

BY-LAW NO. 610/94

A BY-LAW OF THE VILLAGE OF MACGREGOR to regulate the running at large of dogs and to provide for the maintenance and regulation of pounds.

NOW THEREFORE THE MAYOR AND COUNCIL OF THE VILLAGE OF MACGREGOR IN OPEN COUNCIL ASSEMBLED HEREBY ENACTS AS A BY-LAW OF THE SAID VILLAGE AS FOLLOWS:

- 1 This By-Law may be referred to as "the Dog Control By-Law".
- 2 Whenever used in this By-Law, unless the context otherwise requires:
 - (a) **DOG** - means any male or female dog;
 - (b) **DANGEROUS DOG** - means any dog which has been declared dangerous pursuant to this By-Law.
 - (c) **DOG CONTROL OFFICER** - means the person appointed by Council from time to time to carry out the duties of such officer as set forth in this By-Law and includes his deputy or assistant;
 - (d) **DOG POUND** or **DOG POUNDS** - means a pound or pounds acquired and or operated for the Village of MacGregor as the case might be.
 - (e) **KENNEL** - means a place where dogs are kept for a fee or where dogs are bred and raised or where dogs are kept for purpose of sale.
 - (f) **PERSON** - includes corporation, firm, a partnership and association.
 - (g) **POUNDKEEPER** - means a poundkeeper for the time being of the Village of MacGregor and includes his deputy or anyone or more of his assistants or anyone performing any of the duties of the poundkeeper and includes where the context requires, the Dog Control Officer.
 - (h) **OWNER** - means any person who keeps or harbours a dog.

(i) **RUNNING AT LARGE** or **RUN AT LARGE** means that is not under the direct and continuous charge and effective control of a person competent to control it.

3. There may be established by the Village of MacGregor a dog pound or pounds and such pound or pounds shall be located on such premises as Council may from time to time direct by resolution or By-Law.

4. (a) Every owner of a dog over the age of three months shall on or before the 31st day of January in each year register the dog at the Office of the Village of MacGregor and procure from the Clerk a license for such dog and pay the following fee therefore:

i) for each dangerous dog; \$250.00

ii) for each male dog; \$ 20.00

iii) for each female dog; \$ 20.00

iv) for each spayed female or neutered male dog (if the owner produces a certificate from a licensed veterinary surgeon showing that the dog has been spayed or neutered); \$ 10.00

v) for every kennel that contains not more than five (5) dogs a fee of \$100.00 and for every additional dog therein contained over five (5) an additional sum of \$25.00 for each dog over 5;

(b) A person who is registered as a blind person with the Canadian National Institute for the Blind who is the owner of a dog shall not be required to pay the fee provided for in this section but shall be required to apply for and obtain a license for such dog and comply with all other provisions of this By-Law.

5. The Clerk shall issue with each license a plate or tag in such form as the Clerk may from time to time decide, and every owner of a dog shall place and keep around the neck of the dog a collar to which such plate or tag shall be securely fastened. If such plate or tag is lost, the Clerk may issue a replacement plate or tag upon payment of the sum of \$10.00.

6. The word "dog" wherever used in this By-Law shall mean an animal three or more months old.
7. No owner of a dog shall:
 - (a) permit it to run at large within the Village of MacGregor;
 - (b) permit it to pursue, bite or wound any person or animal;
 - (c) allow it to howl or bark so as to disturb other persons;
 - (d) permit it to defecate on any public or private property, except the property of the owner. Where the dog defecates on property other than the property of its owner, the owner shall cause the excrement to be removed immediately.
8. Where a dog is found running at large contrary to section (7) on the hearing of an information and complaint against the owner or person in charge thereof for breach of that section, the owner or person in charge shall be deemed to have permitted the dog to run at large unless he satisfies the presiding Judge that he took all reasonable precautions to prevent it from running at large.
9.
 - (a) It shall be the duty of the Dog Control Officer to capture and confine in a dog pound any dogs found running at large contrary to the provisions of this By-Law, and to perform such other duties as Council may from time to time assign to him.
 - (b) The owner of any dog impounded may redeem same at any time within 72 hours of the time of capture by paying the poundkeeper the fees calculated as follows:
 - i) where the current license is held for the dog the sum of \$50.00 for the first impounding, the sum of \$100.00 for the second impounding, the sum of \$150.00 for the third impounding and the sum of \$200.00 for the fourth impounding of the same dog in any 12 months, plus \$15.00 for each day or part of a day that the dog has been impounded;

- ii) where no current year's license is held for the dog the sum of \$100.00 for the first impounding, the sum of \$200.00 for the second impounding, the sum of \$300.00 for the third impounding and the sum of \$400.00 for the fourth impounding of the same dog in a 12 month period, plus \$15.00 for each day or part of a day that the dog has been impounded plus the license fee applicable to the dog;
 - iii) the full amount of any cost incurred by the Village of MacGregor for the examination and treatment by a licensed veterinary surgeon of a dog that is injured or sick;
 - iv) whenever a dog is impounded wearing a tag furnished by a municipality in connection with a current year's license for such animal the poundkeeper shall forthwith after the impounding if the license was issued by the Village of MacGregor mail to the owner whose name appears on such license at the address shown thereon a notice that the dog has been impounded and that if it is not redeemed within 72 hours it may be sold or disposed of. If the tag was issued by another municipality the poundkeeper shall notify the clerk or secretary thereof that such animal has been impounded and will be disposed of if not redeemed within 72 hours.
10. (a) a poundkeeper may sell to any person any dog not redeemed for an amount not less than the applicable fees set forth in section 9, or may cause the dog to be disposed of; provided however that if the dog is not licensed and the purchaser resides outside the limits of the Village of MacGregor, the amount of the license fee need not be included in the selling price;
- (b) notwithstanding anything contained in this By-Law where a licensed veterinary surgeon certifies that, in his opinion, a dog in the custody of a poundkeeper is so seriously injured or sick that it would be cruel to allow it to live, the poundkeeper may cause the dog to be destroyed forthwith;
11. A poundkeeper shall provide each impounded dog with sufficient shelter, food and water during the time such dog remains impounded.
12. (a) a dog which bites any person, whether on private premises or elsewhere, shall, unless the owner thereof forthwith delivers same to

a dog pound or to some place where dogs are kept under the personal supervision of a licensed veterinary surgeon, be taken to a dog pound by the Dog Control Officer;

- (b) any dog so delivered or taken to a dog pound shall be kept therein, and in the case where delivered to some place where dogs are kept under personal supervision of a licensed veterinary surgeon, shall be kept at such place at the owner's expense for a period of fourteen days;
 - (c) a fee calculated at the rate of \$15.00 for each day or part day that any such dog so delivered or taken to a dog pound is kept in the dog pound, shall be paid to the poundkeeper by the owner before the dog may be taken out of the dog pound, and if the owner fails to take the dog out of the dog pound within two days after the fourteen day period set out in subsection (b) hereof, the dog shall thereupon be deemed to be impounded as provided in Section 9 and may be dealt with and disposed of by the poundkeeper as provided in Sections 9 and 10.
 - (d) any dog known to be rabid shall be immediately destroyed;
13. Before any action, whether to capture and impound a dog, or to institute legal proceedings is taken by the Dog Control Officer or a poundkeeper as a result of a complaint, the complainant shall disclose his name and address.
 14. Notwithstanding any other By-Law to the contrary, the Dog Control Officer or a poundkeeper may use any gun for the purpose of capturing any dog found running at large.
 15. Every poundkeeper shall keep a record of every dog impounded. Such record shall show the description and particulars of every dog, the day and hour of its impounding, redemption, sale or destruction, the name and address of the owner, the tag or license number (if any), the amount and particulars of all fees, fines, charges and of all monies received in respect of such dog and the name and address of the person paying the same, and such other particulars as the Clerk of the Village of MacGregor shall direct. All monies collect by a poundkeeper shall be remitted to such Clerk as and when he shall require, together with such reports and statement as he may prescribe.
 16. No person shall permit or suffer any premises to be used for the harbouring

of a dog or dogs creating or constituting a nuisance to the residents of other properties in the vicinity.

17. In any prosecution under this By-Law a dog shall be presumed to be three or more months old and the onus shall be on the person charged to prove otherwise.
18. Notwithstanding any By-Law to the contrary the officer in charge of the Rural Detachment of the Royal Canadian Mounted Police may grant a license to the Dog Control Officer to discharge firearms within the limits of the Village of MacGregor for the purpose of eradicating or controlling any dog found causing damage to public or personal property or creating a nuisance.
19.
 - (a) Where the Dog Control Officer has reason to believe that a dog has caused or is likely to cause serious damage or injury, he shall hold a hearing to determine whether or not that dog should be declared to be dangerous;
 - (b) The Dog Control Officer shall give written notice of the determination hearing to the owner of the dog at least five days in advance of the hearing by serving notice upon the owner or by mailing the notice by certified mail to the last address provided by the owner to the Village in relation to the licensing of the dog. The notice shall include:
 - (i) a statement of the time, place and purpose of the hearing;
 - (ii) a copy of this By-Law;
 - (iii) a statement that if the owner does not attend at the hearing, the matter may be dealt with in his absence and that he will not be entitled to any further notice in this proceeding;
 - (c)
 - (i) the owner may appear at the hearing with or without counsel and may call witnesses on his behalf. The owner shall be entitled to hear all evidence presented at the hearing and to inspect any documents filed;
 - (ii) where the owner does not attend at the hearing, having been given notice as provided in this section, the matter may be dealt with in his absence and the owner shall not be entitled to any further notice in the proceeding.

(d) within 5 working days of the determination hearing, the Dog Control Officer shall issue written findings resulting from the hearing and;

(i) shall make an order declaring the dog to be dangerous if in his opinion:

- A. the dog has caused injury to a person without provocation, whether on public or private property;
- B. the dog has, while off its owner's property, killed a domestic animal without provocation; or
- C. the dog is kept, harboured or used primarily for the purpose of guarding property and is not a police service dog owned by the City or a government law enforcement agency;

(ii) may make an order declaring the dog to be dangerous if, in his opinion, it is likely to cause serious damage or injury, taking the following factors into account:

- A. whether the dog has bitten, wounded or injured any person or animal;
- B. the circumstances surrounding any previous biting or wounding incidents; and
- C. whether the dog, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, person upon the street, sidewalk or any public or private property;

(iii) shall provide a copy of his findings to the owner in the manner provided in subsection (b) hereof.

20. (a) the owner may, within 10 days of receiving notice that his dog has been declared to be dangerous, advise the Dog Control Officer in writing that he wishes to appeal against the order, whereupon the Dog Control Officer shall forthwith submit the matter to Council.

(b) where an appeal is filed as provided in subsection 20(a) hereof,

Council shall hold a hearing to determine whether the order of the Dog Control Officer should be upheld and the provisions of subsection 19 (b), (c) and (d) apply to that hearing;

- (c) upon hearing all representations in the matter, Council may confirm or reverse the order of the Dog Control Officer declaring the dog to be dangerous;
 - (d) the decision of Council on an appeal under this subsection shall be final.
21. (a) where a dog is declared to be dangerous by the Dog Control Officer and;
- (i) no appeal is filed pursuant to subsection 20(a) hereof; or
 - (ii) upon appeal, the declaration is confirmed by Council, any license previously issued in relation to that dog shall be deemed to have been cancelled effective as of the 10th day following the order of the Dog Control Officer, or the date of the decision of Council, as applicable;
- (b) where a license is deemed to have been cancelled pursuant to subsection (a) hereof, the owner shall be entitled to a credit or refund on any paid up license fee, calculated on a quarterly pro rata basis.
22. (a) every owner who has received notification from the Dog Control Officer pursuant to subsection 19(b) 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;
- (b) subsection (a) shall not apply if the dog is impounded, or if the Dog Control Officer receives written confirmation from a licensed veterinary surgeon that the dog has been placed in his custody pending outcome of the hearing.
23. (a) every owner of a dog which has been declared to be dangerous shall:
- (i) ensure that the dog, while on private property, is kept either

securely confined indoors or in a securely enclosed and locked pen, structure or compound which;

- A. is capable of preventing the entry of young children and preventing the dog from escaping;
 - B. has minimum dimensions of 5 feet by 10 feet;
 - C. has secure sides; and
 - D. provides protection from the elements for the dog.
- (ii) permit the dog upon public property only if it is muzzled, restrained by a chain or leash not exceeding 6 feet in length and under the control of a responsible person.
 - (iii) display at each entrance to the property or building in or upon which the dog is kept a sign stating: **WARNING; BEWARE DANGEROUS DOG.** The sign shall be posted in such a manner that it cannot be removed easily by passersby and will be visible and capable of being read from the sidewalk or street and land, if any;
 - (iv) within two working days of selling or giving away the dangerous dog, provide the Dog Control Officer with the name, address and telephone number of the new owner;
 - (v) advise the Dog Control Officer within two working days of the death of the dangerous dog;
 - (vi) advise the Dog Control Officer forthwith if the dangerous dog is loose or has bitten or attacked any person or animal:
- (b) no person shall deface or remove a sign posted pursuant to clause (iii) of subsection 23 hereof without having first obtained the permission of the Dog Control Officer.
24. (a) any person contravenes a provision of this By-Law is guilty of an offence and liable, on summary conviction, to the following penalty:
- (i) for a first offence, a fine of not less than \$100.00 and not more than \$250.00, and in default of payment, to

imprisonment for not less than one day or more than ten days;

(ii) for a second offence, within 12 months of the first offence, a fine of not less than \$250.00 and not more than \$500.00, and in default of payment, to imprisonment for not less than four days or more than twenty days;

(iii) for a third offence, within 12 months of the first offence, a fine of not less than \$500.00 and not more than \$750.00, and in default of payment, to imprisonment for not less than ten days or more than forty days.

(b) where it is alleged by the Dog Control Officer that a person has contravened any provision of this part of the By-Law, that person, on being notified of the allegation, may within 10 days of the notification voluntarily pay to the Clerk at the Village of MacGregor, a fine for the contravention as follows:


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| (i) | for a first offence, the sum of: | \$100.00 |
| (ii) | for a second offence within 12 months from the first offence, the sum of: | 150.00 |
| (iii) | for a third offence within 12 months from the first offence, the sum of: | 200.00 |


provided that the Dog Control Officer may issue one warning notice to a person who contravenes any of said provisions, and such notice shall not be considered as a first offence hereunder.

(c) Upon payment by any person as provided in subsection (b) that person shall not be liable to prosecution for the contravention in respect of which the payment is made.

- 25. In this By-Law "clerk" includes the Clerk, Secretary-Treasurer, or acting Secretary-Treasurer of the Village of MacGregor.
- 26. By-Law No. 422/83 of the Village of MacGregor is hereby repealed.

DONE AND PASSED as a By-Law of the Village of MacGregor by the Mayor and Council thereof in open session assembled this 2nd day of November A.D. 1994.


Mayor


Secretary-Treasurer

READ A FIRST TIME on the 5th day of October, A.D., 1994

READ A SECOND TIME this 2nd day of November, A.D., 1994

READ A THIRD TIME this 2nd day of November, A.D., 1994