup> of April, 2015.

  
MAYOR

  
MUNICIPAL CLERK

**SCHEDULE "A"**  
**The Corporation of the Town of Cobourg**  
**By-Law No. 026-2015: A By-law to establish and regulate**  
**the use of Off-Leash Dog Park in the Town of Cobourg**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provisions creating or defining offence</b>	<b>COLUMN 3 Set Fine</b>
1.	Failure to comply with set number of Dogs in Dog Park.	Section 3.2	\$130.00
2.	Permit restricted dog(s) to be in the Dog Park.	Section 4.1	\$130.00
3.	Leave a Dog(s) Unattended in the Dog Park.	Section 5.2	\$130.00
4.	Bring prohibited items into the Dog Park.	Section 6.1	\$75.00
5.	Permit any other animal other than a Dog to be in the Dog Park.	Section 6.2	\$75.00
6.	Remain in Dog Park after posted hours	Section 7.1	\$75.00

**NOTE:** The general penalty provision for the offences listed above is Section 8.2 of By-law #026-2015, a certified copy of which has been filed.

SCHEDULE "B"



Designated Dog Park Area



## SCHEDULE "C"



### COBOURG OFF-LEASH DOG PARK RULES

#### USE AT YOUR OWN RISK

1. All dog owners are responsible for their dog's actions & for any injuries arising from their dog's behavior as per Ontario's Dog Owner Liability Act (DOLA).
2. Park is open sunrise to sunset.
3. Dogs must be leashed in all unfenced areas, wear a soft collar at all times and owners must carry a leash within the park.
4. No pronged or choke collars within the off-leash area.
5. No Dogs in heat, sick or aggressive dogs are permitted in the park.
6. Dogs must be vaccinated.
7. Dogs must be licensed and under the control of a competent person at all times.
8. No food, glass containers, bicycles, skateboards, rollerblades or children's toys are permitted.
9. No puppies under four months old in the main play area.
10. Three dogs per person maximum.
11. Children under 12 must be accompanied by an adult.
12. Owners must clean up after their dog(s).
13. No animals other than dogs are permitted in the park.