

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NUMBER 06-681

**BEING A BY-LAW FOR LICENSING AND REQUIRING THE REGISTRATION
OF ANIMALS AND FOR THE CONTROL OF ANIMALS WITHIN THE
MUNICIPALITY OF TEMAGAMI**

WHEREAS the Municipal Act, S.O., 2001, c.25, as amended, Section 11, 103-105 authorizes the Council of a municipality to pass by-laws to provide for licensing, and prohibiting or regulating the control of dogs and animals in the municipality;

AND WHEREAS section 9(3)(b) of the *Municipal Act* confers the power upon a municipality, in exercising its powers to regulate and prohibit respecting a matter, to provide for a system of licenses, permits, approvals or registrations respecting the matter, and to impose conditions as a requirement of obtaining, continuing to hold or renew a license, permit, approval or registration;

AND WHEREAS section 105 of the *Municipal Act* requires Council or a Committee of Council or an animal control officer of the municipality to hold a hearing on whether to exempt an owner in whole or in part from muzzling requirements of a dog, when so requested by the dog owner;

AND WHEREAS section 391 of the *Municipal Act* enables a municipality to pass bylaws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS the Council for The Corporation of the Municipality of Temagami deems it advisable to enact such a by-law.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
MUNICIPALITY OF TEMAGAMI ENACTS AS FOLLOWS:**

A. DEFINITIONS

For the purpose of this by-law:

- (a) “Animal Control Officer” shall mean any person or Association so designated by Council or who has entered into a contract with the Corporation of the Municipality of Temagami to control animals and to maintain a pound and any servants or agents of such person or Association;
- (b) “At Large” shall mean an animal shall be deemed to be at large if found in any other place than the premises of the owner of the animal and not under the control of any person;

- (c) "Bite" shall mean a puncture of the skin with teeth;
- (d) "Dog" means a male or female dog over the age of twelve weeks;
- (e) "Guide Dog" means a dog which is trained to assist in the movements of a physically disabled person;
- (f) "cat" means a domesticated feline animal, male or female;
- (g) "Kennel" includes a service commercial establishment for the keeping, boarding, training or breeding of mature dogs and shall include a place or confine where dogs are registered or eligible for registration with an association incorporated under the Animal Pedigree Act (Canada);
- (h) "Muzzle" shall mean a humane fastening or covering device of adequate strength and design and suitable to the breed of the dog that fits over the mouth of a dog and cannot be removed by the dog, to prevent a dog from biting or attacking a person or domestic animal;
- (i) "Owner" shall mean a person who possess or harbours an animal and, where the owner is a minor, the person responsible for the custody of the minor;
- (j) "Municipal By-law Enforcement Officer" shall mean the Chief By-law Enforcement Officer or the person designated to act in his or her absence;
- (k) "Physically disabled person" means a blind person who possesses vision of less than 6/60 on Snellen Acuity Test in his or her better eye after the best possible correction or has a field vision of acuity of less than 20 degrees; and also a physically handicapped person who is permanently confined to or restricted to the use of a mobility aid such as a wheelchair, crutches or braces;
- (l) "Police work dog" shall mean a dog trained for and actually engaged in law enforcement for the Police or other person duly appointed as a peace officer;
- (m) "Restrained" shall mean: (a) kept inside a building or house or in an enclosed pen of sufficient dimension and strength to be humane and to prevent a dog from coming into contact with persons other than the owner of the dog or any other domestic animal or within a securely fenced yard where the fence is a minimum height of 1.83 metres. The enclosed pen or the fenced yard shall be equipped with a locking device and self-latching device. The self-latching device shall be designed in such a manner that the pen or gate cannot be opened from the outside by a child ten (10) years old or younger; or (b) transported from one location to another by means of a collar-type leash and a muzzle;
- (n) "Vicious dog" shall mean a dog which, without provocation, has bitten a person or

a domestic animal or a dog which has been declared vicious in another municipality in Ontario.

B. GENERAL PROVISIONS

1. Every person who owns or harbours an animal shall, in a sanitary manner, remove forthwith and dispose of any excrement left by such animal anywhere within the Municipality. The provisions of this section do not apply to a physically disabled person who is dependent upon and accompanied by a guide dog.
2. (a) Where any dog has bitten a person or a domestic animal, or is alleged to have bitten any person or domestic animal, the Animal Control Officer or his designate may issue an Order to the owner requiring that the dog be kept muzzled at such times as are set out in the Order. Such order shall set out the conditions of muzzling and the owner shall comply with all such conditions. The Order shall remain into effect until an action under the provisions of the Dog Owners' Liability Act has concluded or until it is deemed by the Issuer that the dog in question does not present a risk to public safety or an exemption is granted in accordance with Paragraph 2(b) of this By-law.
2. (b) Upon request, the owner of the dog is entitled to a hearing by the Council or a Committee thereof or the Animal Control Official of the municipality and upon examining all the facts the dog may be exempted from muzzling.
2. (c) Failure to comply with an Order issued under the authority of Paragraph 2(a) of this by-law is subject to the Set Fine as set out in Schedule A.

C. LICENSING

1. No person shall own, harbour or possess any animal unless the annual license fee, which becomes due on January 1st of each year has been paid as approved in the **User Fees By-law** for the Corporation of the Municipality of Temagami.
2. A new resident of the Corporation of the Municipality of Temagami shall be required to obtain a license for their animal within thirty (30) days of becoming a new resident.
3. Upon payment of the license fee, the owner shall be furnished with a animal tag bearing a serial number and the year of the issue and the said tag shall be securely fixed on the animal at all times until renewed or replaced.
4. The Animal Control Officer or his / her designate shall keep a record showing the name and address of the owner and the serial number of each tag issued.
5. The maximum number of pets per household is limited to four (4). Examples are as follows:

=4

2 dogs and 2 cats
1 dog and 3 cats
4 cats only

D. GENERAL PROHIBITIONS

1. (a) No person shall allow an animal to run at large or otherwise create a nuisance within the Municipality. Any animal found running at large may be seized and impounded by the Animal Control Officer or his / her designate and if not claimed within three business days of such seizure and impounding, may be sold for payment of pound fees applicable at the time, or may be destroyed after the recorded owner, if known, has been given a forty eight (48) hour advance written notice.
1. (b) If the Animal Control Officer or his / her designate is unable to seize any dog found to be running at large, and the owner of such an animal is known to the said Officer, such owner is guilty of an offence and shall be subject to a penalty in accordance with the provisions of this by-law.
2. A cat is permitted to be at large but an Animal Control Officer may take possession of and impound any cat found at large if:
 - a) In the opinion of the Animal Control Officer, the cat is in distress, injured, or otherwise in need of immediate veterinary treatment; or
 - b) The owner of the property on which the cat is found to be at large takes control of the cat and asks the Animal Control Officer to take possession of the cat.
3. Where an animal is impounded at any time, the owner, if known, shall be liable for pound and maintenance fees prescribed and all fees shall be paid on demand issued by the Animal Control Officer to the Municipal Treasurer.
4. No person shall permit a dog to be on any land in the municipality other than that of the owner at any time unless under physical control of the owner.
5. No owner shall permit a dog to be in the following areas used by the public during the months of May through September, inclusive:
 - i) That area designated as the Temagami North Beach.
 - ii) The Temagami North Soccer Field.
 - iii) The Tennis courts in Temagami North.
 - iv) The Community Centre except at designated events.

- v) Temagami North and the Lions Ball Diamonds “Playing Fields”.
 - vi) The Waterfront Lawn between the Municipal Office and the public swimming area.
 - vii) The public swimming area located on the waterfront behind the Municipal Building.
6. Owners shall be permitted to use the area at the arena grounds between the old boat ramp and the new boat ramp as an area to take their dogs for a swim. The owner must still be present and have control of their dog(s).
 7. **Declaration Regarding A Vicious Dog** being Schedule “B”;
Notice to Muzzle being Schedule “C”;
and **Method of Restraining Dog** Schedule “D” hereby form part of this by-law.

E. IMPOUNDMENT

1. Where the Animal Control Officer captures and takes into custody an animal, he shall impound the animal.
2. Animals found at large contrary to the provisions of this by-law shall be impounded for a period of not less than three (3) days unless claimed during this period; not including the day the animal was impounded.
3. Immediately upon the impoundment of an animal, the Animal Control Officer shall make every reasonable effort to notify the owner of such impoundment. The Animal Control Officer will inform such owners of the means whereby they may regain possession of such animal.

Prior to the expiration of the impoundment period and the animal becoming the property of the Corporation as outlined in Section E.4. herein, the Animal Control Officer will attempt to contact the owner if previous attempts were unsuccessful.

4. Animals not claimed by their owners at the expiration of three (3) days (72 hours), shall become the property of the Corporation.
5. Where an animal is not claimed by its owner in accordance with Section E.4., the animal may be sold forewith or disposed of or killed in a humane manner.
6. The Animal Control Officer will prepare and submit a summary within five (5) days of the conclusion of a month outlining all control activities, impoundment, disposals, to the attention of the Chief Administrative Officer.

7. Where an animal is impounded and the owner of the animal is known to the Corporation, the owner shall pay the expenses for the period of the impoundment as outlined in the fees and charges by-law:
8. All such fees in Section E shall be known as, Impoundment Fees and shall be paid by the owner directly to the Municipality.
9. Where an animal in the opinion of the Animal Control Officer, must be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the Animal Control Officer may euthanize the animal in a humane manner as soon after the capture or custody as he/she may determine.

The particulars of all such instances shall be reported to the municipality as part of the monthly activity report. The particulars shall outline the circumstances surrounding the incident and the rationale for humane destruction.

10. Before any animal can be claimed, proof of rabies inoculation must be presented to the Animal Control Officer. For inoculation to be administered, it must be done by a veterinarian at the owner's expense.
11. No compensation, damages, fees or other sum shall be:
 - 11.1 recoverable by an animal owner or other person;
 - 11.2 paid by the Animal Control Officer on account or by reason of:
 - 11.2.1 capturing, taking into custody, or impounding an animal; or
 - 11.2.2 selling, disposing of or euthanizing an animal, in the course of the administration and enforcement of this by-law.

F. SURRENDERING OF ANIMALS

1. An owner of an animal may give up ownership of the animal by surrendering the animal to Animal Control.
2. By surrendering the animal to Animal Control the owner is deemed to have relinquished all rights of ownership and possession of the animal.
3. To surrender the animal to Animal Control, the owner shall pay the appropriate Fees as required under the applicable Municipality of Temagami fees and charges By-law.
4. An animal that has been surrendered to Animal Control becomes the property of the Corporation and may be kept or disposed of as the Corporation deems appropriate Including 1) placing the animal for adoption 2) Euthanasia by Animal Control where In the opinion of an Animal Control Officer the animal is not suitable for adoption or should be euthanized for humane reasons.

G. ENFORCEMENT

1. Every person who contravenes any provision of this by-law is guilty of an offence and shall be subject to a penalty in accordance with the Provincial Offences Act, R.S.O. 1990, c.P.33.
2. Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Judge of the Ontario Court (Provincial Division) shall be requested to establish, pursuant to the Provincial Offences Act, set fines in accordance with "Schedule "A" of this by-law.
3. This by-law will be enforced where road access is available only.

H. VALIDITY

1. If any section, clause, or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not effect 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 remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

I. REPEAL

1. That By-law No. 05-590 and By-law No. 05-619, are hereby repealed and that the **set fines in Schedule "A" for By-law 06-681** shall come into force and effect upon approval by the Chief Judge of the Ontario Court (Provincial Division).
2. That this By-law shall come into force and effect on the date of passing.

READ a first time the 26th day of October, 2006.

READ a second and third time and finally passed this 9th day of November, 2006.


MAYOR


CAO/Clerk

Schedule "A"

| <u>ITEM COLUMN 1</u> | <u>COLUMN 2</u> | <u>COLUMN 3</u> |
|---|-----------------|---|
| <u>Proposed Short Form Wording Provision Creating Offence</u> | | <u>Proposed Set Fine</u> |
| 1. Failure to pay license fee | C.(1) | \$ 50.00 |
| 2. Failure to affix animal tag | C. (3) | \$ 25.00 |
| 3. Allowing animal to run at large | D.(1,2) | \$ 25.00 1 st offense \$ 50.00 2 nd offense \$100.00 subsequent |
| 4. Allowing animal into Public area (Refer to Section D. (5) | D. (5) | \$ 50.00 |
| 5. Failure to restrain or muzzle an animal in a Public Place | D. (4) | \$100.00 |
| 6. Failure to remove excrement | B.(1) | \$ 50.00 |
| 7. Failure to obey muzzle order | B.2 (c) | \$100.00 |

Every person who contravenes a provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not less than Fifty dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) under the Provincial Offences Act.

Schedule "B"

DECLARATION REGARDING A VICIOUS DOG

Owner of Dog:

Name: _____

Address: _____

Name of Dog: Dog Tag Number: _____

Description of Dog:

Breed: _____

Colour: _____

Other: _____

Rabies Tag Number: Other Identification: _____

Location of Incident:

Address: _____

Location on Property: _____

Location on Street: _____

Description of Incident:

Date of Incident: Time of Incident: _____

Signature of Witness who actually saw
the alleged vicious dog bite a person or
domestic animal

Signature of Chief By-law
Enforcement Officer

Name of witness: _____

(Please print)

Address of witness: _____

Telephone number of witness: _____

Personal information contained in this form is collected under the authority of the Municipal Act, S.O., 2001, c.25, as amended, and will only be used for the purposes for which it was collected. Questions about this collection of information should be directed to the Chief By-law Enforcement Officer of the Municipality of Temagami, 7 Lakeshore Drive, Temagami, Ontario POH 2H0, (705) 569-3421.

Schedule "C"

NOTICE TO MUZZLE

To: Date: _____

Owner of Dog

Address: _____

Description of Dog: _____

Name of Dog: _____

Breed: _____

Colour: _____

Dog Tag: _____

Year of Dog Tag: _____

Rabies Tag No. including the year and Veterinary's Office:

The Corporation of the Municipality of Temagami is in receipt of a Declaration duly executed by the Chief By-law Enforcement Officer pursuant to Section 2(a) of By-law No. 05-590, and that the dog described above did on the ____ day of _____, _____ bite and puncture the skin of a person or a domestic animal. In accordance with Subsection 2(b) of By-law No. 05-590, you are hereby ordered to restrain your dog as follows:

Schedule “D”

METHOD OF RESTRAINING A VICIOUS DOG

While the dog is on the property of the owner or harbourer as described above, the owner shall be responsible for restraining the dog by keeping it inside a building or house or in an enclosed pen of sufficient dimension and strength to be humane and to prevent a dog from coming into contact with persons other than the owner of the dog or any other domestic animal or within a securely fenced yard where the fence is a minimum height of 1.83 metres. The enclosed pen or the fenced yard shall be equipped with a locking device and self-latching device. Such self-latching device to be designed in such a manner that the pen or gate cannot be opened from the outside by a small child. The owner is responsible for ensuring that the dog is prevented from escaping and running at large.

While the dog is off the property of the owner, as described above, the owner shall ensure that:

- i) it is securely on a collar-type leash with a maximum length of 2 metres and of sufficient strength to restrain the dog and keep it from chasing a person or domestic animal;
- ii) a muzzle is fastened humanely over the mouth of a dog of adequate strength and design and suitable to the breed of the dog that fits over the mouth of a dog and cannot be removed by the dog, to prevent the dog from biting or attacking a person or domestic animal;
- iii) it is under the control of a person sixteen (16) years of age or older.
- (iv) the Animal Control Officer is notified within forty-eight (48) hours of any changes to the residency of the vicious dog.
- (v) the Animal Control Officer is notified within forty-eight (48) hours after the ownership of the vicious dog is transferred to another person.
- (vi) the Animal Control Officer is notified should the vicious dog be destroyed.

Personal information contained in this form is collected under the authority of the Municipal Act, S.O., 2001, c.25, as amended, and will only be used for the purposes for which it was collected. Questions about this collection of information should be directed to the Chief By-law Enforcement Officer for the Municipality of Temagami, 7 Lakeshore Drive, Temagami, Ontario POH 2H0, (705) 569-3421.

This Notice is served upon the owner in accordance with Subsection 2 (b) of By-law No. 05-590 on this day of, _____

Chief By-law Enforcement Officer: _____