

# TOWNSHIP OF BATHURST BURGESS SHERBROOKE

## BY-LAW NO. 01-50

(as amended by By-law No. 02-33 April 23, 2002)

### ANIMAL CONTROL BY-LAW

WHEREAS pursuant to section 210 of the Municipal Act, Chapter M.45, R.S.O. 1990 By-Laws may be passed by the councils of local municipalities:

- (1) for regulating establishments for the breeding or boarding of animals, or any class thereof;
- (2) for prohibiting or regulating the being at large or trespassing of animals, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time or if the damages, fines and expenses are not paid according to law;
- (3) for appraising the damages to be paid by the owners of animals impounded for trespassing;
- (4) for determining the compensation to be allowed for services rendered with respect to animals impounded;
- (5) for requiring an owner of a dog to keep the dog leashed or under the control of some person when the dog is on land other than that of the owner;
- (6) for requiring the owner of a dog to remove forthwith excrement left by the dog;
- (7) for requiring the muzzling or leashing of a dog after it has bitten a person or a domestic animal.
- (8) for licensing and regulating and requiring the registration of dogs and for imposing a licence fee on the owner;

#### Section 1.

#### DEFINITIONS

1. For the purpose of this By-Law the following definitions apply:

**ANIMAL** – shall mean any non-human mammal, fish, bird, reptile or amphibian include dog, cat, domesticated animal, livestock and wild animal.

**ANIMAL CONTROL OFFICER** - shall mean that person appointed by By-Law of the Corporation to undertake the control of small domesticated animals within the Township.

**ANIMAL SHELTER** - shall mean any premises designated by the Corporation for the purpose of impounding and caring for animals taken up by the agents of the Corporation.

**AT LARGE** – an animal shall be deemed to be running at large if found in any place other than the premises of the owner and not under the control of any person.

**CAT** - shall mean a domestic feline, cat or cats, male or female and includes any cat or cats complete, spayed or neutered.

**DOG LICENCE ISSUER** - shall mean a person or persons employed by the Corporation for the purpose of implanting, registration and/or issuance of a dog licence.

**DOG TAG** - shall mean a tag bearing a serial number and the year it was issued.

**EXOTIC ANIMAL** – shall mean any animal, other than animals kept as livestock, which is not native to North America.

**GUIDE DOG** - shall mean any dog trained as a guide dog for a blind person and having the qualifications prescribed by the regulations under the Blind Person's Rights Act, and shall also include a dog professionally trained as guide dog for other physically disabled persons.

**IMPLANT** - means a coded chip that contains permanent vital information about the animal in which the device is implanted.

**KENNEL** - means any premises where more than five dogs or more than ten cats, are lodged, bred, kept or boarded. A kennel facility will be classified as one of the following:

a) **COMMERCIAL KENNEL:** means a kennel used primarily for boarding dogs or cats not owned by family members, or for the breeding raising and sale of purebred or crossbred dogs or cats whether owned by family members or not.

b) **HOBBY KENNEL:** means a kennel where dogs or cats are housed for the primary purpose of pleasure (pets) or hunting, and where there is no boarding or revenue derived from the sale of the offspring of the dogs or cats.

**LEASH** - shall mean a restraining device of sufficient strength and material for holding a dog.

**LEASHED** - shall mean a restraining device securely attached to the dog and controlled by a person or securely attached to a stationary object.

**LICENCED HUNTING DOG** - shall mean the dog, licensed by MNR, has a valid hunting licence from the previous year.

**LIVESTOCK** – shall mean animals kept or dealt in for farm use or profit.

**MUZZLED** - shall mean a humane fastening or covering device of adequate strength over the mouth to prevent a dog from biting.

**OWNER OF A DOG OR CAT** - includes any person who owns, possesses, harbours or has the care and control of a dog or cat. "Owns" and "owned" have corresponding meaning.

**RESTRAINED** - shall mean being kept inside a building or house or in an enclosed pen of sufficient dimensions and strength to be humane and to prevent a dog from coming in contact with persons other than the owner of the dog.

**SANITIZE** - means to clean for the purpose of controlling disease-producing organisms and "sanitized" has a corresponding meaning.

**TOWNSHIP** - shall mean the Corporation of the Township of Bathurst Burgess Sherbrooke.

**VICIOUS DOG** - shall mean:

a) a dog which without provocation has bitten a person, domestic animal or domestic fowl, or

b) any dog with a known propensity, tendency or disposition to attack without provocation a person, domestic animal, or domestic fowl.

**WASTE** - shall mean: waste matter sent out from the body (excrement or faeces).

**WILD** - shall mean an animal which has not been made tame, nor has been taught to live with and under the control of humans.

## **Section 2.**

### **LICENSING OF DOGS**

a) No person shall own, keep or harbour any dog within the limits of the Township, unless he/she has obtained a tag for such dog.

b) Every dog brought into the Township shall be tagged and registered by its owner with two (2) weeks of being brought into the Township.

c) Every dog born in the Township shall be tagged and registered by its owner within twelve (12) weeks after its date of birth.

d) Application for a tag for a dog shall be made on or before the first day of April to qualify for the lower fee listed in "**Schedule B**"

e) Upon payment of the tag fee in full, the Dog Licence Permit Issuer shall provide the owner with a dog tag and a record shall be kept by the Township showing the name, address and phone number of the owner and the serial number of the tag, and a complete description of the animal.

f) Each tag for a dog or kennel unless specifically expressed to be for a shorter period and unless suspended or revoked, shall remain in force until the 31<sup>st</sup> of March in the year following the year of issue.

- g) The owner shall keep the dog tag securely fastened on the dog at all times until the tag is renewed or replaced, but the tag may be removed while the dog is lawfully hunting.
- h) It is an offence to use a tag upon a dog, other than the dog for which it was issued.
- i) When the owner can show proof of an implant, the license fee will be waived.
- j) The Dog Tag Issuer shall turn over to the Treasurer all money paid to him/her under this bylaw.
- k) When a certificate is produced from the Canadian National Institute for the Blind, stating that a dog is being used as a guide dog for a blind person, no fee shall be charged for a license and tag.
- l) On application for a tag, the owner of a dog may be required to produce a certificate, signed by a practising veterinarian, that the dog has been inoculated with an anti-rabies vaccine within the period of twenty-four (24) months immediately prior to the date of application for a licence.

### **Section 3**

### **KENNELS**

- a) No person shall operate a commercial kennel in the Township unless he has obtained a licence for such kennel under the provisions of this By-Law and meets the requirements of the Zoning By-Law of the Township.
- b) No person shall establish a commercial kennel within the limits of any urban area (as set out in the Township Zoning By-Law) of the Township and in no case shall the commercial kennel be located closer than 152 metres from the nearest residence.
- c) When a commercial kennel is to be established, the owner of the kennel shall be required to enter into a Site Plan Control Agreement with the Township. This Agreement shall provide screening to the satisfaction of the Community Development Committee so as to minimize the effects of noise.
- d) Application for a licence for a commercial or hobby kennel shall be made to the Animal Control Officer on or before the 1<sup>st</sup> day of April in each year. All kennel licences are sold on an annual basis and all licences expire on March 31.
- e) The Animal Control Officer shall not issue the licence for a commercial or hobby kennel until the licence fee provided in this By-Law has been paid and he/she is satisfied that the applicant has complied with the provisions of this By-Law.
- f) Each licence for a kennel, unless specifically expressed to be for a shorter period, and unless suspended or revoked, shall remain in force until the end of March in the year following the year of issue.
- g) All fencing and runs for commercial dog kennels shall be built as follows:

1. A fence or its equivalent which is to form a kennel enclosure or part thereof shall be of:
  - i) Chain link construction, or
  - ii) Vertical board construction
2. A fence of chain link construction, six feet (6') (1.8m) high, shall:
  - i) have a mesh not greater than 2" (5.08cm) consisting of 12 ga. galvanized steel wire, or a 14 ga. steel wire covered with vinyl or other approved plastic which would yield a total thickness equivalent to 12 ga. steel wire.
  - ii) be supported by a minimum of 1/2" (1.27cm) galvanized steel posts, spaced not more than ten feet (10') (3.048m) apart. Such posts must extend at least three feet (3') (.914m) below grade or to bed rock and be encased in concrete at least two inches (2") (5.08cm) thick all around.
  - iii) have a top and bottom rails firmly fastened to the upright posts, made of a minimum of 1 1/4" (3.18cm) galvanized steel pipe. NOTE: Galvanized steel tension wire, 9 ga. may be substituted for the bottom rail.
3. A fence of wood construction six feet (6') (1.8m) high, shall:
  - i) have vertical boarding one inch (1") (2.54cm) thick minimum, attached to a top and bottom rail in such manner as to not facilitate climbing from the outside. Such vertical boards must not be less than 1" x 4" (2.54cm x 10.16cm) minimum and must be spaced not more than 4" (10.16cm) apart.
  - ii) be supported by cedar posts at least 4" x 4" (10.16cm x 10.16cm) minimum, spaced not more than eight feet (8') (2.4m) apart. Such post shall extend at least three feet (3') (.914m) into the ground or to bedrock and be securely embedded therein.
  - iii) have that portion of the post below the ground level treated with an approved wood preservative.
  - iv) have top and bottom rails at least 2" x 4" (5.8cm x 10.16cm) minimum dimensions.
4. A fence (or its equivalent) of any other construction which might yield an equivalent or greater degree of security and strength, may be approved by the Animal Control Officer upon the receipt of completed plans and specifications for said fence.
5. Gates which form a part of the kennel enclosures shall be:
  - i) of such height and of such construction as to provide a degree of safety and rigidity equivalent to or greater than that of required fence.
  - ii) supported on substantial hinges;
  - iii) self-closing, self-latching with the latching device at the top of

and on the inside of the gate.

6. Maintenance:

i) all fences, wall, gates and entrances forming part of a kennel enclosure shall be constructed or erected and shall be maintained at all times to the standards and specifications set out in this By-Law.

h) All other cat and hobby kennels operated in the Township shall maintain dogs and cats in a clean, secure and humane manner and shall comply with the following standards:

1) Dog/cat cages and/or dog/cat houses shall be constructed so as to be easily cleaned.

2) All surfaces of yards and runways shall be covered in concrete, asphalt, fine gravel or other material which can be easily cleaned or raked.

3) All doorways and windows and outside openings shall be screened and provide an effective barrier against the escape of any dog or cat.

4) All kennels must at all times be maintained in a clean, sanitary condition.

5) Excrement, dead animals and other waste resulting from the operation of a kennel shall be removed daily from the premises in an environmentally approved manner.

i) Any person when applying for a licence under the section regarding Waste shall satisfy the Animal Control Enforcement Officer that the kennel or proposed kennel complies with the provisions of this By-Law and such person shall furnish the Animal Control Officer with all information he may reasonably require and permit him to examine the premises where the kennel is located or is to be located in order to satisfy himself/herself that the kennel complies with the provisions of this By-Law.

j) If the Animal Control Office is not satisfied he/she will refer the matter to Council who, if they concur, may hire a qualified person to advise on the adequacy of the kennel in question.

k) 1) Where, in the opinion of the Animal Control Officer, any kennel does not comply with the provisions of this By-Law or creates or is likely to create a public health concern, nuisance or unsanitary condition, he/she shall require the owner of the kennel to abate the nuisance or rectify the conditions within a reasonable period of time after notice in writing to the owner.

2) If the owner fails to abate the nuisance or rectify the conditions specified by the Animal Control Officer, he/she shall be deemed to be contravening the provisions of this By-Law.

l) Any kennel licence may be suspended or revoked by Council on the recommendation of the Animal Control Officer, if in his/her opinion, the kennel does

not comply with the provisions of this By-Law.

m) Whenever in this By-Law, any duty is imposed upon the Animal Control Officer related to the suspension or revocation of kennel licences or the inspection of kennel premises, the Animal Control Officer, at his/her discretion, considers that professional advice is necessary or desirable, he/she may retain the services of a qualified veterinarian entitled to practice his profession in Ontario to advise him/her and to make a report to him/her, to Council and then the kennel owner. The By-Law Enforcement Officer shall be guided by such professional advice and report. If the required corrections are not done by the owner the work will be done by the municipality and collected as taxes on the property.

#### **Section 4. See Schedule B TAG FEES**

The tag fees listed in this section are not to be interpreted as part of a release fee. Pound Release and Maintenance Fees shall be determined by the Animal Shelter and approved by the Township from time to time.

#### **Section 5. NOISE**

Every owner of a dog, or person responsible for the care of a dog, shall take all reasonable precautions necessary to prevent the dog from excessive barking or other disruptive behaviour, as to disturb the peace and quiet of any residence or persons in the vicinity. A Fine may be imposed for repeated offences of allowing the dog in the owner's charge to be a public nuisance.

#### **Section 6. DOG BITES**

a) Every person or owner of a dog shall take all precautions necessary to prevent the dog from biting or attacking any person or fighting with, attacking, or biting any dog, domestic animal or domestic fowl, whether on private or public property.

b) When a dog has bitten or attacked a person, or fought with, bitten or attacked a dog, domestic animal or domestic fowl, the owner shall cause the dog to remain muzzled or leashed until such time as the incident has been reviewed by the Animal Control Officer. As a result of his review, if in his/her opinion, the dog has fought, bitten or attacked without provocation, the Animal Control Officer may rule that the dog is a vicious dog, and at his/her discretion, may commence proceedings under the Dog Owner's Liability Act, whereby at the discretion of the Judge, penalties ranging

from a fine to an order to destroy the dog, may be imposed.

## **Section 7.**

### **VICIOUS DOG**

- a) The owner of a vicious dog shall at all times, when it is not in the owner's dwelling but otherwise within the boundaries of the owner's lands, be secured in one of the following manners so as to prevent the dog from causing injury to any person, dog, domestic animal, or domestic fowl entering onto the owners land.
- 1) The vicious dog shall be located wholly within a fenced area and any gate in such fenced area shall be locked at all times when a vicious dog is in the fenced area.
  - 2) When the vicious dog is kept in an enclosed run or pen, such run or pen shall be built in accordance with the information in this By-Law pertaining to Commercial Kennels, except that said run shall be enclosed on all four (4) sides and its top shall be of material of the same or greater strength than that of the sides.
  - 3) The dog shall be muzzled so as to prevent it from biting a person or animal and securely leashed or chained. The leash shall not exceed 9 metres in length.
- b) It is the owner's responsibility to ensure that any person who is left with the charge of a vicious dog is fully capable of controlling the dog with strength and knowledge.
- c) The owner of a vicious dog shall at all times when the dog is outside the boundaries of its owner's land keep the dog leashed and muzzled so as to prevent it from biting.
- d) No person shall permit a dog to attack, or bite any person, or to attack, bite or fight with any dog, domestic animal or domestic fowl.
- e) Every owner of a vicious dog shall at the time the dog is licensed inform the Animal Control Officer that the dog is vicious.
- f) Immediately upon the transfer of a vicious dog from one owner to another, the owners shall notify the Animal Control Officer.
- g) Every owner of a vicious dog shall post a sign in a conspicuous place on his property stating that there is a vicious dog on the premises.
- h) If the dog owner fails to comply to any of the above, the Animal Control Officer may commence proceedings under the Dog Owners Liability Act.

## **Section 8**

### **CONFINEMENT OF DOGS IN HEAT**

Every female dog, when in heat, shall be kept confined in a building or secure

enclosure or in a veterinary hospital or boarding kennel in such a manner that such female dog cannot come in contact with another dog except for previously agreed upon breeding purposes.

## **Section 9**

## **WASTE**

- a) Every owner of a dog is responsible for removing bio-waste (excrement/faeces) left by the dog on public property owned by the Corporation, unless specific written authorization to do so has been granted by the Corporation.
- b) Any person who owns, harbours, possesses or is responsible for the care and control of a dog shall remove forthwith bio-waste (excrement/faeces) left by the dog anywhere in the municipality on public property and private property, including the dog owner's property.
- c) This section shall not apply to the owner of a guide dog while the dog is on a leash and actively in use in providing assistance to a legally defined disabled person.

## **Section 10.**

## **ANIMALS RUNNING AT LARGE**

- a) For the purpose of this section, an animal shall be deemed to be running at large when found straying from the property upon which it is normally kept and not under the control of any person.
- b) Every person or owner of an animal shall maintain sufficient control of the animal, so as to prevent the animal from running at large within the boundaries of the Township.
- c) Every person or owner of an animal who fails to maintain sufficient control of the animal while off the property of the owner, may be directed by the Corporation or agent, to leash or tether the animal.
- d) The Corporation or agent may seize any animal running at large in the Township and cause such animal to be returned to the owner or impounded.
- e) Animals running at large shall be taken up by the agents of the Corporation and impounded in an animal shelter and there confined in a humane manner for a period of not less than three days (Sundays and Statutory Holidays excluded) and may thereafter be disposed of in a humane manner if not claimed by their owner. Animals not claimed by the owner at the expiration of three days shall become the property of the Corporation and may be destroyed or placed for adoption by the Corporation or through an agency. All reasonable efforts shall be made to identify the animal and

notify the owner.

- f) Any owner of an animal that has been seized or impounded shall be required to pay all impoundment fees prior to release of the animal.
- g) Any owner of a dog that has been seized or impounded that has not obtained a dog licence for the current year shall do so before the dog is released. The shelter shall be responsible to collect the licence fee and for this service they shall be paid 50% of the fees collected.
- h) Owners of animals remain responsible for all costs. In the event than the owner doesn't claim his/her animal, costs will be invoiced to the owner by the Township.

## **Section 11 ANIMAL PROVISIONS**

### **KEEPING OF ANIMALS - GENERAL**

- 1. Every animal shall be:
  - a) treated in a humane manner, and
  - b) kept so that:
    - (i) the transfer of pathogenic agents is minimized; and
    - (ii) there are no offensive odours, or odours which may attract animals.

### **ANIMAL ENCLOSURES**

- 1. Every cage, pen or other such enclosure used for the housing of an animal when kept as a pet or for hobby purposes shall be so constructed and maintained that:
  - a) every animal in a cage or pen may comfortably:
    - (i) extend its legs to their full natural extent;
    - (ii) stand;
    - (iii) sit;
    - (iv) lie down in a fully extended position; and
    - (v) be provided with adequate space for exercise purposes. The length of chain for tethering purposes shall be a minimum of three (3) meters.

## **Section 12. PROHIBITION – EXOTIC AND WILD ANIMALS**

- 1. No person shall keep any wild or animals within the limits of the Township of Bathurst Burgess Sherbrooke, unless such animal has been domesticated and the facilities for keeping of same have been inspected for public safety by the Animal Control Officer. It shall be the responsibility of the owner of a wild or exotic animal

which has been domesticated to contact the Animal Control Officer for inspection and written approval.

### **Section 13 CONTROL AND SALE OF YOUNG OR DISEASED ANIMALS**

1. When an animal is known to have bitten a person the Medical Officer of Health may order the agent for the Corporation of the Township of Bathurst Burgess Sherbrooke to confine the animal under supervised quarantine for a period not to exceed ten (10) days in accordance with the Public Health Act.

a) Any animal suspected of being rabid, shall be placed in quarantine where possible, pending its disposition by the Food Production and Protection Branch of Agriculture Canada.

b) When an animal is seized, impounded or destroyed under the provisions of this section, no damages or compensation shall be recoverable by the owner thereof.

2. No person shall, upon the markets;

a) knowingly sell any diseased animal;

b) sell or give away any animal under the age of 6 weeks.

c) display any animal unless such animal is adequately protected from drafts, direct rays of the sun, excessive heat or cold and ample space is provided.

d) sell or give to or for any person under sixteen (16) years of age, any animal unless with the expressed consent of the child's parent(s) or legal guardian(s);  
or

e) sell or keep for sale any wild animal or bird.

### **Section 14. INTERFERENCE**

a) No person shall interfere with, hinder or molest any agent of the Corporation in the performance of any duty as such agent.

### **Section 15. DOG LICENCE ISSUER/KENNEL LICENCE ISSUER**

a) At the beginning of every year the Corporation will contract a Dog Licence Issuer and/or Kennel Licence Issuer. He/She, under the direction of the Corporation shall collect the dog licence fee and kennel licence fee in a method approved by Council.

b) Where the Dog Licence/Kennel Licence Issuer is unable to contact the dog owner at home, he/she shall leave a card advising that he/she had visited the home

and that payment of a dog licence fee is required and should be forwarded to the Township Office, within a specified time limit.

c) If payment is not received within the specified time, the Treasurer of the Corporation shall prepare and forward an invoice to the household.

**Section 16. ADMINISTRATION**

a) This By-Law shall be administered by the Municipal Animal Control Officer.

**Section 17. CATS**

The animal control officer, upon receiving a complaint regarding cats, shall have the authority to investigate the complaint and if the cat is found to be damaging private property or attacking people, domestic fowl or other domestic pets, the owner may be fined the amount listed under Fines, Section 10 (a) (b). In extreme cases, the cat may be found a public nuisance and the owner may be fined the amount listed under Fines, Section 5. The bylaw control officer shall also have the authority, if requested, to remove feral cats from any premise and impound or euthanize them if necessary. If the cat is impounded, Section 6 (h) shall also apply to cat owners.

**Section 18. VIOLATIONS AND PENALTIES**

a) Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000.00, as set out in the Provincial Offences Act, R.D.O. 1990, Chapter P.331

b) Upon registering a conviction for a contravention of any provision of this By-Law, the Ontario Court, Provincial Division, may in addition to any penalty imposed by this By-Law make an order prohibiting the continuation or repetition of the offence by the person convicted.

c) Penalties and fines for the violation of this By-Law are as set out in **Schedule "A"** attached hereto and forming part of this By-Law.

**Section 19. VALIDITY**

a) If any section, clause or provision of this By-Law, including anything contained in any Schedule attached hereto, 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 that all 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 thereof shall have to be declared invalid.

c) This By-Law shall come into force and take effect on 23<sup>rd</sup> day of October, 2001 and the fees for the remainder of 2001 only shall be as follows: **All Dog Tags: \$5.00 each. All Kennel Fees: \$25.00 each.**

**Section 20. PREVIOUS BY-LAWS**

a) By-law No. 01-16 and any other by-law inconsistent with the provisions of this by-law is hereby rescinded.

Read a first and second time this 23<sup>rd</sup> day of October, 2001  
Read a third time and passed this 23<sup>rd</sup> day of October, 2001

Originals Signed by  
Mayor M Mosher and  
Clerk Kathy Coulthart-Dewey

**Schedule "A"**

**BY-LAW NO. 01-50**

**FINES**

<b>Violation of:</b>	<b>Set Fine</b>
Section 2 (a) Being an owner of an Unlicensed dog	\$ 30.00
Section 2 (h) Owner of dog bearing a dog tag issued for a different dog.	\$ 30.00
Section 5 Being owner of a dog, allowed to be a public nuisance.	\$ 55.00
Section 10 (b) Being an owner of an animal allowed to run at large.	\$ 55.00
Section 9 (a)(b) Failure to remove bio-waste (excrement/faeces) from Public or private property.	\$ 30.00

**Schedule "B"**

**BY LAW NO. 01-50**

**TAG FEES**

a) Annual Tag Fees shall be as follows:

**DOG TAG FEE.....\$10.00 per year**  
**\$15. after April 1st.**

**REPLACEMENT DOG TAG.....\$2.00**

**GUIDE DOG TAG.....\$ N/C**

**IMPLANTED DOGS.....\$N/C**  
(proof of implant must be provided)

**COMMERCIAL OR HOBBY KENNEL LICENCE FEE**  
**.....\$50.00 per year**

Delinquent licence fees will be charged at double the above rates. The tag fees are not to be interpreted as part of a release fee. Pound release and Maintenance Fees shall be determined by the Animal Shelter and approved by the Township from time to time.

## Dog Owners' Liability Act

R.S.O. 1990, CHAPTER D.16

**Consolidation Period:** From January 1, 2007 to the e-Laws currency date.

Last amendment: 2006, c. 32, Sched. C, s. 13.

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### INTERPRETATION

#### Definitions

1. (1) In this Act,

“owner”, when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor; (“propriétaire”)

“pit bull” includes,

- (a) a pit bull terrier,
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire terrier,

(d) an American pit bull terrier,

(e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (“pit-bull”)

“pound” has the same meaning as in the *Animals for Research Act*; (“fourrière”)

“regulation” means a regulation made under this Act. (“règlement”) R.S.O. 1990, c. D.16, s. 1; 2005, c. 2, s. 1 (2).

#### **Same**

(2) In determining whether a dog is a pit bull within the meaning of this Act, a court may have regard to the breed standards established for Staffordshire Bull Terriers, American Staffordshire Terriers or American Pit Bull Terriers by the Canadian Kennel Club, the United Kennel Club, the American Kennel Club or the American Dog Breeders Association. 2005, c. 2, s. 1 (3).

### **CIVIL LIABILITY**

#### **Liability of owner**

2. (1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal. R.S.O. 1990, c. D.16, s. 2 (1).

#### **Where more than one owner**

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section. R.S.O. 1990, c. D.16, s. 2 (2).

#### **Extent of liability**

(3) The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (3).

#### **Contribution by person at fault**

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person’s fault or negligence caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (4).

#### **Application of *Occupiers’ Liability Act***

3. (1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers’ Liability Act*. R.S.O. 1990, c. D.16, s. 3 (1).

#### **Protection of persons or property**

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. R.S.O. 1990, c. D.16, s. 3 (2).

### **PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT**

#### **Proceedings against owner of dog**

4. (1) A proceeding may be commenced in the Ontario Court of Justice against an owner of a dog if it is alleged that,

- (a) the dog has bitten or attacked a person or domestic animal;
- (b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
- (c) the owner did not exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (6).

### **Same**

(1.1) A proceeding may be commenced in the Ontario Court of Justice against a person if it is alleged that the person contravened a provision of this Act or the regulations or a court order made under this Act. 2005, c. 2, s. 1 (6).

### **Nature of proceeding**

(1.2) Part IX of the *Provincial Offences Act* applies to a proceeding under this section. 2005, c. 2, s. 1 (6).

### **Standard of proof**

(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities. 2005, c. 2, s. 1 (6).

### **Interim order**

(2) When a proceeding has been commenced under subsection (1) or (1.1), the Ontario Court of Justice may, pending a determination of whether an order should be made under subsection (3) or pending an appeal of such an order, make an interim order requiring the owner to take measures specified in the interim order for the more effective control of the dog. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (7).

### **Final order**

(3) If, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in the manner specified in the order; or
- (b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (8, 9).

### **Examples, measures for more effective control**

(4) Some examples of measures that may be ordered under subsection (2) or clause (3) (b) are:

1. Confining the dog to its owner's property.
2. Restraining the dog by means of a leash.
3. Restraining the dog by means of a muzzle.
4. Posting warning signs. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (10).

### **Automatic restraint order**

(5) If a dog whose destruction has been ordered under clause (3) (a) is not taken into custody immediately, the owner shall restrain the dog by means of a leash and muzzle and such other means as the court may order until the dog is taken into custody. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (11).

### **Considerations**

(6) Except as provided by subsections (8) and (9), in exercising its powers to make an order under subsection (3), the court may take into consideration the following circumstances:

1. The dog's past and present temperament and behaviour.
2. The seriousness of the injuries caused by the biting or attack.
3. Unusual contributing circumstances tending to justify the dog's action.
4. The improbability that a similar attack will be repeated.
5. The dog's physical potential for inflicting harm.
6. Precautions taken by the owner to preclude similar attacks in the future.
7. Any other circumstances that the court considers to be relevant. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (12).

### **Sterilization requirement**

(7) The owner of a dog that is subject to an order under clause (3) (b) shall ensure that the dog is neutered or spayed, as the case may be, within 30 days of the making of the order or, if the court specifies a different time period, within the time period specified by the court. 2005, c. 2, s. 1 (13).

### **Mandatory order under cl. (3) (a)**

(8) When, in a proceeding under this section, the court finds that the dog is a pit bull and has bitten or attacked a person or domestic animal, or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the court shall make an order under clause (3) (a). 2005, c. 2, s. 1 (13).

### **Same**

(9) When, in a proceeding under this section, the court finds that the owner of a pit bull contravened a provision of this Act or the regulations relating to pit bulls or contravened a court order relating to one or more pit bulls, the court shall make an order under clause 3 (a). 2005, c. 2, s. 1 (13).

### **Onus of proof, pit bulls**

(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog. 2005, c. 2, s. 1 (13).

### **Order to prohibit dog ownership**

5. When, in a proceeding under section 4, the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, the court may make an order prohibiting the dog's owner from owning another dog during a specified period of time. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (14).

## **PRECAUTIONS BY DOG OWNERS**

### **Owner to prevent dog from attacking**

- 5.1 The owner of a dog shall exercise reasonable precautions to prevent it from,
- (a) biting or attacking a person or domestic animal; or
  - (b) behaving in a manner that poses a menace to the safety of persons or domestic animals.
- 2005, c. 2, s. 1 (15).

#### PIT BULLS — BAN AND RELATED CONTROLS

##### **Pit bull ban**

6. Except as permitted by this Act or the regulations, no person shall,
- (a) own a pit bull;
  - (b) breed a pit bull;
  - (c) transfer a pit bull, whether by sale, gift or otherwise;
  - (d) abandon a pit bull other than to a pound operated by or on behalf of a municipality, Ontario or a designated body;
  - (e) allow a pit bull in his or her possession to stray;
  - (f) import a pit bull into Ontario; or
  - (g) train a pit bull for fighting. 2005, c. 2, s. 1 (16).

##### **Ownership of restricted pit bulls**

7. (1) For the purposes of this Act, a pit bull is a restricted pit bull if,
- (a) it is owned by a resident of Ontario on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force; or
  - (b) it is born in Ontario before the end of the 90-day period beginning on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force. 2005, c. 2, s. 1 (16).

##### **Same**

- (2) Despite clause 6 (a), a person may own a pit bull if it is a restricted pit bull. 2005, c. 2, s. 1 (16).

##### **Controls on restricted pit bulls**

- (3) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this Act and the regulations that relate to restricted pit bulls, within such time frames as are provided for those requirements in this Act or the regulations. 2005, c. 2, s. 1 (16).

##### **Ownership of pit bull other than restricted**

8. (1) Despite clause 6 (a), a pound may own a pit bull that is not a restricted pit bull for as long as is reasonably necessary to fulfil its obligations under the *Animals for Research Act, 2005*, c. 2, s. 1 (16).

##### **Same**

- (2) Despite clause 6 (a), a research facility registered under the *Animals for Research Act* may own a pit bull that is not a restricted pit bull that is transferred to it under the *Animals for Research Act, 2005*, c. 2, s. 1 (16).

##### **Transfer of pit bulls**

9. (1) Despite clause 6 (c) and subject to the regulations, an owner of a restricted pit bull

may transfer that pit bull by gift or bequest. 2005, c. 2, s. 1 (16).

**Same**

(2) No person who owned one or more pit bulls on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire a pit bull under subsection (1) after that day if the effect of the acquisition would be that the person owns more pit bulls after that day than on that day. 2005, c. 2, s. 1 (16).

**Same**

(3) No person who did not own a pit bull on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire more than one pit bull under subsection (1) after that day. 2005, c. 2, s. 1 (16).

**Same**

(4) The limits set out in subsections (2) and (3) do not apply to a pound operated by or on behalf of a municipality, Ontario or a designated body or to a research facility within the meaning of the *Animals for Research Act, 2005*, c. 2, s. 1 (16).

**Same**

(5) Despite clause 6 (c), a pit bull may be transferred by its owner to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

**Same**

(6) Despite clause 6 (c), a pit bull may be transferred in accordance with section 20 of the *Animals for Research Act, 2005*, c. 2, s. 1 (16).

**Importation of restricted pit bulls**

**10.** (1) For the purposes of clause 6 (f), an individual who leaves Ontario with a restricted pit bull and returns to Ontario with that pit bull within three months is not importing that pit bull into Ontario. 2005, c. 2, s. 1 (16).

**Same**

(2) For the purposes of clause 6 (f), an individual who owns a pit bull on the day referred to in clause 7 (1) (a) and is legally resident in Ontario on that day, but who is not present in Ontario on that day, is not importing a pit bull into Ontario if he or she returns to Ontario with that pit bull within three months of that day. 2005, c. 2, s. 1 (16).

**Municipal by-laws**

**11.** Despite section 14 of the *Municipal Act, 2001* and section 11 of the *City of Toronto Act, 2006*, if there is a conflict between a provision of this Act or of a regulation under this or any other Act relating to pit bulls and a provision of a by-law passed by a municipality relating to pit bulls, the provision that is the most restrictive in relation to controls or bans on pit bulls prevails. 2005, c. 2, s. 1 (16); 2006, c. 32, Sched. C, s. 13.

**SEARCH AND SEIZURE**

**Peace officers**

**12.** For the purposes of this Act, the following persons are peace officers:

1. A police officer, including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of a police force.
2. A municipal law enforcement officer.

3. An inspector or agent under the *Ontario Society for the Prevention of Cruelty to Animals Act*.

4. A public officer designated as a peace officer for the purposes of this Act. 2005, c. 2, s. 1 (16).

#### **Warrant to seize dog**

13. (1) Subsection (2) applies where a justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that,

- (a) a dog is in any building, receptacle or place, including a dwelling house, other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act*; and
- (b) it is not desirable in the interests of public safety that the dog be in that location. 2005, c. 2, s. 1 (16).

#### **Same**

(2) In the circumstances described in subsection (1), the justice of the peace may issue a warrant authorizing a peace officer named in the warrant to enter any building, receptacle or place, including a dwelling house, to search for and seize the dog and any muzzle, collar or other equipment for the dog. 2005, c. 2, s. 1 (16).

#### **Same**

(3) Without limiting the generality of clause (1) (b), it is not desirable in the interests of public safety for a dog to be in a location other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act* if,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

#### **Same**

(4) A peace officer named in a warrant who is executing a warrant under this section may be accompanied by one or more veterinarians or animal control personnel as are reasonably required to give effect to the safe and humane seizure of the dog, whether the accompanying persons are named in the warrant or not. 2005, c. 2, s. 1 (16).

**Same**

(5) Every warrant issued under this section shall name a date on which it expires, which date shall be not later than 30 days after its issue. 2005, c. 2, s. 1 (16).

**Same**

(6) Every warrant shall be executed between 6 a.m. and 9 p.m., unless the justice by the warrant otherwise authorizes. 2005, c. 2, s. 1 (16).

**Exigent circumstances**

14. (1) Where the circumstances in clauses 13 (1) (a) and (b) exist and it would be impracticable to obtain a warrant because of exigent circumstances, a peace officer may exercise any of the powers of a peace officer described in section 13. 2005, c. 2, s. 1 (16).

**Same**

(2) In this section, exigent circumstances include circumstances in which the peace officer has reasonable grounds to suspect that entry into any building, receptacle or place, including a dwelling house, is necessary to prevent imminent bodily harm or death to any person or domestic animal. 2005, c. 2, s. 1 (16).

**Seizure in public place**

15. (1) A peace officer may seize a dog in a public place if the officer believes on reasonable grounds that,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal,
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

**Same**

(2) Subsection (1) shall not be interpreted to restrict seizure of a dog in a public place if the seizure is otherwise lawful. 2005, c. 2, s. 1 (16).

**Necessary force**

16. A peace officer may use as much force as is necessary to execute a warrant issued under section 13 or to exercise any authority given by section 14 or 15. 2005, c. 2, s. 1 (16).

**Delivery of seized dog to pound**

17. A peace officer who seizes a dog under section 13, 14 or 15 shall promptly deliver the seized dog to a pound operated by or on behalf of a municipality, Ontario or a designated body.