

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2012-11

Being a By-law to regulate or prohibit animals being at large or trespassing and to provide impounding in the Township of Tay.

WHEREAS pursuant to Sections 11 and 103(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, empowers councils of a local municipality to pass By-laws to regulate or prohibit animals being at large or trespassing and to provide for impounding them;

AND WHEREAS Section 8 and 11 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, authorize the municipality to pass by-laws regarding fences and enclosures;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, a municipality may enact a by-law to require that a matter or thing be done and in default, the matter or thing may be done by the municipality at the person's expense and further that the costs of doing so may be added to the tax roll and collected in the same manner as taxes;

AND WHEREAS it has been deemed by the Council of the Corporation of the Township of Tay necessary to pass a By-law to regulate and prohibit animals being at large, including being at large on a highway;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP TAY ENACTS AS FOLLOWS:

"Animal" includes cattle, goats, sheep, swine, horses, rabbits, mink, foxes, reptiles, domestic fowl and other animals, excluding dogs and cats.

"Council" means the Council of the Corporation of the Township of Tay.

"Fence" means a barrier forming a boundary to or enclosing an area of land.

"Officer" means a Municipal Law Enforcement Officer.

"Owner" means the owner or person in possession of an animal and where the owner is a minor, the person responsible for the custody of the minor.

"Perimeter fence" means a fence with gates, where necessary, that is located on the outer boundaries of a property and that encloses a property in its entirety.

"Person" in addition to its regular meaning, includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency or

any director, officer, manager or person in charge of such entity or the collecting of rent of any property, or any other person who is the occupier of the property.

"At Large" means found at a place other than the premises of the owner of the animal and not under the control of any person.

"Trespass" means being on private property without permission of the owner of the private property or being at large on property owned by the Township.

"Township" means The Corporation of the Township of Tay.

"Township Property" means any land situated within the Township of Tay which is owned by the Township or controlled by the Township by lease or otherwise.

2. OFFENCES

- 2.1 No owner or person in charge of any animal shall permit an animal to be at large.
- 2.2 No owner or person in charge of any animal shall permit an animal to trespass.
- 2.3 Every owner on whose property animals are being kept shall prevent the animals from leaving the property at any time by constructing a perimeter fence or other interior enclosure, and, further such owner shall keep the said perimeter fence or other interior enclosure or enclosures in good repair.

3. ADMINISTRATION AND ENFORCEMENT

- 3.1 This by-law shall be administered by the Municipal Law Enforcement Officer(s) of the Township or such person or persons as Council may, by by-law, appoint.
- 3.2 This by-law shall be enforced by the Municipal Law Enforcement Officer(s) of the Township or such person or persons as Council may, by by-law, appoint.
- 3.3 If an Officer determines that an owner on whose property animals are being kept is in contravention of this by-law, an Officer may issue an order to the owner of the animals requiring the owner to repair or replace such fences and/or enclosures on the owner's lands to prevent animals from being at large on municipal property, highways, or neighbouring properties within the municipality.

4. RIGHT OF ENTRY

- 4.1 An Officer or person designated by Council shall be permitted to enter onto land at any time for the purpose of enforcing this by-law and any orders or conditions imposed under the authority of this by-law.

- 4.2 A person exercising a power of entry on behalf of the Township under this by-law must, upon request, display or produce proper identification.

5. REMEDICATION

- 5.1 Where the owner is in default of doing any matter or thing directed or required to be done under this by-law, an Officer may direct the completion and enforcement of such at the owner's expense.
- 5.2 The Township may recover the remedial action and enforcement costs incurred under subsection 5.1 by action, or by adding them to the tax roll and collecting them in the same manner as taxes in accordance with Section 446 of the Municipal Act.
- 5.3 The Township may, prior to recovering costs incurred in subsection 5.1 pursuant to Section 446 of the Municipal Act by adding costs to the Municipal Taxes, invoice owners requesting voluntary payment of said remedial action costs.
- 5.4 The Township may place a lien on the property as per Section 446 of the Municipal Act on any remedial action that exceeds \$1000.00.

6. IMPOUNDING AND SELLING OF ANIMALS RUNNING AT LARGE

- 6.1 An Officer, with respect to an animal being at large or trespassing in contravention of this by-law, may seize and impound the animal being at large or trespassing. The seized animal shall be impounded at such facilities designated and/or maintained by the Township.
- 6.2 If the owner of the animal can be identified, the Officer shall deliver notice to the owner (to the address of the owner shown on the last revised assessment roll or to be the last known address) that the animal has been impounded.
- 6.3 An owner or person in charge of an animal that has been impounded may claim the animal within 10 days of the impounding of the animal, excluding the day the animal was impounded and including the day the animal is claimed, provided that all costs incurred by the Township and the Township's pound keeper shall be paid by the owner before the animal is released.
- 6.4 If an animal which has been impounded is not claimed within the 10 day period stipulated in section 5.3 or if all of the costs incurred by the Township and the Township's pound keeper have not been paid, the Township may sell the impounded animal without advertising or tender. The proceeds of the sale shall be applied first to the costs incurred by the Township and the balance, if any, shall be paid to the owner of the animal.

- 6.5 Where an animal that is impounded is not claimed by the owner within the 10 day period specified in Section 5.3 the Township's pound keeper may retain the animal for such further time as he/she may consider proper and during that time the pound keeper may:
- a) sell the animal for such price as he/she considers proper; or
 - b) euthanize the animal; or
 - c) otherwise dispose of the animal as he/she sees fit.
- 6.6 Where an animal that is captured or taken into custody in the opinion of the Township's pound keeper, is injured or should be destroyed without delay for humane reasons or for the reasons of safety to persons or animals, the Officer, pound keeper or other trained person appointed by the pound keeper, may euthanize the animal in a humane manner as soon after capture or taking into custody as he/she may determine, and may do so without permitting any person to reclaim the animal or without offering it for sale.
- 6.7 An Officer, police officer or persons designated by Council may kill an animal in the following circumstances:
- a) where the animal is trespassing or at large and in his/her opinion, should be destroyed because it is so severely injured that it would be inhumane to capture the animal and remove it to a veterinary hospital; or
 - b) where the animal is trespassing or at large and in his/her opinion, should be destroyed for reasons of safety to the public or other animals.
- 6.8 No compensation, damages, fees or any other sum of money on account of or by reason of the impounding, killing, euthanizing or other disposal of an impounded animal in the course of the administration and enforcement of this by-law shall be recoverable by the owner of an animal or other person.
- 6.9 No person shall forcibly retrieve an animal from the pound keeper, an Officer or, break and enter into a patrol vehicle of an Officer or the Township or retrieve an animal without payment in full of all fees and charges required to be paid under this by-law.

7. PENALTIES

- 7.1 Every person who contravenes any of the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.2 Every person who contravenes the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 7.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the

- contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.4 Despite section 7.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 7.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 7.6 Despite section 7.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 7.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 7.8 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 7.9 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 7.10 Every person who contravenes any section of this by-law under a Part 1 ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.
- 7.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8. CONTINUING OFFENCE

- 8.1 Each day that a situation as described in Sections 2.1 or 2.2 of this by-law is allowed to continue shall constitute a separate offence under this by-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

9. OBSTRUCTION

- 9.1 In accordance with the provisions of the Municipal Act S.O. 2001, c. 25, as amended, Section 426(1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an Officer, employee of the Township and/or agent in the lawful exercise or power or duty under this by-law.
- 9.2 Any person who has been alleged to have contravened any of the provisions of this by-law, who fails to identify himself/herself

shall be deemed to have obstructed or hindered the person exercising a power or performing a duty under this by-law.

10. TOWNSHIP NOT LIABLE

10.1 The Township assumes no liability for property damage, damage to animal or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person, animal or property that is subject of this by-law.

11. VALIDITY AND SEVERABILITY

11.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

12. SHORT TITLE

12.1 The short title of this by-law is the Animal at large By-law.

13. REPEALED

13.1 By-law 2004-11 is hereby repealed.

13.2 This by-law shall come into force and take effect immediately upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF FEBRUARY, 2016.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR, Scott Warnock

CLERK, Alison Thomas

SCHEDULE 'A' TO BY-LAW 2012-11**PART 1 Provincial Offences Act-Set Fine Schedule****THE CORPORATION OF THE TOWNSHIP OF TAY****By-law No. 2012-11, as amended: Animal at Large By-law**

ITEM	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Permit animal to run at large.	2.1	\$125.00
2	Permit animal to trespass.	2.2	\$125.00
3	Obstructing an Officer of Agent.	9.1	\$125.00

Note: The general penalty section for the offences indicated above is Part 7.2 of By-law 2012-11, as amended. A certified copy of which has been filed.

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