

**Chebucto Community Council**  
**June 13, 2011**

**TO:** Chair and Members of Chebucto Community Council

*Frank Beazley*

**SUBMITTED BY:** \_\_\_\_\_  
Frank Beazley, Chief of Police, Halifax Regional Police

**DATE:** May 6, 2011

**SUBJECT:** By-Law A-300 Respecting Animals – re: Barking Section 12(2)

**INFORMATION REPORT**

**ORIGIN**

At the November 1, 2010 meeting of Chebucto Community Council, a motion was put and passed that Chebucto Community Council request a report regarding the potential of amending By-Law A-300 to allow By-Law Officers more discretion with regards to continuous dog barking. By-Law A-300 currently states that twenty minutes of continuous dog barking must occur in order for animal control to intervene.

**BACKGROUND**

On April 1, 2008, the current legislation regarding barking came into effect. Section 12 of By-Law A-300, Respecting Animals and Responsible Pet Ownership states:

*s.12(1) No owner of an animal shall knowingly or unknowingly allow any animal to make noise excessively.*

*s.12(2) For the purposes of this section, a dog shall be deemed to be making noise excessively if it barks or howls repeatedly for a period of twenty (20) minutes.*

Noise is defined in Section 2 of By-Law A-300 as follows:

*s.2(1)(s) "noise" means an unwanted sound or activity that unreasonably disturbs the quiet, peace, rest, enjoyment, comfort of convenience of a neighbourhood of the Municipality or a part thereof;*

## **DISCUSSION**

Barking violations are, by nature, difficult to enforce. Enforcement agencies in other municipalities are in agreement. The difficulty in enforcement is compounded by the restricted wording of the relevant legislation.

The current wording of By-Law A-300 is problematic in what can constitute a violation:

- A single instance of barking can be interpreted as a violation if it lasts for twenty-one minutes, even if that is the only time the dog has barked.

The current wording of By-Law A-300 is even more problematic in what does *not* constitute a violation. As examples, no violations occur if dogs bark for:

- eighteen consecutive minutes, even if it's repeated 20 times a day.
- five minutes, even if it does so every single morning at 5am, waking the entire neighbourhood on a daily basis.
- two or three minutes at a time, even if it does so off and on for hours on end, and even if it continues well past midnight.

The aforementioned examples illustrate how situations that a reasonable person would expect to be a violation cannot be addressed through By-Law A-300, given its current wording.

## **RESEARCH**

Staff has conducted research into the bylaws of other municipalities within Canada. Applicable sections of these bylaws can be found in Appendix A.

The findings are summarized as follows:

- Only one municipality's (Moncton's) relevant bylaw was found to specify a time period (5 minutes) after which barking is considered a violation, with an additional stipulation that the barking occurs between 11:00pm and 7:00am.
- The majority of the by-laws examined refer to "persistent" barking, howling, or noise-making.
- The remainder refer only to "disturbing" or "creating a disturbance."

The terminology of "persistent barking" or "persistently barking" acknowledges that dogs by nature do bark, some level of barking is to be expected in a community that allows dogs and that such barking is to be accepted as long as it is occasional and brief.

The aforementioned wording would be consistent with the view of the courts, which have held that one incident of barking (i.e. a single date and time as entered on a Summary Offence Ticket) is not sufficient for a conviction under By-Law A-300, and the barking must be recurrent, and/or *persistent*.

**BUDGET IMPLICATIONS**

There are no budget implications at this time.

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

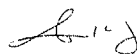
**ATTACHMENTS**

Appendix A: Bylaw sections referenced from other municipalities

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Report Approved by Supt. Colleen Kelly, Halifax Regional Police, 490-4817



Report Approved by Deputy Chief Tony Burbridge, Halifax Regional Police, 490-7138

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Appendix A

Relevant Sections From Other Municipalities

<b>Municipality</b>	<b>Bylaw</b>	<b>Section</b>
Annapolis, Municipality of the County of	A1 Dogs Bylaw	2. The owner of any dog which: (c) persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise is guilty of an offence against this Bylaw
Cape Breton Regional Municipality	D-400 Dog Bylaw	5 Offences (a)(3) The dog persistently disturbs the quiet of a neighbourhood or any resident thereof by howling, barking, or in any other manner
Colchester, Municipality of the County of	Dog By-Law – Chapter 35	16. Every owner of a dog (d) whose dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise; is guilty of an offence.
Cumberland County Municipality	Chapter 03-03 Dog By-Law	8. Every owner of a dog (2) whose dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise; Is in contravention of this By-Law
Digby, Municipality of the District of	Dog Bylaw 2006-02	15. The owner of a dog: 5) persistently disturbs the quiet of any neighborhood between the hours of 9:00pm and 9:00 am by barking, howling or in any other manner; is guilty of an offence against this bylaw.
East Hants, Municipality of	By-Law 111 Dog Bylaw	6.1 Every owner of a dog: d) whose dog persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise is guilty of an offence under this By-Law
Edmonton	Bylaw 13145 Animal Licensing and Control Bylaw	10 (1) The Owner or any other person having care or control of a Dog, or Restricted Dog, shall ensure it does not bark in a manner that is reasonably likely to annoy or disturb the peace of others. (2) In determining whether barking is reasonably likely to annoy or disturb the peace of others consideration may be given, but is not limited, to the: (a) proximity of the property where the Dog or Restricted Dog resides; (b) duration of the barking; (c) time of day and day of the week; (d) nature and use of the surrounding area; and (e) any effect of the barking.

Fredericton	By-Law S-11 Respecting Animal Control	3.15 No owner of a dog shall suffer or permit the dog to: (1) cause a public nuisance or disturb inhabitants by barking, howling or otherwise making noise;
Guysborough, Municipality of the District of	Dog By-Law	13. The owner of a dog: e) which is permitted to disturb the peace and quiet of a neighbourhood or other persons by barking, or by making other loud or unusual noises; is guilty of an offence against this By-Law
Kingston	Bylaw 2004-144 Bylaw to Regulate Animals	4.24 No owner shall cause or permit his or her dog to become a public nuisance by: (1) persistently barking or howling;
Mississauga*	By-Law 360-79 Noise Control	4. No person shall emit or cause or permit the emission of sound resulting from... 12. Persistent barking, calling or whining or other persistent noise making by any domestic pet. At Any Time
Moncton	By-Law #H-202 Animal Control	6 (1) The owner of a dog shall not permit his dog to create a disturbance by barking or howling; (4) The Owner of a dog shall not permit his/her dog to bark or howl excessively between the hours of 11:00 p.m. and 7:00 a.m. For purposes of subsection (4) a dog is considered to be barking or howling excessively if it barks or howls continuously for a period of five (5) minutes or more.
Toronto*	Municipal Code Chapter 591 Noise	591-4. Prohibitions by time and place. A. No person shall emit or cause or permit the emission of sound resulting from any act listed in the table below if clearly audible at a point of reception located in a prescribed area of the municipality within a prohibited time shown for such an area. 11. Persistent barking, calling or whining or other similar persistent noise-making by any animal kept or used for any purpose. At All Times
West Hants, Municipality of the District of	Dog By-Law	11. (1) The owner of a dog: (e) which disturbs the quiet of any neighbourhood by barking, howling or in any manner; is guilty of an offence against this By-law
Winnipeg	Pound By-Law 2443/79	20. No owner shall: (1) (b) permit his dog to bark or howl or in any other way unduly disturb the quiet of any person or persons anywhere;

\*Barking is addressed in noise by-law only, not mentioned in animal by-law