

Dog Laws

When "Best Friend"
becomes "Worst Enemy"

In Canada, dogs are generally treated as family members. They tend to be child-like, loveable and reliable, and give their owners unconditional love and affection. They are also known to be protective and deeply defensive of their owners and territories. Dogs are our best friends, except when they bite, attack, maim and kill. Then, "best friend" becomes "worst nightmare".

Severe consequences can flow from a dog attack, including criminal and civil liability for the owner and death for the dog. Authorities have attempted to curb dog attacks by passing tough municipal by-laws and enacting provincial legislation.

Many small, developing communities do not provide by-laws on dogs at large, leashes, muzzles, and other restrictive measures. This tends to be a trend in mid-size and larger municipalities and in those areas where the tragedy of a dog attack has struck and caused public outcry. Furthermore, almost all provinces have enacted legislation that, of course, all residents and visitors of the province must follow.

This article provides a snapshot at how some areas of the country have dealt with the issue of dogs that bite, attack and injure others in unprovoked incidents.

British Columbia

In British Columbia, the trend has been to create by-laws that target "vicious dogs" generally and, in some municipalities, certain breeds (e.g., pit bulls) believed to be vicious in nature are the source of restriction. By way of example, the *Surrey Dog Responsibility By-law* provides the following definition:

"Dangerous Dog" means a dog which meets any one or more of the following conditions:

- (i) a dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- (ii) a dog that, while running at large, has attacked, bitten, killed or caused injury to a domestic animal;
- (iii) a dog that, while running at large, has aggressively pursued or harassed a person;
- (iv) a dog that, while running at large, has aggressively pursued or harassed a domestic animal;
- (v) a dog with a known propensity to attack or injure a person without provocation;
- (vi) a potentially dangerous dog;
- (vii) that has been impounded 3 times within the previous 24 months;
- (viii) for which the owner has received a municipal ticket for running at large 3 times within the previous 24 months; or
- (ix) for which the total number of impounds and tickets totals 3 within the previous 24 months.

Surrey's by-law mandates higher licensing fees for dogs deemed to be "potentially dangerous" or just "dangerous". The owner of a "dangerous dog" must also provide proof of liability insurance in order to obtain a licence for that dog.

Alberta

In Alberta, the trend is similar. Edmonton residents have similar obligations to those in Surrey, B.C. Edmonton's *Animal Licensing and Control Bylaw* refers to the term "restricted dog" and specifically provides for situations where a dog would fit within that classification:

"Restricted Dog" means any dog:

- (i) certified by a veterinarian licensed to practice veterinary medicine in Alberta to be primarily of the breed Staffordshire Bull Terrier as that breed is defined by the Canadian Kennel Club;

- (ii) certified by a veterinarian licensed to practice veterinary medicine in Alberta to be primarily of the breed American Staffordshire Terrier as that breed is defined by the Canadian Kennel Club;
 - (iii) that has chased, attacked or bitten any person or animal causing physical injury and resulting in a conviction under this bylaw;
 - (iv) that has chased, attacked or bitten any person or animal on more than one occasion, with or without causing physical injury, and resulting in separate convictions under this bylaw;
 - (v) that has been made the subject of an order under the *Dangerous Dogs Act*; or
 - (vi) that has been classified as a Vicious Dog under the provisions of Bylaw 10558, The Registration And Keeping Of Dogs Bylaw;
- but does not include a dog:
- (vii) registered, or eligible for registration, with the Canadian Kennel Club as a purebred Staffordshire Bull Terrier or American Staffordshire Terrier.

Owners of restricted dogs must purchase \$1 million of liability insurance, ensure that their dogs are leashed, muzzled and otherwise controlled when off the owner's property, and they must pay higher licensing fees. It would appear that non-restricted dogs do not have to be muzzled. An unprovoked chase, biting or attack causing injury would result in a \$2,500 fine.

Many Canadian municipalities now require that dogs be muzzled, micro-chipped and kept on a leash. Only some municipalities have targeted specific breeds.

In other Alberta municipalities, the trend seems to be to declare a dog “dangerous” if that dog has previously attacked without provocation. The province has attempted to deal with dog attacks by enacting the *Dangerous Dogs Act*, which provides that a dog owner can be forced to take certain control over the dangerous dog, failing which, it would be destroyed. However, “dangerous” is not defined in that *Act*, so that job has been left to the courts. Fines are \$5 for each day that the owner fails to comply with an order made pursuant to that *Act*.

Saskatchewan

The Saskatchewan legislature has enacted legislation to deal with the punishment of owners of dogs that have attacked, bitten, injured or killed without provocation. Dog owners also face stiff fines for owning a dog that the *Act* defines a “dangerous dog” and for owning a dog for the purpose of fighting. The *Act* takes it one step further than most by also providing for fines for owners encouraging dogs to make “unprovoked attacks”. Fines could be as high as \$10,000.

Manitoba

In Winnipeg and MacDonald, Manitoba, pit bulls are banned outright. In other municipalities, dangerous dog by-laws of a more general nature have been passed.

Quebec

In Sherbrooke, Quebec, pit bulls have been banned entirely, while there are restrictions on Rottweilers and Mastiffs. A number of other municipalities have banned pit bulls.

Nova Scotia

Our Eastern coast is far less abundant respecting by-laws. Nova Scotia houses a number of fierce and dangerous dog by-laws. However, PEI, Newfoundland, and New Brunswick have answered public concerns with broader provincial legislation.

Prince Edward Island (P.E.I.)

P.E.I.’s *Dog Act* even allows for unlicensed dogs to be destroyed, regardless of whether they are dangerous or not. However, the *Act* also provides the most comprehensive legislation respecting dogs. First, it provides for options for dealing with dogs that have bitten or attacked a person or domestic animal by allowing an order for the destruction of the dog, the neutering or spaying of the dog, or other measures to be taken for more effective control of the dog. For example, the owner may be ordered to confine the dog to its property, use a leash, muzzle the dog, or post warning signs. In cases resulting in serious injury or death, the attacking dog may be euthanized.

The *Act* outlines factors the court will consider in making a decision:

- the dog’s past and present temperament and behaviour;
- the seriousness of the injuries caused by the biting or attack;
- unusual contributing circumstances tending to justify the dog’s action;
- the improbability that a similar attack will be repeated;
- the dog’s physical potential for inflicting harm;
- precautions taken by the owner to preclude similar attacks in the future;
- any other circumstances that the court considers to be relevant.

P.E.I.’s *Dog Act* attempts to provide considerable guidance to the courts, as well as considerable latitude for the orders that it can make. In short, it does not take a blanket approach to treat all situations the same, but acknowledges that every situation is different. In some cases, the destruction of the dog may appear to be the only option, whereas in others, remedial measures such as training and restrictive measures such as leashes, muzzles and fencing may provide a solution that protects people and domestic animals but allows the subject dog to live in spite of having bitten or attacked.

Northwest Territories

In Yellowknife, Northwest Territories, the municipal government has taken a less forgiving approach, mandating the destruction of a dog that has

attacked, even if it has merely damaged someone’s clothing or property and not caused personal injury.

Nunavut

Nunavut has legislation called the *Dog Act* that makes reference to protection from dogs. Section 9 of that *Act* reads as follows:

9. A person may kill a dog that is running at large and in the act of pursuing, attacking, injuring, damaging, killing or destroying
 - (a) a person;
 - (b) another dog that is tethered;
 - (c) a food cache, harness or other equipment;
 - (d) cattle, horses, sheep, pigs, poultry or animals on a fur farm

It appears that a person may kill a dog without a court order as long as one of those conditions is met. The *Act* provides that a dog is deemed to be at large if it is off its owner’s premises and is not muzzled or in the physical control of a person.

Ontario

Ontario has seen the largest number of dog-related by-laws. Some by-laws ban certain breeds, such as pit bulls. Others restrict dogs from being at large, sometimes requiring leashes or muzzles, or both. Additionally, the Ontario legislature has passed legislation called *Dog Owners’ Liability Act and Public Safety Related to Dogs Statute Law Amendment Act, 2005*. The latter has been the source of much media attention and controversy because of its breed-specific approach. No longer is an Ontario resident allowed to purchase a pit bull, although one can keep an existing pit bull as long as it has been neutered or spayed and kept leashed and muzzled while off the owner’s property. There are different restrictions for pit bulls not owned by Ontario residents. Penalties for breaching these laws can be high fines or even a jail term.

Conclusion

It is not possible to introduce every bylaw and statute in existence across Canada into one article, nor to analyze any bylaw or legislation in depth. One can see, though, from the above discussion that there are considerable differences in the law across the country (other than federal legislation such as the *Criminal Code*, which applies across Canada). In addition, laws rely on definitions and interpretations of fact and law, which is often left to the courts. It would be wise for every dog owner to review the legislation and by-laws for the province and municipality in which they reside, plan to reside or plan to visit. Usually, if the provincial legislation conflicts with a local by-law, generally the one that is more restrictive applies. However, some laws (e.g. Nunavut's *Dog Act*) actually set out instances when the provincial law applies.

Various laws may entail licensing and insurance costs that you need to factor into your budget. In addition,

you may be required to but a certain type of leash or muzzle or may be restricted in the kinds of activities in which you and your dog engage. If you are planning to acquire a dog, consider factoring professional dog training into your budget and involving all of the members of your family in the training sessions.

When things don't work out, a dog owner, or person in care and control of dog, may be prosecuted under the authority of the municipal bylaws, provincial legislation, or even under the *Criminal Code*, depending upon the circumstances. Defences may also be available under the *Canadian Charter of Rights and Freedoms* ("*Charter*"). [For insight into *Charter* rights, see our article, *What Every Driver Should Know about Speeding Offences*.] Penalties range from fines to imprisonment for the dog owner and impoundment to euthanasia for the dog, so the best defence may be to retain a lawyer.

Remember, the two maxims, "an ounce of prevention is worth a pound of cure" and "ignorance of the law is

no excuse". Whether you are a resident of a particular municipality in Canada or are planning to visit that location with your dog, being informed about your rights and obligations means that you and your dog are less likely to be penalized and that your best friend will not become your worst nightmare.

Note: Articles in Law for Everyone are for information purposes only. They are not a substitute for legal advice, which can only be provided by a duly retained lawyer in your province or territory. Laws change from time to time, so be sure to make your own inquiries as to which laws apply to you.

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