BYLAW No. 161-05
A BYLAW TO CONTROL DANGEROUS ANIMALS

The council of the Town of Kelvington in the Province of Saskatchewan enacts as follows:

PURPOSE

1. The purpose of this bylaw is to promote the safety, health and welfare of people and the protection of people and property in the Town of Kelvington and to ensure the humane treatment of animals by regulating and prohibiting the keeping of dangerous animals within the Town.

DEFINITIONS

2. In this Bylaw;

a) "Town" means the Town of Kelvington;

b) "judge" means a judge of the Provincial Court of Saskatchewan, a Justice of the Peace or the Council for The Town of Kelvington,

c) "owner" includes:

i) a person who keeps, possesses or harbors an animal:

ii) the person responsible for the custody of a minor where the minor is the owner of an animal to which this Bylaw applies;

but does not include:

iii) a veterinarian registered pursuant to *The Veterinarians Act, 1987* who is keeping or harboring an animal for the prevention, diagnosis or treatment of a disease or injury to the animal;

iv) a municipality, the Saskatchewan Society for the Prevention of Cruelty to Animals, a local society for the Prevention of Cruelty to Animals or a Humane Society operating pursuant to *The Animal Protection Act*, with respect to an animal shelter or impoundment facility operated by any of them.

d) "provocation" means an act done intentionally for the purpose of provoking an animal to which this Bylaw applies.

APPLICATION

3. This Bylaw shall apply to domestic cats and dogs in the Town.

DANGEROUS ANIMALS

4. a) An animal is dangerous where it is proved that:

i) the animal, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack;

ii) the animal has a known inclination, or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of persons or domestic animals;

iii) the animal has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked a person or domestic animal;

b) For the purpose of this Section, an animal is presumed not to have been provoked, in the absence of evidence to the contrary.

EXEMPTION FOR GUARD DOGS

5. No dog shall be considered dangerous where an action described in 4. a) occurred while the dog was:

a) acting in the performance of police work; or

b) working as a guard dog on commercial property:

i) securely enclosed on the property by a fence or other barrier sufficient to prevent the escape of the dog and the entry of children of tender years; and

ii) defending that property against a person who was committing an offence.

DANGEROUS ANIMAL HEARINGS

6. a) If a complaint is made that an animal is dangerous, a judge shall hold a hearing to determine if, based upon the evidence adduced at the hearing, the animal is, in fact, dangerous.

b) Notice of the hearing referred to in subsection a) shall be served upon the owner of the animal. The notice shall be served:

i) in the case of an owner who is an individual:

1) by delivering it personally to the owner; or

2) if the owner cannot conveniently be found by leaving it for the owner at the owner's residence with a person at that residence who appears to be at least 18 years of age;

ii) in the case of an owner that is a corporation:

1) by sending it by registered mail to the registered office of the corporation; or

2) by delivering it personally to the manager, secretary or other executive officer of the corporation or the person in charge of any office or other place where the corporation carries on business in Saskatchewan.

c) Where an owner does not appear at the time and place appointed for the hearing after having been notified of that time or place, the judge may proceed *ex parte* to hear and determine the proceedings in the absence of the owner as fully and effectively as if the owner had appeared.

d) If the judge is satisfied, on the evidence, that the animal is dangerous, the judge shall make an order embodying all of the following terms:

i) keep the animal in an enclosure that:

1) shall be constructed of wood or any other building material of sufficient strength and in a manner adequate to:

a) confine the animal; and

b) prevent the entry of children of tender years;

2) shall have entrances and other areas by which entry to or exit from the enclosure may be made that shall be locked or fastened in a manner

adequate to prevent the animal from escaping from the enclosure;

3) shall be at least 3 metres in length, *1.5* metres in width and 1.8 metres in height;

4) shall have a top secured to the sides of the enclosure;

5) shall have a floor secured to the sides of the enclosure; or the sides of the enclosure shall be embedded in the ground to a depth of at least .6 metres;

6) shall provide protection from the elements for the animal, provide adequate light and ventilation for the animal and be kept in a sanitary and clean condition;

ii) if the animal is removed from the enclosure, it shall be muzzled and leashed as follows:

1) fitted with a collar or a harness for the body that is properly placed and fitted on the animal;

2) the movement of the animal shall be controlled by a person by means of a leash attached to the collar or harness on the animal;

a) the leash shall not exceed 12 meters in length and shall be constructed of a material having a tensile strength of at least 140 kilograms;

b) the muzzle shall be properly fitted on the animal to prevent it from biting any animal or persons;

iii) within 10 days of an animal being declared dangerous, the owner shall obtain and keep in effect and provide proof to the administrator of the Town of Kelvington that liability insurance of not less than $300,000 has been obtained for any bodily injury to or death of any person or domestic animal, or for any damage to property caused by the animal;

iv) display a sign in the prescribed form and manner at each entrance to the premises where the dog is kept and on the enclosure in which the dog is confined. The sign shall be clearly visible and capable of being read from any adjacent public road and shall read "WARNING DANGEROUS DOG ON PREMISES".

v) the owner shall, at their expense, and within 10 days of the animal being declared dangerous, have the animal inoculated against rabies by a veterinarian and provide proof of this to the administrator of the Town of Kelvington;

vi) if the animal is unlicensed, the owner shall, at the owner's expense and within ten days of the date of the order, purchase the requisite license for the animal;

vii) before the animal is sold or given away, the owner shall notify any prospective owner that the animal has been declared a dangerous animal;

viii) the owner shall report the sale or other disposition of the animal to;

1) the administrator of the Town of Kelvington;

2) the manager, clerk or administrator of the municipality where the animal is to be moved and further the owner shall provide the name, address and telephone number of any new owner of the animal.

ix) order the animal be spayed or neutered;

x) the owner shall take such other measures as the judge considers appropriate.

e) Notwithstanding section 6 d), a judge may, in the alternative, order that the animal be destroyed or otherwise disposed of at the owner's expense and shall give directions with respect to the destruction or other disposition.

7. Where an order has been made pursuant to section 6. d) against the owner, the owner may apply to the judge who made the order for an order that compliance with the provisions of any clause be waived.

8. On an application pursuant to section 7. the judge may waive compliance with clause 6. d) on any terms and conditions that the judge considers reasonable, where the judge is satisfied that the owner is unable to comply with the requirements of that clause for a reason other than the owner's financial circumstances.

OFFENCES AND PENALTIES

9. a) Any person who owns an animal for the purpose of fighting or trains, torments, badgers, baits or otherwise uses an animal for the purpose of causing or encouraging the animal to make unprovoked attacks on persons or domestic animals is guilty of an offence.

b) Any person who displays a prescribed sign warning of the presence of a dangerous animal and who is not acting in accordance with an order made pursuant to subsection 6. d) or has not received the permission of the Town to display the sign is guilty of an offence.

c) Any person who does not comply with any part of an order made against him or her pursuant to subsection 6. d) or e) is guilty of an offence.

d) Any person who owns an animal that, without provocation, attacks, assaults, wounds, bites, injures or kills a person or domestic animal is guilty of an offence.

e) Any person found guilty of an infraction of this bylaw shall be liable on summary conviction to:

i) a fine of not more than $10,000;
ii) imprisonment for not more than six months;
iii) a penalty consisting of any combination of clauses a) or b).

f) In addition to imposing the penalty under subsection e) the convicting judge shall make an order embodying the requirements of subsection 6. d).

g) Not withstanding subsection f) the judge may in the alternative, order that the animal be destroyed or otherwise disposed of at the owner's expense and shall give directions with respect to the destruction or other disposition.

h) A person desiring to appeal an order pursuant to this Bylaw shall, within seven days of the order being appealed from, file a notice of appeal with Her Majesty's Court of Queen's Bench, and the provisions of Part XXVII of the *Criminal Code* apply with any necessary modification.

EXECUTION OF DESTRUCTION ORDER

10. a) Unless the owner otherwise agrees, every order for destruction of an animal shall state that it shall not be implemented for eight days.

b) Where an appeal is taken against an order for the destruction of an animal, the

application of the order is stayed pending the disposition of the appeal.

c) Regardless of the outcome of the appeal, the owner shall be responsible for the payment of the costs of impoundment of the animal pending hearing.

RETURN OF ANIMAL

11. Where a judge on appeal overturns the order for the destruction of the animal, the animal shall be released to the owner after the owner has paid the costs of impoundment of the animal pending the hearing.

DESTRUCTION BY PEACE OFFICERS

12. a) A peace officer as defined by the Criminal Code may destroy any animal that the officer finds injuring or viciously attacking a person or domestic animal.

b) Where the officer acted in good faith, a peace officer who destroys an animal pursuant to subsection a) is not liable to the owner for the value of the animal.

13. Bylaw No. 84-90 A bylaw to amend Bylaw No. 39-83, a bylaw to license and regulate the running at large of cats and dogs is hereby repealed.

Read a third time and adopted this 2nd day of May, 2005.

(SEAL)

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Mayor Administrator