

RURAL MUNICIPALITY OF CORNWALLIS

PROVINCE OF MANITOBA

Being a By-Law to provide for the regulation and control of dogs and cats within the limits of the Municipality of Cornwallis and to repeal By-law No. 1616/10/2009.

PART I: AUTHORITY

WHEREAS subsection 232(1) of The Municipal Act, S.M. 1996, c. 58 (the "Act") provides, in relevant part, as follows:

Spheres of jurisdiction

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people and the safety and protection of property;
- ...
- (k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;
- ...
- (o) the enforcement of by-laws.

AND WHEREAS subsection 232(2) of the Act provides, in relevant part, as follows:

Exercising By-Law-making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
- ...
- (f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters.

AND WHEREAS, subsection 236(1) of the Act provides, in relevant part, as follows:

Content of by-laws under clause 232 (1)(o)

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- (b) remedying contravention of by-laws, including
 - (i) creating offenses,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offense that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with

the conduct that gives rise to the offense, or related to enforcing the by-law,

- (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
- (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
- (v) charging and collecting costs incurred in respect of acting under subclause (iv),
- (vi) imposing a sentence of imprisonment for not more than six months for the commission of offenses or nonpayment of fines.

AND WHEREAS subsections 5(1), (2) and (3) of *The Animal Liability Act*, S.M. 1998 c. 8 provide, in relevant part, as follows:

Animals not to run at large

5(1) Except when permitted by a municipal by-law passed in accordance with *The Municipal Act* or a by-law of a local government district passed in accordance with *The Local Government Districts Act*, no owner or person in charge of an animal shall allow it to run at large.

By-Law does not limit owner's liability

5(2) An owner's liability under section 2 is not limited or otherwise affected by a by-law referred to in subsection (1).

Municipality or LGD not liable by reason only of making By-Law

5(3) A municipality or local government district that makes a by-law referred to in subsection (1) is not liable, by reason only of having made the by-law, for damages for any harm that an animal causes to a person or property while running at large in the manner permitted under the by-law.

PART II: DEFINITIONS AND INTERPRETATION

By-Law Name

1(1) This By-Law may be referred to as the "Dog and Cat Control By-Law".

Definitions

1(2) In this By-Law, unless the context otherwise requires,

"animal control officer" means the person appointed by Council to enforce the provisions of this By-Law, and includes any person acting as an assistant to, or under the direction of, the animal control officer authorized by the Council.

"cat" means any member of the genus *Felis domesticus* (domestic cat).

"Council" means the council of the Rural Municipality of Cornwallis.

"current rabies vaccination" means that the dog or cat has been vaccinated for rabies in accordance with international veterinary protocol which calls for a primary vaccination, which is then followed with a booster vaccination not sooner than 60 days and not greater than one year after the primary vaccination, and is then subsequently vaccinated at regular intervals not exceeding three years.

"**dangerous dog**" means any dog that has on at least one occasion, worried, attacked, injured or killed a person, livestock or any other animal, or that is for any other reason determined to be a risk to any person, livestock or any other animal, and that has been declared a dangerous animal under section 12 of this By-Law.

"**dog**" means any member of the genus *Canis familiaris* (domestic dog).

"**livestock**" means as defined within *The Animal Liability Act*:

"**Municipality**" means the Rural Municipality of Cornwallis.

"**owner**" means in respect to a dog or cat, a person who has actual or constructive possession or control for the time being of a dog or cat.

"**owner**" means in respect to real property, a registered owner or a lawful occupier.

"**pound**" means any enclosure, premises or place, whether within or outside the Municipality, designated by Council for the impoundment and care of any dog or cat for the purposes of enforcing any provision of this By-Law.

"**poundkeeper**" means the person appointed by Council, whether on a temporary or permanent basis, to operate and maintain a pound, and to carry out the duties of a poundkeeper as set out in section 4 of this By-Law.

"**rural settlement zone**" means Chater, Cottonwoods and Campbell's Mobile Home Park and more particularly being those areas that are classified as either "GD" General Development, "RG" Residential General or "RMP" Residential Mobile Home Park within the Municipality's Zoning By-law as may be in effect from time to time.

"**running at large**" or "**run at large**" means, in relation to a dog or cat, that the dog or cat is not:

- (a) under the direct, continuous and effective control of a person competent to control it; or
- (b) securely confined within an enclosure or securely fastened so that it is unable to roam at will.

Interpretation

1(3) In all parts of this By-Law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

PART III: ESTABLISHMENT OF POUND AND APPOINTMENT OF ANIMAL CONTROL OFFICER AND POUNDKEEPER

Appointment of animal control officer

2(1) The Municipality may appoint one or more persons as animal control officer(s) to carry out the enforcement of this By-Law.

Appointment of poundkeeper

2(2) The Municipality may appoint one or more persons as poundkeeper(s) to carry out the duties of the poundkeeper(s) set out in this By-Law.

Common animal control officer and poundkeeper

2(3) At the discretion of Council, the animal control officer may also serve as poundkeeper, and vice versa.

Duties of the animal control officer

3. It shall be the duties of the animal control officer:

- (a) to apprehend and confine at the pound, any dog or cat running at large within the Municipality contrary to the provisions of this By-Law, or which is kept or harboured by, or in the possession or control of, any person that

is in breach of this By-Law or of any other laws or regulations pertaining to dogs or cats.

- (b) to make reasonable attempt to notify the owner of every dog or cat impounded if the identify of the owner is known, by direct contact with the owner or by leaving a notice at the last known address of the owner, which notice shall be in the form set out in Schedule B hereto attached and shall state the place and time that the dog or cat was apprehended, the place and time when the dog or cat can be redeemed from the pound, the impoundment fee, any daily pound fees, license fees and other costs to be charged to the owner, the method of payment required, and the date after which the dog or cat will be sold, destroyed or otherwise disposed of if not redeemed. Where the identity of the owner of the dog or cat is not known, the animal control officer shall post in the general office of the Municipality, a notice describing the dog or cat, the date of apprehension and the date after which the dog or cat will be sold, destroyed or otherwise disposed of.
- (c) The animal control officer or poundkeeper may use a tranquilizer gun for the purpose of capturing any dog or cat found to be running at large within the Municipality, provided however that if the animal control officer or the poundkeeper, as applicable, is not a licensed veterinarian, no such tranquilizer gun shall be used without the authority of a licensed veterinarian present at the time of use.
- (d) to enforce the provisions of this By-Law.

Duties of poundkeeper

4. It shall be the duties of the poundkeeper:

- (a) To establish and maintain the pound in a manner in keeping with *The Animal Care Act*.
- (b) To keep a record of every dog or cat impounded, which record shall include the following minimum information:
 - (i) a description in reasonable detail of the dog or cat (including, the approximate weight, height and color of the dog or cat, as well as the order and breed of the dog or cat);
 - (ii) the day and hour of its impoundment;
 - (iii) the day and hour of its redemption, sale, disposition or destruction, together with the details of redemption, sale, disposition or destruction;
 - (iv) the name and address of the owner (being the person to whom the dog or cat was sold or released), and the license number on the dog or cat's tag (if applicable);
 - (v) the amount and particulars of all fees, fines and other charges invoiced to, and received from or on behalf of, the owner and the name and address of the payor (if different from the owner); and
 - (vi) such other particulars as the Chief Administrative Officer of the Municipality shall direct from time to time.
- (c) To collect all fees charged by the pound, and to remit all monies received by the pound to the Chief Administrative Officer of the Municipality, together with such reports and statements as the said Chief Administrative Officer may prescribe from time to time, except where the Municipality has entered into a contract with a private party for the operation of the pound, in which case the poundkeeper shall observe all terms and conditions of the contract with the Municipality for the operation of the pound, including, without limitation, the provisions concerning the charging and collection of fees, the remittance of amounts due to the Municipality, and the submission of all reports and statements required to be submitted to the Municipality under the said contract.

- (d) To keep any impounded dog or cat for a minimum period of:
 - (i) three (3) days, which shall include the day of impoundment but shall exclude Sundays and any statutory holidays during which the pound is closed to the public, or
 - (ii) where the Municipality has entered into a contract with a private party for the operation of the pound, the minimum hold period established under the poundkeeper's contract with the Municipality.

- (e) If, after expiration of the minimum period of impoundment set out in paragraph (d), a dog or cat has not been redeemed, it will be the duty of the poundkeeper to do one of the following with the impounded dog or cat:
 - (i) sell or otherwise dispose of the impounded dog or cat to any person for an amount not less than the applicable pound and license fees accrued in respect of the impounded dog or cat as set forth in this By-Law, unless such fees are otherwise waived by the Municipality or by the poundkeeper on the express authority of the Municipality; or
 - (ii) cause the impounded dog or cat to be humanely destroyed;

unless the Municipality, or the poundkeeper on the express authority of the Municipality, agrees to or directs an extended period of impoundment, in which case the impounded dog or cat will be held until the earlier of the date that it is sold or otherwise disposed of to a person in accordance with sub-paragraph (e)(i) or until expiry of the extended period of impoundment, before it is humanely destroyed.

- (f) The Municipality may vary the terms, conditions and duties of the poundkeeper by contract with a private party, provided however that the contract shall contain (and where absent in the contract, shall be deemed to incorporate) as minimum provisions, the duties of the poundkeeper set out in paragraphs (a) and (b) above, and further provided that the provisions in paragraphs (c), (d) and (e) above shall continue to apply except to the extent that they are specifically modified by the contract. Where the poundkeeper is a private party under contract with the Municipality, the poundkeeper shall observe all of the terms and conditions of the contract with the Municipality. Where it is permitted under the contract with the Municipality, the poundkeeper may, at its sole cost and expense, keep an impounded dog or cat for longer than the minimum hold period, and may sell or otherwise dispose of the impounded dog or cat for an amount less than the applicable pound and license fees, provided however that the poundkeeper shall remain responsible to the Municipality for all amounts due to the Municipality under its contract with the poundkeeper.

PART IV: LICENCING, REGULATIONS AND RESTRICTIONS

Licensing of dogs

- 5(1) The owner of every dog over the age of four months shall obtain and renew annually, a license to keep the dog, which license shall require the payment of the annual fee as set out in Schedule A hereto attached. The owner shall ensure that the license tag issued for the dog is securely fastened to a collar worn around the neck of the dog in respect of which the tag was issued.

- 5(2) The required dog license may be sold by the poundkeeper, the Chief Administrative Officer of the Municipality or by any person or agency designated by the Council as a vendor of such licenses.
- 5(3) No person shall remove the collar or license tag from any dog without a lawful excuse.
- 5(4) The license fee hereby imposed shall be due and payable on the 1st day of January in each year and shall expire on the 31st day of December in the year in which the license fee was levied and paid.
- 5(5) Where the license tag is lost or damaged, the owner shall forthwith apply for a replacement license tag, the cost of which is set out in Schedule A hereto attached.
- 5(6) Where a change in ownership of a dog licensed hereunder occurs during the license year, the new owner shall have the current license transferred to his or her name upon payment of the transfer fee prescribed in Schedule A hereto attached.
- 5(7) Subsections 5(1), (2), (3), (4), (5) and (6) shall not apply to non-residents of the Municipality who bring a dog on a temporary visit into the Municipality, provided however, that nothing in this subsection 5(7) shall authorize any person to bring a dog into the Municipality that is a dangerous or vicious, in heat, rabid or otherwise a risk to the public or to other animals within the Municipality, nor does it authorize any person to allow the dog to run at large or otherwise create a nuisance within the Municipality.
- 5(8) Subject to subsection 5(9) hereof, every dog owner must produce, before a license is issued or renewed for the dog, evidence of a current rabies vaccination for that dog from a licensed veterinarian.
- 5(9) A dog owner does not have to produce evidence of a current rabies vaccination in order to obtain or renew a license in respect of his dog if he can produce a statement in writing signed by a licensed veterinarian certifying that the dog cannot be vaccinated for rabies for medical reasons.

Rabies Vaccination

- 5(10) Except where subsection 5(9) applies, the animal control officer may at any time request that an owner provide proof that the owner's dog or cat has a current rabies vaccination.

Responsibility of Owners Regarding Dogs

- 6(1) No owner shall:
 - (a) suffer or permit his dog to run at large. When a dog is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection.
 - (b) suffer or permit his dog to bark or howl or in any other way unduly disturb the quiet of any person or persons anywhere in the Municipality.
 - (c) suffer or permit his dog to defecate on any public or private property other than the property of its owner. Where a dog defecates on property other than the property of its owner, the owner shall cause such excrement to be removed forthwith.
 - (d) suffer or permit his dog to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours.
 - (e) suffer or permit his dog to damage public property or private property other than that of the owner. Where public or private property has been damaged by a dog, its owner shall be deemed to have failed or refused to comply with this subsection.
 - (f) own, keep, harbour or have possession or control of any dog (other than a dog that is under the age of four months or that is a guide dog) for which a valid license has not been issued.
 - (g) own, keep, harbour or have possession or control of any dog determined to be a dangerous animal, unless such dog is kept at all times in accordance with the provisions of Part V.

- (h) suffer or permit his dog to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner.
 - (i) suffer or permit his dog on any school ground or playground.
 - (j) suffer or permit his dog on public property (including parkland area) unless the dog is on a leash (which leash shall be no longer than six (6) feet in length, fully extended) and the dog is in the actual custody and effective control of the owner or a person competent to control it, unless the said public property has been specifically designated by Council as land upon which dogs are not required to be on a leash.
 - (k) suffer or permit his dog to upset waste receptacles or otherwise litter.
- 6(2) An owner of a guide dog shall not be subject to the restrictions imposed under subsections 6(1)(c) , (f), (i) and (j).

Redemption

7. Unless in the case of an impounded dog determined to be a dangerous dog, the owner of any dog or cat impounded by the animal control officer may redeem his impounded dog or cat within three (3) days of the apprehension and impoundment by applying to the poundkeeper for redemption and paying:
- (a) the impoundment fee as set out in Schedule A;
 - (b) the pound fee calculated in accordance with Schedule A;
 - (c) in the event that the impounded animal is a dog that is unlicensed at the time of apprehension, the relevant license fee; and
 - (d) all outstanding fines, damages or costs relating to the impounded dog or cat.

Restrictions on Dogs

- 8(1) Subject to subsection 8(2) and the provisions of section 6, the owner of a dog shall not permit the dog to be outside of the owner's premises unless:
- (a) the dog has a collar which has securely fastened to it a proper license tag that identifies a valid license in respect of that dog;
 - (b) the dog is on a leash that is less than six (6) feet in length fully extended; and
 - (c) the dog is under the immediate charge and effective control of a person competent to control it.
- 8(2) A female dog in heat shall be confined to the premises of the owner or a person having control of the dog, or shall be housed in a licensed kennel, for the period of time that the dog is in heat. The said dog's confinement shall be in such a manner as to prevent any contact between the dog in heat and any other dog except other dogs owned by the same owner or by another owner who voluntarily permits such contact.

Responsibility of Owners within rural settlement zone regarding Cats

- 9(1) No owner residing within a rural settlement zone shall:
- (a) Subject to subsection 9(2), permit the cat to be outside of the owner's premises unless the said cat is under the immediate charge and effective control of a person competent to control it. When a cat is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection.
 - (b) suffer or permit his cat to disturb the quiet of any person or persons anywhere in the Municipality.
 - (c) suffer or permit his cat to defecate on any public or private property other than the property of its owner. Where a cat defecates on property other than the property of its owner, the owner shall cause such excrement to be removed forthwith.
 - (d) suffer or permit his cat to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours.
 - (e) suffer or permit his cat to damage public property or private property other than that of the owner. Where public or private property has been

damaged by a cat, its owner shall be deemed to have failed or refused to comply with this subsection.

- (f) suffer or permit his cat to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner.
- (g) suffer or permit his cat to upset waste receptacles or otherwise litter.

9(2) A female cat in heat shall be confined to the premises of the owner or a person having control of the cat, or shall be housed in a licensed kennel, for the period of time that the cat is in heat. The said cat's confinement shall be in such a manner as to prevent any contact between the cat in heat and any other cat except other cats owned by the same owner.

Cat Trap

9(3) Any person who wishes to obtain a trap to apprehend a cat running at large from the poundkeeper or the animal control officer, shall:

- (a) provide to the poundkeeper or animal control officer, as applicable, his or her name, address and telephone number;
- (b) agree to comply with the terms and conditions for the use of the trap, including any terms and conditions governing the treatment and disposition of any trapped cat, as may be imposed by the poundkeeper or animal control officer, as applicable; and
- (c) pay any deposit and/or fee as may be authorized by Council from time to time for use of the trap, as set out in Schedule A hereto attached.

9(4) Any person who fails to comply with the terms and conditions set out in this section 9 shall be guilty of an offense under this By-Law.

Maximum Number of Dogs or Cats

10(1) (a) No person shall own, harbour, keep or have in his possession or control or on his premises, more than three (3) dogs over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, unless such person has authorization in accordance with applicable provisions of the Municipality's Zoning By-law as may be in effect from time to time.

- (b) No person shall own, harbour, keep or have in his possession or control or on his premises, more than five (5) cats over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, unless such person has authorization in accordance with applicable provisions of the Municipality's Zoning By-law as may be in effect from time to time.

10(2) Subsection 10(1)(b) hereof shall not apply to premises which are zoned agricultural.

PART V: BITING INCIDENTS AND DANGEROUS DOGS

Dog or Cat Bites

11(1) The animal control officer:

- (a) shall apprehend, impound and place in quarantine any dog that he has reason to believe has bitten a person or any animal; and
- (b) may apprehend a cat that he has reason to believe has bitten a person if, in his discretion, such action in respect of the cat is necessary for the protection of the public;

whether on private premises or elsewhere, and whether or not the skin was directly punctured or lacerated by the bite, except that this provision shall not apply to a police service dog owned by a public law enforcement agency while on duty and under the control of a qualified dog handler.

- 11(2) If the dog or cat is not voluntarily surrendered to the animal control officer by the owner, the animal control officer shall be empowered to apprehend and impound the dog or cat and, if necessary, to apply to a provincial court judge, magistrate or justice of the peace, as required, in order to obtain an order to enter the personal residence of the owner for the purpose of apprehending and impounding the dog or cat.
- 11(3) Any dog or cat so apprehended and impounded at the pound shall, subject to subsection 11(9) herein, be quarantined for a minimum of ten (10) days at the owner's expense, commencing from the date of impoundment (the "quarantine period").
- 11(4) The animal control officer may, in his discretion, authorize the owner of the dog or cat to quarantine the dog or cat in a place other than the pound, provided that such place is under the direct supervision of a licensed veterinarian and that the dog or cat must remain at such place at the owner's expense for the quarantine period.
- 11(5) Subject to a determination by the animal control officer pursuant to subsection 11(8) hereof that the dog or cat is not dangerous, the dog or cat may be released to the owner after expiry of the prescribed quarantine period upon payment by the owner to the poundkeeper of a pound fee calculated at the daily rate set out in Schedule A hereto attached together with any costs assessed against the owner hereunder. In the event that the owner fails to redeem the dog or cat from the pound within three (3) days after expiry of the quarantine period, the dog or cat shall be sold, or otherwise disposed of, or destroyed at the discretion of the poundkeeper.
- 11(6) The animal control officer shall keep a record of all bite incidents, identifying the dog or cat and the details of the incident, and such record may be used in any hearing or appeal with respect to the dangerous animal provisions contained herein.
- 11(7) The head of any dog or cat quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to subsection 11(8) hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 11(8) Every dog or cat shall be examined by a licensed veterinarian approved by the animal control officer prior to release from quarantine. The determination as to whether or not the dog or cat can be released from quarantine or must be destroyed or otherwise disposed of, shall be at the discretion of the animal control officer based upon the following factors:
- (a) the medical report of the licensed veterinarian who has examined the dog or cat;
 - (b) whether or not the public health authorities are prepared to consent to the release of the dog or cat;
 - (c) the severity of the bite incident, the circumstances surrounding the incident and the consequences of the incident;
 - (d) whether or not the dog or cat is, in the opinion of the animal control officer, a dangerous dog or cat and, if so, whether or not the provisions of section 13 hereof have been complied with;
 - (e) proof that the dog or cat does not have rabies, and that the dog or cat has a current rabies vaccination at the date of the bite incident.
- 11(9) Notwithstanding the provisions of subsection 11(3) herein, it shall be within the discretion of the animal control officer to release a dog or cat prior to the expiry of the quarantine period and to impose conditions upon the release of a dog or cat from quarantine, which conditions may include, without limiting the generality of the foregoing:
- (a) the owner shall take the necessary measures to ensure that the dog or cat is confined to the owner's premises in such a manner as to prevent escapes, and to ensure that all direct contact with other animals and persons other than the owner is avoided;
 - (b) in the case of a dog, the owner shall post in a conspicuous location at the entrance of the premises where the dog is confined, a sign which reads "*Beware of Dangerous Dog*";

- (c) the owner shall submit the dog or cat for veterinary examination from time to time as may be prescribed by the animal control officer, and shall report the results of any such veterinary examination to the animal control officer;
- (d) in the case of a dog, the owner shall take out and pay for such liability insurance on the dog as may be prescribed by the animal control officer;
- (e) such other conditions as the animal control officer may deem necessary or advisable in the interests of public safety.

Determination that a dog is a dangerous dog

- 12(1) The animal control officer where he has reason to believe that a dog, including but not limited to a dog that has been the subject of action taken under section 11, is a dangerous dog, shall arrange a hearing before Council at a regularly scheduled meeting of Council to determine whether or not the said dog should be declared a dangerous dog. In the event that an owner voluntarily accepts the dangerous dog declaration and the recommended disposition of the matter made by the animal control officer, a hearing before Council may be dispensed with, and the recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.
- 12(2) Where it is deemed necessary by the animal control officer to protect the public or other animals pending the decision of Council, the animal control officer may:
- (a) require that the dog be quarantined in the pound until the earlier of the date that the animal control officer determines that it is safe to release the dog to the custody of the owner or until Council hears the matter and issues its determination; or
 - (b) impose all or any of the conditions set out in subsection 13(2) of this By-Law upon the owner's custody of the dog, which conditions shall apply until the earlier of the date that the animal control officer determines that it is safe to remove the conditions or until Council hears the matter and issues its determination.
- 12(3) Council shall provide written notice of the hearing to the owner of the dog at least ten (10) days in advance of the hearing by serving notice upon the owner or by mailing the notice by registered mail to the last known address of the owner. The notice shall include the following minimum information:
- (a) the time, place and purpose of the hearing;
 - (b) a summary of the reasons in support of the allegation that the dog is dangerous;
 - (c) a copy of this section 12 of the By-Law; and
 - (d) a statement that if the owner does not attend the hearing, the matter will be dealt with in his absence and that he will not be entitled to any further notice or appeal in regard to the proceedings concerning the dog.
- 12(4) (a) The owner has the right to appear at the hearing, with or without counsel, and to make submissions to Council and call evidence (whether viva voce or documentary) on his behalf. The owner also has the right to hear all of the evidence and submissions presented at the hearing by or on behalf of the animal control officer and to inspect any documents filed by or on behalf of the animal control officer, and to respond to same.
- (b) Where the owner does not attend at the hearing, having been given notice as provided in accordance with this section 12, Council shall be entitled to deal with the matter in his absence, and the owner shall not be entitled to any further notice or appeal in regard to the proceedings concerning the dog. The owner shall be notified of the decision of Council by notice in writing delivered by personal service or registered mail in the manner set out in subsection 12(3) hereof.
- 12(5) Within five (5) working days of the hearing of Council, Council shall issue a written decision in accordance with the following provisions:

- (a) The Council shall make an order declaring the dog to be a dangerous dog if in their opinion:
 - (i) the dog has caused injury to or killed a person, whether on public or private property; or
 - (ii) the dog has seriously injured or killed any other pet animal or any livestock without provocation; or

- (b) The Council may make an order declaring the dog to be a dangerous dog if, in their opinion, there is a material risk that the dog may cause damage or injury to person or property or any other animal, taking the following non-exhaustive factors into account:
 - (i) whether the dog has worried, bitten, wounded or injured any person or animal;
 - (ii) the circumstances surrounding any previous worrying, biting or wounding incidents; and
 - (iii) whether the dog, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, any person or any other animal upon any public or private property.

12(6) The Council shall deliver a copy of their decision to the owner in the manner provided in subsection 12(3). There shall be no obligation upon Council to issue written reasons for their decision.

12(7) The decision of Council shall be final. There shall be no appeal from the decision of Council.

12(8) In the event that a dog is declared by Council to be a dangerous dog, any license previously issued in relation to that dog shall be deemed to have been cancelled effective as of the date of Council's decision to declare the dog to be a dangerous animal.

12(9) Where a license is deemed to have been cancelled pursuant to subsection 12(8) hereof, the owner shall be entitled to a credit or refund on any paid-up license fee, calculated on a quarterly pro rata basis. The Municipality may set-off against any such refund, any fines, fees or costs owing by the owner under this By-Law.

12(10) Every owner who has received notification from Council pursuant to subsection 12(3) that a determination hearing will be held with respect to his dog, shall ensure that the dog remains confined upon the premises of the owner pending the final outcome of the hearing.

12(11) Subsection 12(10) shall not apply if the dog is impounded or the animal control officer receives written confirmation from a licensed veterinarian that the dog has been placed in quarantine pending outcome of the hearing.

Consequences of dangerous animal declaration

13(1) Council shall determine whether the dangerous dog should be destroyed or released to the owner subject to the conditions set out in subsection 13(2). The decision of Council shall be final and not subject to appeal.

13(2) Every owner of a dog that has been declared to be dangerous and in respect of which Council has decided to release the dangerous dog to its owner, shall:

- (a) obtain a dangerous dog license for the dangerous dog and pay the required fee as set out in Schedule A hereto attached.
- (b) cause the dangerous dog to be tattooed upon the ear with clearly identifiable information as set out by the Council and provide a copy of such information to the poundkeeper.

- (c) ensure that the dangerous dog, while on private property, is kept either securely confined indoors or in a securely enclosed and locked pen, structure or compound which:
 - (i) is capable of preventing the entry of young children and the escape of the dangerous dog;
 - (ii) has minimum dimensions suitable for the size of the dangerous dog, as prescribed by the animal control officer;
 - (iii) has secure sides; and
 - (iv) provides protection from the elements for the dangerous dog.
- (d) permit the dog upon public property only if:
 - (i) it is muzzled;
 - (ii) it is restrained by a chain or leash not exceeding six (6) feet in length, fully extended; and
 - (iii) the dog is at all times under the effective control of a person competent to control it.
- (e) display in a conspicuous location at each entrance to the premises upon which the dangerous dog is kept, a sign stating: **WARNING: BEWARE OF DANGEROUS DOG** The sign shall be posted in such a manner that it cannot be removed easily by a passersby and will be visible and capable of being read from outside of the premises.
- (f) within three (3) working days of selling, giving away or otherwise disposing of the dangerous dog, provide the animal control officer with the name, address and telephone number of the new owner.
- (g) advise the animal control officer within three (3) working days of the death of the dangerous dog.
- (h) advise the animal control officer forthwith if the dangerous dog has gone missing or is running at large or has bitten, worried or attacked any person or animal.
- (i) such other conditions as may be prescribed by order of the Council, including, without limitation, any of the conditions set out in subsection 11(9) hereof.

13(3) No person shall deface or remove a sign posted pursuant to subsection 13(2)(e) or subsection 11(9)(b) hereof without having first obtained the permission of the animal control officer.

Destruction of dangerous dog

14(1) Where it appears on reasonable grounds that an owner has breached a condition of this By-Law in respect of a dog that has been declared dangerous or if a dog has caused injury or damage to any person, property or any other animal or if the animal control officer otherwise has reasonable grounds to believe that a dog presents a risk to any person, property or any other animal and such dog has been declared a dangerous dog by Council, the animal control officer may apprehend and impound the dog for the purpose of destroying it. In the event that a dog is causing an immediate risk to any person, property or any other animal, the animal control officer is authorized to apprehend and impound the said dog notwithstanding that it has not been declared to be a dangerous animal by Council at the time of its apprehension and impoundment.

14(2) When the animal control officer impounds an animal under this section 14 for the purpose of destruction of the animal, he shall give the owner written notice, delivered to the last known address of the owner, that the animal will be destroyed after the expiry of ten (10) days from the date of the notice. The owner may, during that time period, appeal the decision of the animal control officer to Council by providing notice in writing to the Chief Administrative Officer of the Municipality, in which case Council shall hold a hearing at a regularly scheduled meeting of Council as to whether or not the animal should be destroyed, which hearing shall be carried out in accordance with the provisions of section 12 hereof. The animal shall remain quarantined in the pound pending the outcome of the hearing.

PART VI: GENERAL PROVISIONS

Offenses under this By-Law

- 15(1) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offenses under this By-Law:
- (a) Allowing a dog or cat to run at large or failing to prevent a dog or cat from running at large;
 - (b) Keeping or harbouring dogs or cats in excess of the maximum number permitted by this By-Law unless such number in excess of the maximum number permitted by this By-law has been approved under authority of the Municipality's Zoning By-law;
 - (c) Failing to comply with the requirements of any provision of subsections 5(1), (3), or (6).
 - (d) Failure by the owner of a dog to comply with any one or more of the provisions of section 6, subsection 8(1) or subsection 8(2) of this By-Law;
 - (e) Failing to report a bite incident or failing to voluntarily surrender the dog or cat believed to have bitten a person or any animal to the animal control officer or poundkeeper;
 - (f) Failing to voluntarily surrender a dog or cat to the animal control officer upon a request therefor;
 - (g) Failing to properly vaccinate a dog or cat against rabies;
 - (h) Failing to comply with any conditions imposed upon the use of a cat trap within the Municipality;
 - (i) Failing to comply with the requirements of any provision of subsections 9(1), (2) or (3) in relation to any cat;
 - (j) Failing to comply with section 10 of this By-Law;
 - (k) Failing to comply with any requirements of Part V of this By-Law;
 - (l) Defacing or removing a sign required to be posted under subsection 11(9)(b) or subsection 13(2)(e) of this By-Law;

Interference With Enforcement

15(2) It shall be an offense under this By-Law for a person to interfere or obstruct any attempt by the animal control officer, poundkeeper or the Council from carrying out its duties and obligations hereunder. Without limiting the generality of the foregoing, no person shall interfere or obstruct or attempt to interfere or obstruct an animal control officer, the poundkeeper, a police officer or any other person authorized to apprehend and impound a dog or cat running at large, who is attempting to apprehend or impound, or who has apprehended and impounded, any dog or cat in accordance with the provisions of this By-Law.

15(3) It shall be an offense under this By-Law:

- (a) to break into, or assist another person in any manner, directly or indirectly, to break into, any pound; and
- (b) to remove or attempt to remove any impounded dog or cat, or to otherwise cause or assist an escape of any impounded dog or cat.

Apprehension by Resident

15(4) Any resident of the Municipality may apprehend and confine a dog or cat which is running at large on his property, provided that he shall immediately thereafter inform the animal control officer, poundkeeper or the Chief Administrative Officer of the Municipality of the apprehension and confinement, and the animal control officer shall as soon as practical, attend upon the resident to take possession of and impound the dog or cat.

Right of Entry

- 16(1) The animal control officer or any other person appointed by the Municipality to enforce the provisions of this By-Law or any other law, rule or regulation pertaining to animal care or custody, may lawfully enter upon the land and buildings of a dog or cat owner or any other person, other than the personal residence of an individual, for the purposes of apprehending a dog or cat running at large, to ensure compliance with this By-Law or to otherwise enforce the provisions of this By-Law, but shall not enter the personal residence of any individual without the consent of the owner or occupant of the personal residence or a valid warrant or order from a provincial court judge, magistrate or justice of the peace, as required to permit such entry.
- 16(2) The owner of any dog or cat that has bitten any person or any other animal shall present the said dog or cat to the door of his dwelling upon the request of the animal control officer, to assist the animal control officer to apprehend and impound the said dog or cat.

Complainant Identification

- 17(1) Any person who makes a complaint alleging an offense under this By-Law against another person shall provide to the animal control officer his name, address and telephone number. It shall be at the discretion of the animal control officer whether or not to proceed based on an anonymous complaint or information.

Liability

- 18(1) No liability shall attach to the animal control officer, the poundkeeper, the Council and/or the Municipality and its officers and employees in carrying out their respective duties under this By-Law. Without limiting the generality of the foregoing, no liability shall attach to the animal control officer, the poundkeeper, the Council and/or the Municipality and its officers and employees for any dog or cat destroyed, sold or otherwise disposed of pursuant to the provisions of this By-Law or killed or injured during the course of its apprehension or impoundment.

Financial Responsibility of Owner

- 19(1) The owner of a dog or cat shall be responsible for all costs, fines and damages associated with impoundment, quarantine, signage, veterinary fees, pound fees and licence fees attributable to such dog or cat, and any liability to the victim or victims of a bite incident.

Penalties

- 20(1) Without limiting the penalties for specific offenses set out in subsections 20(2) and (3) hereof, any person who contravenes any provision of this By-Law is guilty of an offense and is liable:
- (a) to a fine of not less than \$50.00 and not more than \$500.00, plus all applicable costs and penalties for the first offense;
 - (b) to a fine of not less than \$100.00 and not more than \$1000.00, or to imprisonment for not more than thirty (30) days, or both, plus all applicable costs and penalties for the second offense and for each subsequent offense within twelve (12) months of the first offense;
- 20(2) Any dog or cat that is impounded three or more times within any 12-month period while owned by the same owner, shall be sold or disposed of to a new owner or shall be destroyed regardless of whether or not it is properly licensed under this By-Law.
- 20(3) Any person who interferes with or obstructs the duties of an animal control officer, a poundkeeper or any other person authorized to enforce any provisions of this By-Law, or who unlawfully enters any pound or unlawfully removes any dog or cat impounded, is guilty of an offense and is liable:
- (a) to a fine of not less than \$500.00 and not more than \$1000.00, or to imprisonment for a term of not more than sixty (60) days, or both, plus all applicable costs and penalties;
- 20(4) Where a corporation commits an offense under this By-Law, each director or officer of the corporation who authorized, consented to, connived at, or knowingly permitted or

acquiesced in, the doing of the act that constitutes the offense, is likewise guilty of the offense and liable for the penalties provided for herein.

20(5) Where the contravention, disobedience, refusal or neglect continues for more than one (1) day, the person is guilty of a separate offense for each day that the contravention, disobedience, refusal or neglect continues.

Repeal

21(1) By-law No. 1616/10/2009 is repealed.

DONE AND PASSED as a By-Law of the Municipality of Cornwallis by the Reeve and Council in open session duly assembled this 15th day of May, 2012.

Reeve

Chief Administrative Officer

Read a first time this 17th day of April, 2012.
Read a second time this 15th day of May, 2012.
Read a third time this 15th day of May, 2012.

SCHEDULE A**LICENSE AND IMPOUNDMENT FEES*****License Fees (Annual) – and Related Changes***

For each spayed female or neutered male dog	\$5.00
For each male dog	\$10.00
For each female dog	\$10.00
For each dog declared to be a dangerous animal	\$150.00
Replacement tag	\$2.00
Transfer of license	\$2.00

Cat Traps

For each cat trap – deposit	\$25.00
-----------------------------	---------

Impoundment Fees

For any dog, cat or any other domestic pet that was apprehended running at large or that was for any other reason, impounded by the animal control officer

➤ For first impoundment, flat fee:	\$40.00
- For each day of impoundment, add	\$30.00
➤ For second impoundment, flat fee (if it occurs within 12 months of the first impoundment)	\$80.00
- For each day of impoundment, add	\$30.00

For voluntary impoundment:

➤ For each day of impoundment:	\$30.00
--------------------------------	---------

SCHEDULE B
NOTICE OF IMPOUNDMENT
RURAL MUNICIPALITY OF CORNWALLIS

Owner: _____
(Name and Address of Owner of animal)

Description of Dog or Cat: _____

Date of Apprehension: _____

Time of Apprehension: _____

Location Apprehended: _____

Place of Impoundment: _____

Hours of Operation of Pound: _____

Phone No. of Pound: _____

Daily Pound Fee: _____

Impoundment Fee: _____

License Fee: _____

Method of Payment Required: _____

Day the dog or cat will be sold or destroyed: _____

Date: _____

Animal Control Officer: _____

Signature: _____