

TOWN OF GILLAM BY-LAW 745.2015

Being a By-Law of the Town of Gillam to provide for the regulation and control of dogs within the limits of the Town of Gillam.

PART I: AUTHORITY

WHEREAS subsection 232(1) of The Municipal Act, C.C.S.M. c. M225 (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 dogs 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

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- (b) remedying contravention of by-laws, including
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence 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 offence, 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, dogs, 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 offences or nonpayment of fines.

AND WHEREAS subsections 5(1), (2) and (3) of *The Animal Liability Act*, C.C.S.M. c. A95 provide, in relevant part, as follows:

Dogs not to run at large

5(1) Except when permitted by a by-law of a municipality, no owner or person in charge of an dog 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).

No liability by reason only of making by-law

5(3) A municipality 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 dog causes to a person or property while running at large in the manner permitted under the by-law.

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PART II: DEFINITIONS AND INTERPRETATION

By-Law Name

1(1) This By-Law may be referred to as the "Town of Gillam Dog Control By-Law" and hereto replaces The Town of Gillam By-Law No. 661-2003, known as the Dog By-Law, that is now cancelled in its entirety.

Definitions

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

"aggressor dog" shall have the meaning ascribed thereto in section 11 of this By-Law.

"dog 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 dog control officer authorized by the Council.

"Council" means the council of the Town of Gillam.

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

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

"kennel" means a structure or shelter made of wood or chain link for containing dogs.

"Notice of Breach of By-Law" means a notice issued pursuant to section 3(c) of this By-Law in the form attached hereto as Schedule B.

"owner" includes any person who owns, keeps, harbours or has possession or control of a dog, or who owns, leases or occupies, either solely or jointly with others, any premises containing the dog or which contained the dog immediately prior to an attack by the dog or apprehension of the dog by the dog control officer or any other person.

"person" includes a firm or corporation.

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“pound” means any enclosure, premises or place, whether within or outside the Town, designated by Council for the impoundment and care of any dog 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.

“proper fence” means a wood or chain link fence.

“running at large” or “run at large” means that the dog 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.

“Town” means the Town of Gillam.

“Town Office” means the Administration Office of the Town of Gillam.

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 DOG CONTROL OFFICER AND POUNDKEEPER

Establishment of pound

- 2(1) Council may establish and maintain a pound for the impoundment and care of dogs apprehended pursuant to the enforcement of any provision of this By-Law, or the Council may enter into an agreement with any person or organization to establish and maintain a pound on their behalf. The costs associated with the pound operated by or for the Town shall be paid out of the general funds of the Town.

Appointment of dog control officer

- 2(2) Council may appoint, by resolution, one or more persons as dog control officer(s) to carry out the duties of the dog control officer set out in this By-Law. The dog control officer so appointed may be appointed on a temporary or permanent basis, shall be paid out of the general funds of the Town and may be subject to annual review by the Council.

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Appointment of poundkeeper

- 2(3) Council may appoint, by resolution, one or more persons as poundkeeper(s) to carry out the duties of the poundkeeper set out in this By-Law. The poundkeeper(s) so appointed may be appointed on a temporary or permanent basis, shall be paid out of the general funds of the Town and may be subject to annual review by the Council.

Common dog control officer and poundkeeper

- 2(4) At the discretion of Council, the dog control officer may also serve as poundkeeper, and vice versa.

Duties of the dog control officer

- 3 It shall be the duties of the dog control officer:
- (a) to apprehend and confine any dog which is running at large within the Town 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 the conditions of any permit or license.
 - (b) to make reasonable attempt to notify the owner of every dog impounded if the identity 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 C hereto attached and shall state the place and time when the dog was apprehended, the place and time when the dog can be redeemed from the pound, the impoundment fee, any daily pound fees, license fees and other costs or fines to be charged to the owner, the method of payment required, and the date after which the dog will be sold, destroyed or otherwise disposed of if not redeemed. Where the identity of the owner of the dog is not known, the dog control officer shall post in the general office of the Town, a notice describing the dog, the date of apprehension and the date after which the dog will be sold, destroyed or otherwise disposed of.
 - (c) to issue a Notice of Breach of this By-Law in the form set out in Schedule B hereto attached against any person that has committed an offence under this By-Law. A Notice of Breach of this By-Law may be served upon the person who has breached the By-Law personally or upon a person apparently over the age of sixteen years at the residence of the person who has breached the By-Law, or may be served by registered mail addressed to the last known address of such person. The dog control officer may lawfully enter upon the premises of any such person to serve a Notice of Breach of this By-Law.

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- (d) The dog control officer or poundkeeper may use a tranquilizer gun for the purpose of capturing any dog found to be running at large within the Town, provided however that if the dog 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.
- (e) to enforce the provisions of this By-Law.

Duties of poundkeeper

4(1) It shall be the duties of the poundkeeper:

- (a) to provide sufficient food and clean water, adequate shelter and a safe and sanitary environment for every dog impounded.
- (b) to establish and maintain the pound in a manner in keeping with *The Animal Care Act (Manitoba) C.C.S.M. c. A84*, and without limiting the generality of the foregoing, to discharge the duties of an owner as set out in subsection 2(1) of *The Animal Care Act (Manitoba)* while a dog is in the custody of the poundkeeper.
- (c) to keep a record of every dog impounded, which record shall include the following minimum information:
 - (i) a description in reasonable detail of the dog (including, the approximate weight, height and color of the dog, as well as the order and breed of the dog);
 - (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 was sold or released), and the license number on the dog's tag (if applicable);
 - (v) such other particulars as the Council shall direct from time to time.
- (d) to ensure that all fees charged for impoundments or breaches have been collected by the Town office prior to releasing any dog, unless otherwise authorized by Council.
- (e) to keep any impounded dog for a minimum period of three (3) days, which shall exclude the day of impoundment, Saturdays, Sundays and any statutory holidays during which the pound is closed to the public.

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- 4(2) If, after expiration of the minimum period of impoundment set out in subsection 4(1)(e), a dog has not been redeemed, the dog control officer shall be authorized to:
- a) sell or otherwise dispose of the dog for an amount sufficient to cover, where possible, all applicable impound fees as set out in the Town's annual fee schedule, but in no case shall a dog be released from the pound until a current Town dog license has been purchased for said dog.
 - b) upon the expiration of three (3) days, if the dog has not been redeemed by its owner or sold, have the dog humanely destroyed, unless the Town, or the poundkeeper on the express authority of the Town, agrees to or directs an extended period of impoundment, in which case the impounded dog will be held until the earlier of the date that it is sold or otherwise disposed of to a person in accordance with subsection 4(2)(a), or until expiry of the extended period of impoundment, before it is humanely destroyed.
- 4(3) The Town 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 subsections 4(1)(a), (b) and (c) above, and further provided that the provisions in subsections 4(1)(d), (e) and 4(2)(a) 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 Town, the poundkeeper shall observe all of the terms and conditions of the contract with the Town. Where it is permitted under the contract with the Town, the poundkeeper may, at its sole cost and expense, keep an impounded dog for longer than the minimum hold period, and may sell or otherwise dispose of the impounded dog for an amount less than the applicable pound and license fees, provided however that the poundkeeper shall remain responsible to the Town for all amounts due to the Town under its contract with the poundkeeper.

PART IV: OWNER'S RESPONSIBILITIES

Licensing of dogs

- 5(1) The owner of every dog over the age of six 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. Any failure to obtain or keep current the required license or to ensure that the license tag issued for the dog is securely fastened to the dog's collar shall constitute an offence under this By-Law.

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- 5(2) The required dog license shall be purchased at the Town Office, and shall be accompanied by a registration form completed by the owner, as prescribed by the Town. Owners under the age of 18, must have an adult guardian sign the prescribed form. The adult guardian must reside at the same residence as the owner of the dog.
- 5(3) No person shall be permitted to remove the collar or license tag from any dog without a lawful excuse, and any such removal shall constitute an offence under this By-Law.
- 5(4) The license fee hereby imposed shall be due and payable on the 31st of January in each year and shall expire on the 31st of December in the same year. For licenses purchased after the 31st of January, an additional amount as set out in Schedule A shall be charged, unless the owner provides evidence that ownership of the dog was acquired, or the owner's residence in the Town was established, after the 31st of January of that year.
- 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 a transfer fee as set out in Schedule A. Any failure to report a change in ownership or to pay the prescribed transfer fee shall constitute an offence under this By-Law.
- 5(7) Non-residents who bring a dog on a temporary visit into the Town, shall not be required to purchase a license if the visit does not extend more than 30 consecutive days. Nothing in this subsection shall authorize any person to bring a dog into the Town that is in heat, a dangerous dog or is vicious, rabid or otherwise a risk to the public or to other dogs within the town, nor does it authorize any person to allow the dog to run at large or otherwise create a nuisance within the Town.
- 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 status for that dog from a licensed veterinarian.
- 5(9) A dog owner does not have to produce evidence of a current rabies vaccination status in order to obtain or renew a license in respect of this 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.

Kennel Permits

- 6 No person shall have a dog kennel for the purpose of breeding dogs in the Town, unless the kennel is located in an area authorized by the Town of Gillam Zoning By-Law.

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Responsibility of Owners Regarding Dogs

7(1) No owner shall:

- (a) 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) permit his dog to bark or howl, or his dog, in any other way, to disturb the quiet of any person or persons in the Town;
- (c) 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) permit his dog to defecate on this property in a manner which constitutes an environmental or health hazard or a nuisance for neighbors;
- (e) 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 six months or that is a registered guide dog for the visually impaired) 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 dog, unless such dog is kept at all times in accordance with the provisions of Part V;
- (h) permit his dog to pursue, bite, wound or worry any person or dog, whether or not on the property of the owner;
- (i) permit his dog on any school ground or playground;
- (j) permit his dog to upset waste receptacles or otherwise litter.

7(2) An owner of a registered guide dog that is visually impaired or any other person who requires the assistance of a registered guide dog shall not be subject to the restrictions imposed under subsections 7(1)(c), (f), and (i).

Redemption

8 Unless the impounded dog is determined to be a dangerous dog, the owner of any dog impounded by the dog control officer may be redeemed within three (3) days of the apprehension and impoundment by applying to the Town for redemption and paying:

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- (a) the impoundment fee as set out in Schedule A;
- (b) the daily pound fee calculated in accordance with Schedule A;
- (c) all outstanding fines, damages or costs relating to the impounded dog;
- (d) where the release of any dog takes place outside normal working hours, payment of an additional fee as set out in Schedule A.

Any person who fails to comply with the terms and conditions set out in this Section 8 shall be guilty of an offence under this By-Law.

Dogs

9(1) Subject to the provisions of Section 7, 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 to that dog; and
- (b) the dog is on a leash that is less than six (6) feet in length fully extended (unless using a retractable leash); or
- (c) the dog is under the immediate charge and effective control of a person competent to control it.

9(2) A female dog in heat shall be confined to the property of the owner or a person having control of the dog 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.

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

Maximum Number of Dogs

10(1) No person shall own, harbor, keep or have in his possession or control, or on his premises, more than three (3) dogs over the age of six (6) months, regardless of the number of people who may be inhabiting the premises.

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PART V: DANGEROUS DOGS

Dog Bites

- 11(1) The dog control officer shall apprehend, impound and place in quarantine any dog that he has reason to believe has bitten a person or an animal (an “aggressor dog”), 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 aggressor dog is not voluntarily surrendered to the dog control officer by the owner, the dog control officer shall be empowered to apprehend and impound the aggressor dog 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 aggressor dog.
- 11(3) An aggressor dog 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 dog control officer may, in his discretion, authorize the owner of the aggressor dog to quarantine the aggressor dog in a place other than the pound, provided that the aggressor dog remains at such place at the owner’s expense for the quarantine period.
- 11(5) Subject to a determination by the dog control officer pursuant to subsection 12(1) hereof that the aggressor dog is not a dangerous dog, the aggressor dog 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 or fines assessed against the owner hereunder. In the event that the owner fails to redeem the aggressor dog from the pound within three (3) days after expiry of the quarantine period, the aggressor dog shall be sold, or otherwise disposed of, or humanely destroyed at the discretion of the poundkeeper.
- 11(6) The dog control officer shall keep a record of all bite incidents, identifying the aggressor dog and the details of the incident, and such record may be used in any hearing or appeal with respect to the dangerous dog provisions contained herein.
- 11(7) The head of any aggressor dog quarantined for biting that dies while quarantined shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 11(8) Every aggressor dog shall be examined by a licensed veterinarian, if available, prior to release from quarantine. The determination as to whether or not the aggressor dog can be released from quarantine or must be destroyed or otherwise disposed of, shall be at the discretion of the dog control officer based upon the following factors:

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- (a) the medical report of the licensed veterinarian, if available, who has examined the aggressor dog, if any, and if available;
 - (b) the severity of the bite incident, the circumstances surrounding the incident and the consequences of the incident;
 - (c) whether or not the aggressor dog is, in the opinion of the dog control officer, a dangerous dog and, if yes, whether or not the provisions of section 13 hereof have been complied with; and
 - (d) proof that the aggressor dog does not have rabies, and that the aggressor dog has a current rabies vaccination status 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 dog control officer to release an aggressor dog prior to the expiry of the quarantine period and to impose conditions upon the release of an aggressor dog 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 aggressor dog is confined to the owner's premises in such a manner as to prevent escapes, and to ensure that all direct contact with other dogs and persons other than the owner is avoided;
 - (b) the owner shall post in a conspicuous location at the entrance of the premises where the aggressor dog is confined, a sign which reads **WARNING: BEWARE OF DANGEROUS DOG (or insert the name of such other dog as the case may be)**;
 - (c) the owner shall submit the aggressor dog for veterinary examination from time to time as may be prescribed by the dog control officer, and shall report the results of any such veterinary examination to the dog control officer;
 - (d) the owner shall take out and pay for such liability insurance on the aggressor dog as may be prescribed by the dog control officer;
 - (e) the owner shall be responsible for all costs, fines and damages associated with the aggressor dog, including the costs of impoundment, quarantine, signage and veterinary fees, pound fees and license fees, and any costs associated with liability to the victim or victims of the bite incident;
 - (f) such other conditions as the dog control officer may deem necessary or advisable in the interests of public safety.

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Determination that a dog is a dangerous dog

- 12(1) Where the dog control officer has reason to believe that a dog, including but not limited to an aggressor dog under section 12, is a dangerous dog, such dog will be declared a dangerous dog by the dog control officer for the purposes of this By-Law and the owner shall be provided written notice, delivered to the last known address of the owner, advising same. Upon receiving notice of the dangerous dog declaration, the dog's owner may appeal such declaration to the Council within five (5) days of receipt of notice, at which point a hearing before Council will be arranged at a regularly scheduled meeting of Council to determine whether the dangerous dog declaration should be upheld. In the event that an owner voluntarily accepts the dangerous dog declaration and the recommended disposition of the matter made by the dog control officer in writing, a hearing before Council will 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 dog control officer to protect the public or other dogs pending the decision of Council, the dog control officer may:
- (a) require that the dog be quarantined in the pound until the earlier of the date that the dog 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) may impose all or any of the conditions set out in subsection 13(2) herein upon the owner's custody of the dog, which conditions shall apply until the earlier of the date that the dog 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 five (5) 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.

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- 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 oral 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 dog control officer and to inspect any documents filed by or on behalf of the dog 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 section 12(3), 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:

The Council shall make an order declaring the dog to be a dangerous dog if in their opinion:

- (a) the dog has caused injury to or killed a person, whether on public or private property;
- (b) the dog has seriously injured or killed a dog or any domestic animal without provocation;
- (c) the dog is used primarily for the purpose of guarding property and is not a police service dog owned by a public law enforcement agency; or
- (d) there is a material risk that the dog may cause damage or injury to person or property or any other dog, taking the following non-exhaustive factors into account:
- (i) whether the dog has worried, bitten, wounded or injured any person or dog, or is otherwise an aggressor dog;
 - (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 dog 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.

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- 12(7) The decision of Council shall be final. There shall be no appeal from the decision of Council.
- 12(8) 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(9) Subsection 12(8) shall not apply if the dog is impounded or the dog 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 dog 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 an 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) ensure that the dangerous dog, while on private property, is kept either securely confined indoors or in a securely enclosed and locked kennel, 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 dog control officer;
 - (iii) has secure sides; and
 - (iv) provides protection from the elements for the dangerous dog.
 - (b) permit the dangerous dog upon public property only if it is muzzled and under the effective control of a person competent to control it.
 - (c) 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 (or insert the name of such other dog as the case may be)**. The sign shall be posted in such a manner that it cannot be removed easily by a passerby and will be visible and capable of being read from outside of the premises.

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- (d) within three (3) working days of selling, giving away or otherwise disposing of the dangerous dog, provide the dog control officer with the name, address and telephone number of the new owner.
 - (e) advise the dog control officer within three (3) working days of the death of the dangerous dog.
 - (f) advise the dog control officer forthwith if the dangerous dog has gone missing or is running at large or has bitten, worried or attacked any person or dog.
 - (g) maintain in force to the satisfaction of the Town Office a comprehensive liability insurance policy, including coverage for damage or injury caused by the dangerous dog, with a minimum limit of liability of \$500,000.00 per occurrence.
 - (h) 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)(c) hereof without having first obtained the permission of the dog control officer.

Destruction of dangerous dog or aggressor dog

- 14(1) Where it appears on reasonable grounds that an owner has breached a condition of this By-Law in respect of an dog that has been declared dangerous or if an aggressor dog has caused injury or damage to any person, property or any other dog or if the dog control officer otherwise has reasonable grounds to believe that an dog presents a risk to any person, property or any other dog and such dog has been declared a dangerous dog by Council, the dog control officer may apprehend and impound the dog for the purpose of destroying it. In the event that an dog is causing an immediate risk to any person, property or any other dog, the dog control officer is authorized to apprehend and impound the said dog for the purpose of destroying it notwithstanding that it has not been declared to be a dangerous dog by Council at the time of its apprehension and impoundment.
- 14(2) When the dog control officer impounds an dog under this section 14 for the purpose of destruction of the dog, he shall give the owner written notice, delivered to the last known address of the owner, that the dog will be destroyed after the expiry of five (5) days from the date of the notice. The owner may, during that time period, appeal the decision of the dog control officer to Council by providing notice in writing to the Town Office, in which case Council shall hold a hearing at a regularly scheduled meeting of Council as to whether or not the dog should be destroyed, which hearing shall be carried out in accordance with the provisions of section 12 hereof. The dog shall remain quarantined in the pound pending the outcome of the hearing.

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If it is ultimately determined that the dog shall be destroyed, the dog's owner shall have the right to either destroy the dog himself or permanently remove the dog from the Town within five (5) days of such determination. If, after electing to either destroy the dog himself or permanently remove the dog from the Town, the owner fails to do either, the owner will be liable to a fine of \$100.00 and the dog control officer may apprehend the dog for immediate destruction and thereafter have the dog humanely destroyed.

PART VI: GENERAL PROVISIONS

Offences under this By-Law

16(1) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offences under this By-Law:

- (a) Allowing or failing to prevent a dog from running at large;
- (b) Keeping or harbouring dogs in excess of the maximum number permitted by this By-Law;
- (c) Operating a kennel operation in an area not authorized by the Town of Gillam Zoning By-Law.
- (d) Failing to comply with an order of the dog control officer to dispose of any dogs in excess of the prescribed limit made under section 10(1) of this By-Law;
- (e) Failure by the owner of a dog to comply with any one or more of the provisions of section 7, subsection 9(2) or subsection 9(3) of this By-Law;
- (f) Failing to report a bite incident or failing to voluntarily surrender the dog believed to have bitten a person to the dog control officer or poundkeeper;
- (g) Failing to voluntarily surrender a dog to the dog control officer upon a request therefore;
- (h) Failure by an owner to discharge the duties of an owner as set out in subsection 2(1) of *The Animal Care Act* (Manitoba);
- (i) Keeping or harbouring any dog required to be licensed;
- (j) Failing to properly vaccinate a dog against rabies;
- (k) Failing to comply with any requirements of Part V of this By-Law in relation to an aggressor dog or a dangerous dog;

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- (l) Defacing or removing a sign required to be posted under subsection 11(9)(b) or subsection 13(2)(c) of this By-Law; and

Interference with Enforcement

16(2) It shall be an offence under this By-Law for a person to interfere or obstruct any attempt by the dog 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 dog control officer, the poundkeeper, a police officer or any other person authorized to apprehend and impound an dog running at large, who is attempting to apprehend or impound, or who has apprehended and impounded, any dog in accordance with the provisions of this By-Law.

16(3) It shall be an offence 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 to otherwise cause or assist an escape of any impounded dog.

Apprehension by Resident

16(4) Any resident of the Town may apprehend and confine an dog which is running at large on his property, provided that he shall inform the dog control officer, poundkeeper or the Town Office of the apprehension and confinement, and the dog control officer shall as soon as practical, attend upon the resident to take possession of and impound the dog. It will be considered an offence of this By-Law if the dog control officer is not notified of the apprehension of the dog within four (4) hours of the apprehension.

Right of Entry

17(1) The dog control officer or any other person appointed by the Town to enforce the provisions of this By-Law or any other law, rule or regulation pertaining to dog care or custody, may lawfully enter upon the land and buildings of a dog owner or any other person, other than the personal residence of an individual, for the purposes of apprehending a dog running at large, to ensure compliance with this By-Law (including, without limitation, any license or permit issued pursuant to 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.

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- 17(2) The owner of any dog that has bitten any person or any other dog shall present the said dog to the door of his residence upon request of the dog control officer, to assist the dog control officer to apprehend and impound the said dog.

Complainant Identification

- 18(1) Any person who makes a complaint alleging an offence under this By-Law against another person shall provide to the dog control officer the person's name, address and telephone number. It shall be at the discretion of the dog control officer whether or not to proceed based on an anonymous complaint or information.

Liability

- 19(1) No liability shall attach to the dog control officer, the poundkeeper, the Council or the Town in carrying out their respective duties under this By-Law. Without limiting the generality of the foregoing, no liability shall attach to the dog control officer, the poundkeeper, the Council or the Town for any dog 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.

Penalties

- 20(1) Without limiting the penalties for specific offences set out in subsections 16(2) and (3) hereof, any person who contravenes any provision of this By-Law is guilty of an offence and is liable:

- (a) to a fine of not less than \$100.00 and not more than \$500.00, plus all applicable costs and penalties for the first offence; and
- (b) to a fine of not less than \$200.00 and not more than \$1,000.00, or to imprisonment for not more than thirty (30) days, or both, plus all applicable costs and penalties for the second offence, and for each subsequent offence, within twelve (12) months of the first offence.

Any dog that is impounded three (3) or more times 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(2) Any person who interferes with or obstructs the duties of an dog 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 impounded, is guilty of an offence and is liable:

- (a) to a fine of not less than \$100.00 and not more than \$2,000.00, or to imprisonment for a term of not more than sixty (30) days, for the first offence, plus all applicable apprehension and impoundment costs;

TOWN OF GILLAM BY-LAW 745.2015

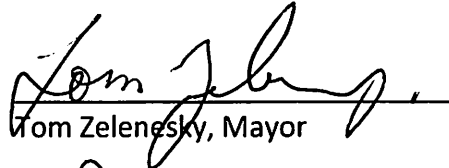
- (b) to a fine of not less than \$500.00 and not more than \$5,000.00 or to imprisonment for not more than six (6) months, for each subsequent offence, plus all applicable apprehension and impoundment costs.
- 20(3) Any person contravening this By-Law by failing to confine a female dog in heat as per section 10(2)(b) shall be issued a Notice of Breach of this By-Law, is guilty of an offence and is liable to a fine of \$100.00.
- 20(4) Any person contravening this By-Law by permitting a dog to damage private or public property as per section 7(1)(e) shall be issued a Notice of Breach of this By-Law, is guilty of an offence and is liable to a fine of \$500.00.
- 20(5) Where a corporation commits an offence 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 offence, is likewise guilty of the offence and liable for the penalties provided for herein.
- 20(6) Where the contravention, disobedience, refusal or neglect continues for more than one (1) day, the person is guilty of a separate offence for each day that the contravention, disobedience, refusal or neglect continues.
- 20(7) A person who has been served with a Notice of Breach of this By-Law may dispose of the matter by attending at the Town Office during regular office hours within fifteen (15) days of the date of the Notice and pay to the Town Office the minimum fine (including applicable costs) as set out in the Notice, along with all other such charges that may have accrued as a result of enforcement of this By-Law. In the event that a person served with a Notice of Breach of this By-Law fails to pay the minimum fine as set out in the Notice (including applicable costs) within the said fifteen (15) day period, the person shall be subject to a hearing before the Town Superintendent and if found guilty of the breaches of this By-Law set out in the said Notice, may be liable for the maximum penalties set out in this By-Law, together with an assessment of the costs incurred. The Town may proceed to collect such fines and costs against the person by any means available to it by law for the collection of outstanding taxes, including, without limitation, adding the fines and costs to the realty taxes on any property owned by the person within the Town.

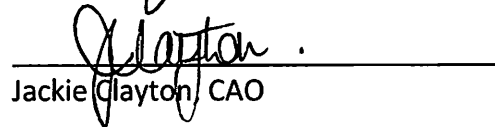
TOWN OF GILLAM BY-LAW 745.2015

BE IT RESOLVED that By-Law No. 661-2003 is hereby repealed;

AND FURTHER BE IT RESOLVED that this by-law come into force and effected on the 1st day of January, 2016.

DONE AND PASSED as a By-Law of the Town of Gillam in open session assembled this 16th day of December, 2015.


Tom Zelenesky, Mayor


Jackie Clayton, CAO

Read a	first time	this	4th day of December, 2015.
Read a	second time	this	16th day of December, 2015.
Read a	third time	this	16th day of December, 2015.

TOWN OF GILLAM BY-LAW 745.2015

SCHEDULE A

LICENSE AND IMPOUNDMENT FEES

License Fees (Annual) and Related Charges

For each spayed or neutered dog	\$10.00
For each male or female dog (not spayed or neutered)	\$20.00
For each license purchased after January 31 st	\$20.00 (subject to exemptions as per Section 5 (4))
Replacement tag	\$5.00
Transfer of license	\$5.00

Penalties and Impoundment Fees

For any dog that was apprehended running at large or that was, for another reason, impounded by the dog control officer:

For first impoundment, flat fee	\$35.00
For second impoundment, flat fee (if within 12 months of the first offence)	\$65.00
For third impoundment, flat fee (if within 12 months of the first offence)	\$125.00
For each day of impoundment	\$20.00
For voluntary impoundment:	
For each day of impoundment	\$20.00

TOWN OF GILLAM BY-LAW 745.2015

SCHEDULE B

NOTICE OF BREACH OF BY-LAW NO. 745.2015 OF THE TOWN OF GILLAM

TO _____

You are charged on the _____ day of _____, 20____ you did unlawfully:

- (a) as owner, permit a dog to run at large within the limits of the Town of Gillam, contrary to paragraph _____ of By-Law # 745.2015;
- (b) as owner, failed to abide by the duties of an owner regarding a dangerous dog, contrary to paragraph _____ of By-Law # 745.2015;
- (c) as owner

contrary to paragraph _____ of By-Law # 745.2015.

Disposition of this charge may be made by attending at the General Office of the Town of Gillam, during office hours, from _____, 20____, to _____, 20____.

Or

A Hearing will be held on the _____ day of _____, 20____ at the hour of _____ at which time Council will dispose of this charge. Should you wish to make representations at this hearing, your attendance in person is required.

(strike out inapplicable statements)

Dated at Gillam, in the Province of Manitoba, this _____ day of _____, 20____.

Dog Control Officer
The Town of Gillam

Form of Notice authorized under Clause 3(c) of By-Law 745.2015 of the Town of Gillam.

NOTE: *owner includes any person who owns, keeps, harbors or has possession or control of an dog, or who owns, leases or occupies, either solely or jointly with others, any premises containing the dog or which contained the dog immediately prior to an attack of the dog or which contained the dog immediately prior to an attack by the dog or apprehension of the dog by the dog control officer or any other person.*

TOWN OF GILLAM BY-LAW 745.2015

SCHEDULE C

NOTICE OF IMPOUNDMENT

FOR THE TOWN OF GILLAM

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

Description of Dog _____

Date of Apprehension: _____

Time of Apprehension: _____

Location of Dog Apprehended: _____

Place of Impoundment: _____

Hours of Operation of Pound: _____ - _____

Phone No. of Pound: _____

Daily Pound Fee \$20.00 per day: _____

Impoundment Fee and/or Fine: _____

License Fee: _____

Method of Payment Required: _____

Day the dog will be sold or destroyed: _____

Date: _____ Dog Control Officer _____

Signature _____