

# **SUBMISSION IN RESPECT OF PROPOSED REVISION OF THE 'BY-LAW TO LICENSE AND REGULATE THE KEEPING OF DOGS' OF THE CORPORATION OF THE TOWN OF ERIN**

**OCTOBER 25, 2007**

## **Preamble**

The purpose of this written submission is to provide both the Town's elected officials as well as the appropriate staff with an expert opinion respecting both the proposed legislation as a whole as well as select sections contained in the pre-circulated draft. Having received a copy directly from the Town offices, it is both my personal and professional obligation to render these opinions for the sole purpose of better assisting the Town Council in making informed decisions as well as revising certain sections in the draft that are both 'lacking' as well as unenforceable. I make this submission without prejudice and fully cognizant that my expert opinion may not be shared by Council members. At the end of the day, my sole objective is to achieve a legislative revision that is fair, transparent, sensible and, above all enforceable in its entirety and selectively.

## **General Comment on Current Legislation**

The current By-law (#05-33) regulates the licensing of dogs, kennels as well as the control of dogs within the Town of Erin. Having reviewed the existing by-law, it has become apparent to me that our township suffers from the lack of both an infrastructure necessary to properly enforce the existing by-law as well as the resources (human and financial) to properly apply the by-law. Without having *specific* knowledge of the success rate (indeed compliance) of the local populace in purchasing licensing tags for dogs but, rather, from a casual inquiry of local residents, it has become abundantly clear to me that the Town has very low compliance (success rate) in the dispensation of dog-tags with the subsequent loss of significant revenues that could be used in a manner positive and beneficial to assisting both dogs in need as well as funding related activities.

It also seems very obvious to me that, introducing by-laws that on the surface are stricter than those currently 'in the books' without any effort in the improvement of enforcement will make Council's actions appear out of touch with reality and, indeed, redundant. The revised by-law, if passed would have the same fate of the existing by-law and be judged as 'unenforceable', 'unrealistic' and indeed, 'useless'.

Instead of introducing poor legislation to replace un-enforced existing legislation, Town Council would be better served to start an open and frank dialogue with local residents who have both the expertise as well as the desire to help improve the current untenable situation.

At first, the questions that come to mind are:

- What is the purpose – indeed the driving force behind the current draft? In other words, what are the issues/problems that the revision is seeking to address? A recent review of the October 12, 2007 Erin Advocate article on the previous debate of Town Council members provides no insight in this regard other than weak arguments that

certain provisions are 'a good idea'. Hopefully there is more impetus to these proposed changes than this type of argument!

- Why were experts in the community not consulted with regards to alternatives that may help Council address their concerns without bringing in proposed draft legislation? This type of action flies in the face of both transparency as well as creating a community-friendly consultative process. To the best of my knowledge, there is very little canine experience (indeed, expertise) at the elected **and** Town staff level. Why not involve individuals that have this expertise (veterinarians, K9 trainers, breeders, handlers of 'working' dogs etc) as well as experience to help improve current enforcement without adding more legislative 'clutter'?
- Why is the current legislation not strengthened by increasing enforcement, compliance and indeed assistance with animals (and dogs, in particular) that are off leash, run loose, could be displaying menacing behaviour etc before resorting to yet more unenforceable legislation? The current by-law has many provisions that could make our Town the envy of other jurisdictions – why not improve enforcement? Attempts to get assistance from either the local Humane Society OR the appropriate Town staff with respect to stray animals in danger of being killed, or even worse, hurt by traffic and other prey animals, is invariably reduced to a bureaucratic nightmare of referrals upon referrals – with no one taking responsibility for the collection and rescuing of the animals. It goes without saying that after hours (or on holiday/weekends) help is non-existent and is reduced to an exercise in futility and endless patience with absolutely no success. New by-laws will not make our Town better for our animals – better enforcement will! Compliance in purchasing tags and other revenue streams will help provide the human resources to achieve better enforcement.
- Where is the appropriate infrastructure that both the current by-laws (as well as the revised more draconian by-law) would require in order to be successfully enforced? The current situation at the UCHS is untenable with overflows housed at local veterinary offices. There are no public education campaigns in terms of sterilizing the dog/feline population at large or making our residents aware of the dire situation. The ones that suffer from our unenlightened approach to rescuing and re-homing these animals are the animals themselves – convicted to long-term sentences in cages – a situation that I can tell you as an expert only fuels their aggression and sense of despair.

Many of these arguments should be obvious to the residents in our community, yet I see no discussion, no debate and certainly no attempts to resolve the problems in a balanced, informed, thoughtful and, above all, transparent manner. Instead, as an outsider to Town Council debates, I see an attempt to bring a new by-law in that will do absolutely nothing to help alleviate the existing untenable situation.

An analogous argument would be to strengthen human criminal laws, add funds to better and stricter enforcement of laws, yet have no room or place to incarcerate those found guilty of transgressions. This type of situation undermines law enforcement and is at the centre of the debate with respect to criminal laws and legislation.

There must be a better way to make the existing situation better but, naturally, this cannot be achieved without an open and frank discussion and debate. Which is why Council needs to explain what the driving force is behind the proposed revisions and allow the experts to have their say – the fundamental basis of any meaningful democratic system.

### **Specific Comments on Proposed Draft Legislation**

There are several Sections in the proposed by-law revision that are unenforceable and indeed unrealistic. The concerns I have as a resident of this Township, is that this by-law revision will lead to *selective enforcement* of specific provisions while others will sit on the books without any hope of being enforced. It will come to no surprise that the provisions being selectively enforced will be those that apply to what I will call ‘stationary targets’ – in other words, residents that have the misfortune of being targeted in neighbourly disputes where neighbours repeatedly complain to the Town offices or by-law officer in charge. Given the scarcity of both human and financial resources to apply the proposed bylaw in a fair manner – these stationary targets will be the first to suffer.

**Section #6 (‘Number of Dogs’)** and, specifically, Section 6.1 is not only unacceptable and unenforceable, but also defies logic. It creates a hostile environment for those of us that rescue dogs and happen to go over the limit. Any ‘waiver’ or ‘exemption’ process set up by Town Council will not only be laughable due to the lack of expertise regarding dogs in our town but also be an unnecessary bureaucratic hoop that will deter from a) compliance and b) continuing to rescue dogs in need. It goes without saying that it will also add another cost to those residents that generally purchase tags for their dogs and believe in respecting the laws of our jurisdiction.

Town Council needs come forward with more defensible arguments than the existence of limits in dog ownership in surrounding jurisdictions as those limits don’t work there either and only lead to selective enforcement. I counter the impression I received from the Advocate article that this would be a ‘good idea’ with my professional belief that this is both a ‘bad idea’ and a ‘stupid one’ at the same time. There are so many ways to circumvent this provision, that introducing it gives the impression that Council members are both uninformed and anti-dog ownership in this jurisdiction, neither impression serving them well.

If there are reasons unbeknownst to us that have led to introducing this limit, then a dialogue must start with the experts in our Township (and I volunteer my time to help with the discussions) to find better ways to address concerns than a blunt legislative tool that is both unenforceable as well as easily bypassed. **THIS PARAGRAPH MUST BE OMITTED FROM THE REVISED DRAFT** regardless of Council’s intention to grandfather current ‘owners’ with more than four dogs!

To add insult to injury, Section 6.2. creates an exception to the limit that includes ‘pet stores’! This is unacceptable as I am certain that, given proper information, no resident would want to have a pet store in town limits that sells puppies! Pet stores that sell puppies are one of the main financial supporters and outlets of ‘puppy mills’ and have no place in our Township. I am certain that Council members do not wish to be confronted

with a new pet store that supports such distasteful activities. Creating such an exception further underscores my point that this legislation was drafted by uninformed individuals – who may have borrowed pieces of legislation in other jurisdictions equally ‘uninformed’. Thinking out of the proverbial box requires both vision and expertise and, at least in the latter, there are many individuals in this Township that can help fill in the gaps.

**Section #7 (‘Running at Large’)** is, once again, one of those ‘moving target’ provisions. Re-writing Section 8.1. to require **all** residents to have their dogs on a leash when on public property in the Township, would make this provision redundant. It goes without saying that the valid sections 7.2 and 7.3 could easily be absorbed into Section #8.

**Section 8 (‘Leashing’)** is an example of a ‘moving target’ which will rarely be enforced nor does it have any chance of being enforced.

I come across at least half a dozen dogs a day that are walking off leash on the roads of the Township, without an adult in sight – let alone being leashed. Moreover, the Section is clearly written by an individual who has no clue about dog behaviour and/or training. Dogs that are not on leash are rarely ‘under control’ of the handler. Even the most trained dogs imaginable, with certificates in Obedience or working sports *can and will* be out of control given a large enough distraction. Instead, this provision should more appropriately read – ‘Every owner of a dog shall keep the dog leashed **AND** under the control of a person when the dog is on land in the Town, other than the owner’s property.....’

There is absolutely no reason for an exception for Guide dogs as these are also dogs that need to be under the control of their handlers at all times. This is especially the case in instances where handlers does not have the use of their vision and/or are physically handicapped and cannot chase after a dog that may be ‘out of control’ due to an unforeseen distraction or stimulus.

This provision will **NEVER** be enforced unless a dog handler with a dog off leash (which, by definition, means the dog is *not* under control) happens to have the misfortune of running into a by-law enforcement officer who has the inclination and desire to enforce the by-law at the time the offence has occurred.

**Section 9 (Keeping of Dogs & noise)** will fall squarely within this type of enforcement. I am less concerned with the operators of ‘kennels’ as the requirements are such that it is highly unlikely their dogs will create sufficient noise that will ‘disturb the peace, quiet, comfort or repose of any inhabitant of the Town at any time’. I am, however, extremely concerned about extending this provision to any and all dogs in the Township at all times – as per provision 9.2.

For those who happen to know something about dogs, they bark when they alert, bark when they are stressed and bark when they communicate in response to other dogs or wild animals. Dogs rarely bark with no reason whatsoever. The very nature of dogs’ behaviour creates a danger for every single resident of the Town (including members of

Town Council who may have dogs) that they will be selectively targeted by neighbours having unrealistic expectations of what and when their 'repose' is being disturbed. Furthermore, rescuing dogs involves an inherent amount of barking due to the initial stress dogs face when being crated (for their own protection as well as the safety of others). Council members need only take a walk through the UCHS holding area to get a clear idea of what I am alluding to. All of us that are involved in such noble rescue activities – indeed the average Town resident that does a good deed and offers a stray dog a safe and loving home, should the dog bark at times that may disturb neighbours. These times are not limited to after hours but can occur at any time – including a time that a shift working neighbour or a Sunday football-watching individual may consider is disturbing their 'repose'.

It is interesting to note that, there is no corresponding prohibition against a neighbour that might practice a musical instrument, engage in noisy re-construction/remodelling activities, play loud music or have a wailing baby disrupt the 'repose' of the populace at say, 12 noon, but if a dog happens to be barking at that very same time – the dog 'owner' can be held responsible. *I ask Council members where the equity is in the preceding vignette?*

**Section 10 ('Owners to Take Precautions')** is one that is far too vague and far too permissive. What constitutes a 'reasonable' precaution? Who determines what a reasonable precaution is? In light of the way paragraph 8.1. currently reads where a dog can either be on leash or under the control of a person, what happens if a bite occurs? Can the person claim that the dog was 'under their control' if not on leash? Was there any 'reasonable precaution' exercised in this case to prevent the bite? Reasonable precaution is exercised when a dog is safely on a leash AND under control. If the dog has the tendency to be out of control (lunging, growling, pulling and snarling while trying to get another human or animal) even when on leash then, reasonable pre-caution can only be exercised if the dog is muzzled. If Town Council wants to protect the public then it should be more specific or eliminate this lukewarm and subject-to-interpretation section if it is to remain the way it reads.

### **Concluding Remarks**

For the sake of brevity, I have limited my comments to only a few sections and paragraphs. I am willing and prepared to offer additional input if Town Council is interested as well as answer any questions pertaining to the above. As a sidebar, I note with great interest that the by-law calls for an Appeal Committee that would review submitted appeals. This Committee would be 'composed of members of Council for the purpose of conducting hearings under this By-Law'. I question this notion insofar as Council members lack the relevant expertise to review such appeals and, in fact, maybe conflicted. It is sort of like putting *the fox in charge of the henhouse* to use an animal analogy. It would be more appropriate to set up a Committee of volunteer individuals with experience in matters of canine behaviour and bites/aggression etc perhaps assisted by Town staff.

I hope that the content of this submission will provide Town Council members with valuable insight into how a community member views the proposed re-draft of the existing bylaw. I am also hopeful that there will be no rash and hasty decisions made to rush this by-law through without offering a proper, meaningful and transparent dialogue process with learned members of our community on issues of canine behaviour. I have purposely abstained from rendering an opinion on breeding and kennel licensing as I have almost no experience in such matters and wish to lead Council members by example.

Thank you for the opportunity and privilege to offer my opinion and thoughts on these matters. I will be present and available for input at the November 1, 2007 Town Council meeting.

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