

Authority: Item , Committee of the Whole

Report 09-XXX

CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend City of Hamilton By-law No. 01-169
Being a By-law respecting the Control and
Licensing of Dogs and Kennels**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that the powers of a municipality under that Act, or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate, and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes a municipality to provide any service or thing that it considers necessary or desirable for the public and subsection 10(2), paragraph 7 of the Act authorizes the municipality to pass by-laws respecting such services or things and subsection 10(2), paragraph 9 of the Act authorizes the municipality to pass by-laws respecting animals;

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a by-law under section 10 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit respecting the matter, may require a person to do things respecting the matter;

AND WHEREAS subsection 10(2)9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes a single tier municipality to pass by-laws respecting animals;

AND WHEREAS subsection 11(3)9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes a lower tier municipality to pass by-laws respecting animals;

AND WHEREAS subsection 103(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that if a by-law is passed regulating or prohibiting with respect to the being at large or trespassing of animals, the by-law may provide for the seizure and impounding of animals being at large or trespassing and the sale of impounded animals;

AND WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes municipalities to pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

AND WHEREAS the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Sched. C, did incorporate, as of January 1st, 2001, the municipality "City of Hamilton" and did dissolve, on January 1, 2001, the former municipalities of The Regional Municipality of Hamilton-Wentworth, The City of Hamilton, The Town of Dundas, The City of Stoney Creek, the Town of Ancaster, The Town of Flamborough and the Township of Glanbrook;

AND WHEREAS subsection 5(1) of the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Sched. C, did dissolve, on January 1, 2001, the former municipalities of The Regional Municipality of Hamilton-Wentworth, The City of Hamilton, The Town of Dundas, The City of Stoney Creek, the Town of Ancaster, The Town of Flamborough and the Township of Glanbrook;

AND WHEREAS subsection 5(6) of the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Sched. C, provided that every by-law or resolution of an old municipality that is in force on December 31, 2000 shall be deemed to be a by-law or resolution of the city council on January 1, 2001 and remains in force, in respect of the part of the municipal area to which it applied on December 31, 2000, until it expires or is repealed or amended to provide otherwise.

AND WHEREAS the former municipalities of The City of Hamilton, The Town of Dundas, The City of Stoney Creek, the Town of Ancaster, The Town of Flamborough and the Township of Glanbrook did, each, pass and enact by-laws regulating animals, which by-laws were in force and effect on December 31, 2000 and did, therefore, remain in force and effect on January 1, 2001;

AND WHEREAS the Council of the City of Hamilton did, on the 10th day of July, 2001, pass By-law No. 01-169, being a by-law Respecting the Control and Licensing of Dogs and Kennels;

AND WHEREAS the Council of the City of Hamilton now deems it necessary and appropriate to amend By-law 01-169, as amended, and repeal the extant by-laws of the former municipalities, each as amended;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

PART 1: Definitions

1. In this By-law:
 - (a) "**allow**" includes but is not limited to, let, agree to, consent to, tolerate, permit, acquiesce, cause, and in the case of any prohibition herein, fail to prevent.
 - (b) "**animal**" means any member of the animal kingdom, other than a human.
 - (c) "**at large**" means not confined to private property with the property owner's consent and, when not confined to private property, "at large" means not on a leash or under harness and, thereby, under the control of a competent person or, thereby, purportedly under the control of a person who is not competent.
 - (d) "**bite**" means the breaking, puncturing or bruising of the skin of a person or domestic animal caused by the tooth or teeth of a dog.
 - (e) "**cat**" means a male or female of the species felis catus
 - (f) "**City**" means the City of Hamilton, either in the sense of the geographic area of the municipality or the identity of the municipal corporation as the context requires
 - (g) "**Class A Animal**" means "companion animals", excluding "Class B Animals" as set out in Schedule A of this By-law.
 - (h) "**Class B Animal**" means "companion animals", excluding "Class A Animals" as set out in Schedule B of this By-law.
 - (i) "**Class C Animal**" means domesticated "Livestock", including but not limited to livestock as set out in Schedule C of this By-law.
 - (j) "**Class D Animal**" means domesticated animals other than livestock but raised for the purpose of harvesting their pelts or flesh including but not limited to those animals set out in Schedule D of this By-law.
 - (k) "**Class E Animal**" means animals that are not normally domesticated, including wildlife, whether or not indigenous to Canada, and exotic animals including but not limited to those animals set out in Schedule E of this By-law.
 - (l) "**Council**" means the council of the City of Hamilton.

- (m) **"custodian"** when used in relation to an animal, includes a person who temporarily possesses, keeps, harbours or assumes temporary responsibility for the custody, care or control of an animal on behalf of the owner and with the owner's knowledge and consent, for any finite period of time and, where the person is under the age of 18, the person responsible for the custody of the person under the age of 18, and "custodianship", "temporary custodian" and "person having temporary responsibility" have corresponding meanings.
- (n) **"dog"** means a male or female of the species *canis familiaris*.
- (o) **"dwelling"** means a building, structure, mobile home or recreational vehicle with or without kitchen facilities or a part of such a building or structure, which is, or is intended to be used for the purpose of human habitation, and includes such a building, home or vehicle that would be intended to be used for such purposes, except for its state of disrepair.
- (p) **"exhibition"** includes circus, carnival, menagerie, zoo, petting zoo, exhibit or licensed public display.
- (q) **"farm"** means a farm within the meaning of the Income Tax Act (Canada) and includes but is not limited to, an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward and "farm business" and "farming business" has a corresponding meaning.
- (r) **"farmer"** means a person who has a current and valid farm business registration number under the Farm Registration and Farm Organization Funding Act, 1993 and without limiting the definition set out herein, "farm" means the premises where the business takes place.
- (s) **"Foster Home"** means a privately owned residence providing a temporary sanctuary for stray, feral or abandoned animals on behalf of a Rescue Agent or the City and "Foster Group" has the same meaning.
- (t) **"General Manager"** means the General Manager of Planning and Economic Development for the City and includes his/her designates and successors.
- (u) **"keep"** includes care for, control, harbour and possess, whether temporarily or permanently, and "keeping" and "kept" have corresponding meanings.
- (v) **"leash"** means a restraint not exceeding 1.8 metres in length.

- (w) **"livestock"** means any animal normally bred or kept for use or profit or for the purpose of providing a consumable commodity and includes but is not limited to animals such as; any horse, donkey, mule, head of cattle, sheep, goat, swine, mink, ermine or other weasel, any fowl, any poultry and ostrich and emu.
- (x) **"Manager"** means the Manager of Animal Control for the City and includes his/her designates and successors.
- (y) **"microchip"** means an approved 'Canadian Standard' encoded identification device implanted into an animal which is programmed to store a unique and permanent identification number that permits access to owner information which is stored in a database.
- (z) **"Municipal Law Enforcement Officer"** means a person appointed by the City to enforce municipal by-laws, including but not limited to by-laws regulating animals, and "Animal Control Officer" and "By-law Enforcement Officer" have a corresponding meaning and are interchangeable therewith.
- (aa) **"muzzle"** means a humane fastening placed over a dog's mouth or snout, of adequate strength to prevent it from biting and the word "muzzling" has a corresponding meaning.
- (ab) **"owner"**, when used in relation to an animal, includes a person, partnership, association or corporation who possesses, keeps, harbours, or assumes responsibility for the wellbeing or the behaviour of an animal for any period of time, save and except where the person is the temporary custodian of an animal acting on behalf of the owner and with the owner's knowledge and consent and, where the person is under the age of 18, the person responsible for the custody of the person under the age of 18, and "ownership" has a corresponding meaning.
- (ac) **"pit bull"** has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners' Liability Act.
- (ad) **"police dog"** means a dog trained to aid Police Officers and used by Police Officers when carrying out their duties and "police working dog", "police work dog" and "police service dog" have the same meaning.
- (ae) **"pound"** means any premises operated by, or on behalf of, the City used for the detention, maintenance or disposal of animals and includes any additional premises used for the detention, maintenance or disposal of animals that may be operated by the City or its contractors from time to time.

- (af) **"Pound Keeper"** means the City's Manager of Animal Control or his or her designate or any successor thereto and includes any other person or persons appointed by Council to carry out the operation of its pounds, whether by employment or under contract.
- (ag) **"premises"** means a building or a part of a building and any land appurtenant to the building or part of the building.
- (ah) **"prohibited pit bull"** has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners' Liability Act.
- (ai) **"redemption period"** means that period of time within which the owner of a dog or cat that has been impounded in the pound has the right to redeem it.
- (aj) **"Rescue Agent"** means a person registered with the City as private person providing an animal rescue service for the purpose of placing stray, feral or abandoned animals, temporarily with a foster home and permanently with a person who will become the animal's owner and "Rescue Agency" and "Rescue Group" have corresponding meanings.
- (ak) **"restricted pit bull"** has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners' Liability Act.
- (al) **"run at large"** means an animal found in any place other than the premises of the owner of the animal and not under the control of any person, and for greater certainty includes where an animal has strayed from its owner or temporary custodian or their premises onto a public place or onto private property without the consent of the property owner, and "running at large" has the same meaning.
- (am) **"Senior Director"** means the Senior Director of Parking and By-law Services for the City and includes his/her designates and successors.
- (an) **"service dog"** means a dog trained by a recognized school for service as a guide dog for the visually or hearing impaired or a special skills dog for other disabled or challenged persons.
- (ao) **"Society for the Prevention of Cruelty to Animals"** and **"SPCA"** mean and are interchangeable with the "Ontario Society for the Prevention of Cruelty to Animals", and its associated agencies, including but not limited to the Hamilton/Burlington Society for the Prevention of Cruelty to Animals (HSPCA), and for greater clarity, the Hamilton/Burlington Society for the Prevention of Cruelty to Animals shall be deemed to enjoy the same rights and privileges under this By-law as the Ontario Society for the Prevention

of Cruelty to Animals and a reference to one shall be deemed an inclusive reference to the other.

- (ap) **"sterilized"** means spayed or neutered.
- (aq) **"under the control of some person"** includes capable of immediate custody or immediate restraint so as to prevent injury to another person or damage to property.

PART 2: Interpretation

- 2. Any Schedules attached to this By-law form a part of it.
- 3. The table of contents, headings and subheadings used in this By-law shall not form a part of it, but shall be deemed to be inserted for convenience of reference only.
- 4. The requirements of this By-law are in addition to any requirements contained in any other applicable by-laws of the City or applicable provincial or federal statutes or regulations.
- 5. If there is a conflict between a provision of this By-law and any other by-law of the City or a provincial or federal statute or regulation, the most restrictive in relation to controlling animals prevails.
- 6. Unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context requires.
- 7. Any and all rights, privileges and authorities that may be exercised or enjoyed by, or that are otherwise delegated to the Manager under this By-law may also be exercised and enjoyed by, and are likewise delegated to the Senior Director and the General Manager.

PART 3: Scope

- 7. The provisions of this By-law apply to the entire geographic area of the City.
- 8. The provisions of this By-law do not apply to the following:
 - (a) The premises of a pound;
 - (b) Any premises used by the Ontario Society for the Prevention of Cruelty to Animals;

- (c) A supply facility licensed in accordance with the Animals for Research Act;
- (d) A research facility registered in accordance with the Animals for Research Act;
- (e) An animal hospital or clinic operated and supervised by a veterinarian who has a licence to practise veterinary medicine issued under the Veterinarians Act;
- (f) A university or college; or
- (g) An exhibition authorized by the City.

PART 4: General Prohibitions

9. (1) No person shall leave food, of any type or in any form, out of doors in such a manner as to attract, or be accessible by, any form of wildlife or by any stray, feral, or abandoned animal.
- (a) Subsection 9(1) shall not apply to the leaving of food by a farmer on the premises of a farm, or the leaving of food on any farm or the premises of a farming business by any person employed by a farmer or acting on the farmer's behalf.
 - (b) Subsection 9(1) shall not apply to the leaving of bird feed by a property owner, in a feeder for birds on the property of said property owner, provided the subject bird feeder is sufficiently above grade so as to not attract, or be accessible by, other forms of wildlife or by any stray, feral, or abandoned animal and provided that any feed spilled upon the ground is removed by the property owner forthwith and disposed of in such a manner that wildlife or any stray, feral, or abandoned animals are not attracted to the property or to a neighbouring property.
 - (c) Subsection 9(1) shall not apply to the leaving of food as bait in a trap by a property owner to capture a nuisance animal inhabiting or habituating their property, pursuant to the Fish and Wildlife Conservation Act, 1997, S.O. 1997, c. 41
 - (d) Subsection 9(1) shall not apply to the leaving of food as bait by a licensed trapper, an employee of a licensed wildlife or pest control agency, a Municipal Law Enforcement Officer, an Ontario Society for the Prevention of Cruelty to Animals Inspector or a Hamilton Police Officer, in the performance of their work.

- (e) Subsection 9(1) shall not apply to the leaving of food for a colony of stray or feral cats for the purposes of a trap, neuter and release program or a trap, spay and release program, approved by the Hamilton Burlington Society for the Prevention of Cruelty to Animals or approved by the City.
- (2) No person shall keep any Class B animal within the corporate City limits, save and except in compliance with the following:
- (a) In the case of a boarding or rooming house situated on a property that is less than 5 hectares, regardless of the number of roomers or boarders residing therein,
 - (i) no more than four (4) dogs may be kept at or on the premises; or,
 - (ii) no more than four (4) cats may be kept at or on the premises; or,
 - (iii) no more than a combination of four dogs and cats may be kept together at or on the premises and, for greater clarity, the total number of dogs and cats, combined, shall not exceed four (4) animals being kept at or on the premises.
 - (b) In the case of any dwelling that forms a part of a multiple dwelling structure such that two or more dwellings are adjoined or connected and that share a common element, which structures include but are not limited to apartment buildings, town houses or town homes or a complex thereof, and single family homes that have been converted to multiple unit dwellings, and regardless of the size of the property upon which the multiple dwelling structure is situated:
 - (i) no more than two (2) dogs may be kept at or in a dwelling appertaining thereto; or,
 - (ii) no more than two (2) cats may be kept at or in a dwelling appertaining thereto; or,
 - (iii) no more than one (1) dog and (1) cat may be kept together at or in the dwelling appertaining thereto.
 - (c) In the case of a single family dwelling situated on a property that is less than 5 contiguous hectares,
 - (i) no more than four (4) dogs may be kept at or on the premises; or,
 - (ii) no more than four (4) cats may be kept at or on the premises; or,
 - (iii) no more than a combination of four dogs and cats may be kept together at or on the premises and, for greater clarity, the total number of dogs and cats, combined, shall not exceed four (4) animals being kept at or on the premises.

- (d) In the case of any property that is not a multiple dwelling structure where the subject property consists of, or includes, 5 contiguous hectares within the boundaries of the property, there shall be no limit to the number of dogs and no limit to the number of cats that may be kept at or on said property.
 - (e) In the case of a premises that is a single family dwelling owned or occupied by a Rescue Agent and situated on less than 5 contiguous hectares or that is a Foster Home that is a single family dwelling situated on a property that is less than 5 contiguous hectares,
 - (i) no more than six (6) dogs may be kept at or on the premises; or,
 - (ii) no more than eight (8) cats may be kept at or on the premises; or,
 - (iii) no more than a combination of up to four (4) dogs and up to six (6) cats may be kept together at or on the premises and, for greater clarity, the total number of dogs and cats, combined, shall not exceed ten (10) animals being kept at or on the premises.
 - (f) The limits on the number of animals imposed by subsection 9(2) may be varied in writing and without prejudice or precedent by the Manager at his/her sole and unfettered discretion.
- (3) No person shall keep any Class C animal within the corporate limits of the City, save and except on an operating farm or farming business, which farm or farming business is in compliance with the City's Zoning regulations and such other federal, provincial and municipal statutes as may apply.
 - (4) No person shall keep any Class D animal within the corporate limits of the City.
 - (5) No person shall keep any Class E animal within the corporate limits of the City, subject to the conditions set out in Schedule E of this By-law.
 - (6) No person shall sell, or in any manner offer for sale or cause to be sold, any Class D or Class E animal within the corporate limits of the City.
 - (7) (a) Any individual animals prohibited under this by-law but owned, kept or otherwise harboured within the corporate limits of the City prior to the enactment of this By-law and previously permitted to be owned, kept or harboured within a former municipality of the City under a pre-existing By-law in force and effect in the former

municipality at the time said animal was obtained, shall be grandfathered, such that the owner shall be permitted to continue owning, keeping or harbouring said animal for the duration of the subject animal's natural life-span, provided that the owner registers said animal with the Manager.

- (b) No owner of an animal grandfathered under subsection 9(7)(a) of this By-law shall replace said animal with any animal prohibited under this By-law.
 - (c) No owner of an animal grandfathered under subsection 9(7)(a) of this By-law shall fail to notify the Manager of the transfer of the subject animal to any other person where said animal will continue to be owned, kept or otherwise harboured within the corporate limits of the City.
- (8) No person shall keep an animal that produces any poison, venom or toxin.
10. (1) Owner of any animal and no person who has possession or control of any animal shall suffer, allow, or permit the animal to defecate on or in the following premises:
- (a) a public place; or,
 - (b) private property other than the premises of the dog owner or such person having possession or control of the dog, without the consent of the private property owner.
- (2) The animal owner or person who has possession or control of the animal, where the animal does defecate in a public place or on private property referred to in subsection 10(1), shall immediately and without delay remove the excrement and provide for its sanitary disposal in accordance with the City's by-laws regulating the disposal of waste, and subject to obtaining any approvals required to enter the aforesaid private property.
- (3) No animal owner and no person who has control of a animal shall suffer, allow or permit the animal to cause damage to public property, or to cause damage to private property without consent of the owner.

PART 5: Dogs

11. (1) No dog owner shall fail to prevent their dog from biting or attacking any person or animal.
- (2) No person responsible for the temporary custody of a dog shall fail to prevent the dog from biting or attacking any person or animal.

- (3) No dog owner and no person responsible for the temporary custody of a dog shall be liable under subsections 10(1) or 10(2), respectively, when it can be reasonably established that the dog bit or attacked a person or an animal in defence of its owner or the person responsible for the temporary custody of the dog, or of itself, or of the property of the owner or the property of the temporary custodian.
 - (4) For the purposes of Section 10, the fact that a dog, having bitten or attacked a person or animal, was at large at the time of the bite or attack is not a defence and for greater clarity, failure to prevent a dog from being at large where, while at large, the dog bites or attacks a person or an animal, shall also be deemed failure to prevent the dog from biting or attacking.
- 12.
- (1) No dog owner shall fail to prevent their dog from running at large.
 - (2) No dog owner shall allow, acquiesce in, permit or cause their dog to be at large.
 - (3) Every dog owner shall prevent, by any and all means, their dog from running at large.
 - (4) No person responsible for the temporary custody of a dog shall fail to prevent the dog from running at large.
 - (5) No person responsible for the temporary custody of a dog shall allow, acquiesce in, permit or cause the dog to be at large.
 - (6) Every person responsible for the temporary custody of a dog shall prevent, by any and all means, the dog from running at large.
 - (7) For the purposes of this subsection, the unintentional or accidental interference with the confinement of a dog by another party is not a defence.
13. Subject to Section 14, no dog owner shall allow, permit, acquiesce in or cause their dog to be found upon the following premises:
- (a) A public park;
 - (b) A highway or other municipal property; or
 - (c) On private property other than the property of the dog owner without the prior consent of the owner of the premises.

14. Subject to Section 14, no person other than a dog owner who has a dog in their possession or under their control or who is responsible for the temporary custody of a dog or is otherwise harbouring a dog shall allow, permit, acquiesce in or cause the dog to be found on the following premises:
 - (a) A public park;
 - (b) A highway or other municipal property; or
 - (c) On private property other than the property of the subject person, without the prior consent of the property owner.

15. The dog owner in Section 13 or the temporary custodian in Section 14 is not in contravention of those respective Sections where the dog is in a public park, highway or on other municipal property, if the owner or the person responsible for the temporary custody of the dog is holding the dog on a leash or if the dog is confined to a cage or similar enclosure, or where the dog is within the confines of the following places under the supervision and control of the dog owner or a responsible person chosen by the dog owner, so as to prevent the dog from causing harm or injury:
 - (a) Warren Park (former Town of Dundas); during the period commencing September 16th and extending through and including June 30th of each year;
 - (b) Little John Park (former Town of Dundas);
 - (c) Chegwin Park (former Town of Dundas);
 - (d) Hill Street Park from 6:00 a.m. to 9:00 a.m. and from 8:00 p.m. to 11:00 p.m. commencing March 1st of each year to October 31st of each year, inclusive and recommencing on November 1st of each year to February 28th of each year, inclusive; and,
 - (e) Those lands in the former City of Hamilton, operated as a leash free zone under agreement with the Society and the former City, dated July 1, 1999 for so long as the agreement or amending agreement continues without expiry or termination.

16. For the purposes of Sections 13 and 14, where the dog owner or the person responsible for the temporary custody of the dog is a minor, the person responsible for the custody of the minor shall comply with the requirements of Sections 13 and 14.

17. Every dog owner shall:

- (1) provide restraints or enclosures sufficient for the purpose of confining the dog to the premises of the dog owner; or,
 - (2) ensure that the dog is sufficiently trained so as to remain on the premises of the dog owner.
18. No guard dog shall be kept or harboured on non-residential property by a dog owner or a person having possession or control of the dog, unless the dog owner or person posts or causes to be posted conspicuous, legible and clearly visible signs at the location where the dog is commonly kept or harboured, sufficient to give notice to persons entering the property that a guard dog is kept or harboured within the property.

PART 7: Impound of Dogs

19. A Municipal Law Enforcement Officer may capture and take into custody any dog found running at large.
20. (1) Where a dog that is captured and taken into custody under Section 19 has a tag issued pursuant to a licence under this by-law or, otherwise, where the Pound Keeper is able to identify the owner of the dog, a reasonable attempt shall be made to notify the owner of the dog, at the owner's last known address, that their dog has been captured.
- (2) A dog owner or a person satisfying the Pound Keeper that they are acting on behalf of the dog owner, shall attend at the pound no later than seventy-two hours after the disappearance of their dog, or where the pound is closed shall attend the next day the pound is open, to claim their dog.
21. (1) The Pound Keeper shall impound every dog delivered to the pound by a Municipal Law Enforcement Officer.
- (2) Every dog impounded under subsection 21(1) shall be detained for not less than three days, not counting the day of capture and not counting any day that the pound is closed to the public, unless the owner earlier claims the dog or subsection 22(1) applies.
22. (1) Where a dog that is impounded is not claimed within the time provided in subsection 21(2), the Pound Keeper may:
- (a) sell the dog for such price as the Pound Keeper may consider proper, and deduct the price obtained against fees owing by the owner, and with any revenues in excess of the fees owing being held in trust for the owner for a period not to exceed ninety calendar days from the date the subject dog was impounded;

- (b) pursuant to the Municipal Act or the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, c. 0.36, kill the dog in a humane manner and dispose of the dog, with the costs of these steps added to the amounts owing by the dog owner; or,
 - (c) detain the dog for such further time as the Pound Keeper considers necessary or proper and may both claim the fees applicable for impounding and care of the dog under this by-law, and carry out the sale or disposal of the dog as in paragraph (a) or (b), above, at a later time.
- 23. Notwithstanding Sections 21 and 22, where it is determined in accordance with the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, c. 0.36 as amended, the Livestock, Poultry and Honey Bee Protection Act, R.S.O. 1990, c. L.24 as amended, or in the opinion of a Municipal Law Enforcement Officer, Police Officer or the Pound Keeper, given the condition of the animal, that it would be inhumane not to destroy the animal without delay, or as determined necessary for reasons of safety to persons or animals, which reasons include but are not limited to the animal being injured or ill, that there is risk of imminent harm to a person or domestic animal, or that the dog is found running at large in an area where livestock are kept, the dog may be killed and disposed of without offering it for sale or for return to the owner.
- 24. Where a dog is captured or taken into custody and the services of a Veterinary Surgeon are necessary as determined by the Pound Keeper or other officer, whether or not the dog eventually dies or is killed without return to the owner, the owner shall pay to the Pound Keeper all fees and charges of the Veterinary Surgeon in addition to all other fees and charges payable under this by-law.
- 25. Every dog owner and any person other than a dog owner having control of a female dog in heat, shall keep the dog confined in a manner so as to prevent access to the female dog by male dogs running at large.
- 26.
 - (1) Where a dog is claimed from the pound, the owner, or any person claiming the dog on behalf of the owner, shall provide proof of ownership of the dog sufficient to satisfy the Pound Keeper of ownership, pay for and obtain any licence required under this by-law where the animal is unlicensed, and pay the pound and veterinary fees prescribed in this by-law.
 - (2) Where a dog is taken into custody, and is required to be quarantined, the Pound Keeper shall follow the directions of the medical officer of health or public health officer as to the time or conditions of holding or releasing the dog to the owner or any person claiming the dog on behalf of the owner, and the fees as provided in this by-law are chargeable to the owner or to

the other person claiming the dog on the owner's behalf, for the period of custody of the dog.

27. The owner of a dog is liable to pay the fees for impounding and care of the dog owing as provided in this by-law regardless of whether the dog is claimed from the pound, which fees the Pound Keeper may claim from the owner if known.
28. No person shall attempt to retrieve a dog from a possession of a Municipal Law Enforcement Officer, without first identifying themselves for the purposes of determining ownership, and allowing a reasonable opportunity for the officer to confirm ownership through records maintained under this by-law.
29. A decision by a Municipal Law Enforcement Officer, Animal Control Officer, Police Officer, Pound Keeper, or other employee, agent or contractor of the City, made in good faith in the enforcement or administration of this by-law, to capture, take into custody, impound, sell, kill or dispose of a dog, shall not entitle the owner to compensation of any sort from any such person, the City, police board, or contractor, excepting only where the sale of the animal results in an amount in excess of the fees and costs owing under this by-law and the balance of the sale proceeds may be refunded to the owner if known by the Pound Keeper.
30.
 - (1) In addition to any other remedy or action that may be taken, where a Municipal Law Enforcement Officer reasonably believes that a dog has bitten a person or a domestic animal, the Municipal Law Enforcement Officer may serve, or may cause to be served, a notice upon the owner or other person in possession or control of the dog, requiring the dog to be muzzled or restrained by leash, except when the dog is on the premises of the owner, or both.
 - (2) The notice in subsection 30(1) may be served on the owner or other person in the same manner as the notice of hearing may be served under subsection 30(5).
 - (3) Upon the service of the notice under subsection 30(1), the owner or person in possession or control of the dog shall comply with the terms by placing and maintaining a muzzle on the dog, or by placing and maintaining a leash on the dog, or both as specified, except when the dog is on the premises of the owner or on the premises of the person in possession or control of the dog who was served with the notice.
 - (4) The notice in subsection 30(1) shall include mention of the right of the owner or person to appeal, within fifteen (15) days of the date of the notice, by requesting a hearing before the Manager, including the grounds the person is relying upon for varying or rescinding the terms of the notice.

- (5) Where the owner or other person on whom a notice is issued under subsection 30(1) makes a request for a hearing in accordance with subsection 30(4), the Manager shall provide prior notice of the hearing to the owner or other person, to the person alleged to have been bitten by the dog or the person whose domestic animal was alleged to have been bitten, and to the Municipal Law Enforcement Officer, which notice of hearing shall be served upon the owner or other person and alleged victim by:
- (a) personal service, or,
 - (b) where the notice of hearing cannot be given or served by reason of the owners or other persons absence from his or her premises or by reason of his or her evading service, the notice of hearing may be given or served by handing it to an apparently adult person on the owners or other persons premises, or posting it up in a conspicuous place upon some part of their premises, or sending it by prepaid registered mail to the owner or other person at the address where he or she resides and it shall be deemed to have been received by the person to whom it was addressed on the seventh day after the day of mailing.
- (6) The notice of hearing in 30(5) shall be served a reasonable time before the hearing, and shall include,
- (a) a brief statement of the facts which led the Municipal Law Enforcement Officer to believe that the dog had bitten a person or a domestic animal;
 - (b) the date, time and place at which the Manager will hold a hearing, for the purpose of determining whether the dog has bitten a person or a domestic animal or whether or not the owner or other person should be exempted from the muzzling or leash requirements as authorized under this by-law and the Municipal Act, 2001, which may be given by reference to or by copy of this section of the by-law; and,
 - (c) a statement that if the owner or person served with a notice under subsection 30(4) does not attend the hearing at the date time and place for the hearing, the Manager may proceed with the hearing in their absence, and they will not be entitled to any further notice in the proceeding.
 - (d) The parties to the hearing shall be the City, as represented by the Manager or his or her designate, and the person to whom the notice under subsection 30(4) was issued or his or her agent.

- (7) The owner or person appealing the notice under subsection 30(4) may, if he or she wishes, be represented by counsel or an agent at the hearing and shall have the right to adduce evidence and to submit argument to show that the dog has not bitten a person or a domestic animal or to exempt the dog from the muzzling requirement, or both, and to cross-examine any witness adverse in interest to the owner, and in the event that the owner's dog is not exempted from the muzzling requirement, the Manager or his or her designate appointed under subsection 309(6)(c) shall, at the request of the owner, deliver written reasons for his or her decision.
- (8) At the hearing, the Manager or designate appointed under subsection 30(6)(c), in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as applicable to the hearing, shall consider the submissions and evidence presented, make rulings or decide on the process of the hearing, and shall at the conclusion of the hearing decide whether the terms of the notice should be rescinded or upheld, or modified so as to include either leashing or muzzling of the dog or both, except when on the premises of the owner.
- (9) Where the owner or person in possession of the dog is not present at the hearing, the decision made under subsection 30(6)(c) may be served on such persons in the same manner as the notice of hearing may be served under subsection 30(4).
- (10) It is a deemed provision of each notice under subsection 30(4) or as varied or upheld be decision under subsection 30(8), and every person served with such a notice or decision who keeps a dog which requires muzzling or leashing under this section shall, immediately notify the Manager of the dogs new residence after he or she has transferred the ownership of the dog to any other person or has begun keeping the dog at a new location.
- (11) Where a notice has been issued under subsection 30(4) and fifteen (15) days has elapsed since the date of the order, or where a notice is confirmed or varied under subsection 30(8) to require leashing or muzzling of a dog:
 - (b) no dog owner or other person subject to the order shall take, permit, allow or acquiesce in the dog being off the premises of that person, without the required leash or muzzle;
 - (b) no dog owner or other person subject to the order shall fail to inform any other person taking the dog off their premises with their

permission that the dog must be leashed or muzzled until returned;
and,

- (c) no such person as was advised by the dog owner or other person subject to the order, that the dog must be leashed or muzzled until returned, shall fail to maintain the required leash or muzzle until the dog is returned.

PART 8: Licensing of Dogs

- 31. (1) Subject to subsection 31(6), no dog owner, except an owner or operator of a boarding kennel in respect of the dogs boarded in the kennel, shall fail to obtain and maintain in good standing a City licence for each dog owned and no dog owner shall fail to affix and maintain the dog tag provided upon licensing, on the dog for which it was obtained.
- (2) No licence is valid under this by-law unless the applicable fees have been paid in full.
- (3) (a) A dog licence paid for and issued under this by-law shall expire on the date recorded by the Manager, which date is also shown on the certificate of licensing issued to the licence holder, and which date will be either one or two years from the original date of issuance, depending upon the term of the licence issued and the proper fee having been paid for such term and licence.

(b) Any renewal of the licence paid for and issued under this by-law shall expire on the anniversary of the original expiry date recorded by the Manager and each such expiry shall be the subsequent successive anniversary date of the purchase of the original licence, and such licence fees as might normally apply to renew the licence on each anniversary shall not be prorated to accommodate any purchase of a subsequent licence or licence renewal that the owner failed to obtain prior to the expiry of the licence previously in effect.
- (4) An applicant for a dog licence shall submit a completed and signed application on the form provided by the Manager along with the required fee, including the following details:
 - (a) the name, address and telephone number of the dog owner;
 - (b) name, colour, breed and sex of the dog;
 - (c) address where the dog is to be situated in the municipality;
 - (d) the most recent date of rabies vaccination;

- (e) microchip identification, if applicable; and,
 - (f) such information as may be required by the Manager satisfactory to confirm the condition of the animal or the age of the applicant.
- (5) Upon payment of the fees and receipt of a completed application, the Manager shall process the application, and provide the tag and certificate of licensing including the expiry date to the applicant.
- (6) Notwithstanding the requirements in this section:
- (a) No licence is required for puppies that have not been weaned and which are under the age of twelve (12) weeks;
 - (b) The owner of a breeding kennel of dogs numbering six or more dogs that are registered or eligible for registration with an association incorporated under the Animal Pedigree Act (Canada), R. S. C. 1985, c. 8, may pay the annual flat rate fee fixed by City of Hamilton By-law No. 09-118, as amended, as a flat rate licence fee for multiple dogs instead of a licence fee for each dog in respect of the dogs so registered or eligible for registration and for which the owner provides satisfactory proof of their registration or eligibility;
 - (c) The owner of six or more dogs pursuant to subsection 9(2)(c) of this by-law, may be eligible to pay the annual flat rate fee fixed by City of Hamilton By-law No. 09-118, as amended, as a flat rate licence fee for multiple dogs instead of a licence fee for each dog.
 - (d) A dog owner who has moved to the City within the last thirty (30) days with a dog for which a current unexpired licence is held in the previous municipality of residence, may pay the reduced fee prescribed in City of Hamilton By-law No. 09-118, as amended, upon application which includes satisfactory proof of the non-City licensing.
32. (1) Subject to this section, the dog owner or other applicant for a licence shall pay the licence fee to the City at the time the licence is applied for, in the amount of the applicable fee specified in City of Hamilton By-law No. 09-118, as amended, or such successor by-law as may be passed and enacted from time to time.
- (2) The applicant for a dog licence may, where both options are offered by the Manager, apply for either a one or two year licence for a dog, and when applying for a two year licence shall pay the annual fees calculated in accordance with By-law No. 09-118, as amended.

- (3) In the event an owner fails to obtain a valid licence for a dog prior to the expiry of a current licence, an additional late payment penalty shall be paid at the time of application for the new licence in addition to the prescribed licensing fee, as follows:
 - (a) fifteen dollars (\$15.00); or,
 - (b) such late payment penalty as is provided for in By-law No. 09-118, as amended, which penalty shall supersede the penalty prescribed in subsection 32(3)(a), above.
33. Notwithstanding any other provision of this by-law, no fee shall be paid for a licence and a dog tag;
 - (a) where a certificate is produced from the Canadian National Institute for the Blind, stating that a dog is a guide dog; or,
 - (b) where a certificate from a recognized training establishment is produced, stating that a dog is being used as a hearing dog; or,
 - (c) where a certificate from a recognized training establishment is produced, stating that a dog is being used as a service dog a special skills dog for other disabled or challenged persons; or
 - (d) where a dog is a police work dog.
34. A dog owner to whom a licence is issued and paid for in respect of a dog, will be provided with a registration number for the dog and a dog tag, and shall securely affix the tag to the dog for which the application was made.
35. A dog tag shall be a metallic plate having raised, cast or stamped thereon a unique registration number.
36.
 - (1) Every licence is personal to the holder thereof and issued in respect of the particular dog applied for, and no person shall transfer or purport to transfer a licence, certificate of licensing or dog tag from the dog for which it was obtained to another dog.
 - (2) No person shall affix to, or use a dog tag for any dog for which the licence was not issued.
37.
 - (1) In the event that a dog tag has been lost, the dog owner shall apply to the licensing agent for a replacement dog tag.

- (2) Except where the exemption of fees in section 19 applies, the application shall be accompanied by,
 - (a) proof that the current year's licence fee has been paid; and
 - (b) payment of a replacement tag fee to the City.
- (3) Upon receipt of the application and fee if required, the Manager may provide a replacement tag.
38. Notwithstanding subsection 31(1), the owner of a dog used for hunting may remove the collar and licence from the subject hunting dog while said dog is actively engaged in the pursuit or tracking of game.
39. No owner of a dog shall fail to notify the Pound Keeper immediately of any change respecting:
 - (a) the name, address or telephone number of any person to whom ownership of the dog is being transferred; or
 - (b) the address of the premises where the dog is to be kept in the City.
40. The Pound Keeper may revoke, without notice, any licence issued in error.

PART 9: Dangerous Dogs

41. Where a Municipal Law Enforcement Officer is satisfied that a dog:
 - (a) has, in the absence of any mitigating factor, attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so; or,
 - (b) has, in the absence of any mitigating factor, significantly injured a domestic animal;

the Municipal Law Enforcement Officer may issue a notice in writing to the owner designating the dog as dangerous.

42. (1) No owner of a dog designated as dangerous shall transfer ownership of the dog without first having obtained the written consent of the Pound Keeper.
- (2) In granting or refusing consent, the Pound Keeper may consider, among other things, the likelihood that all the applicable provisions of this By-law and the Dog Owners' Liability Act, including any orders under that Act, will be met.

43. Every owner of a dog designated as a dangerous dog shall ensure that in addition to complying with all of the applicable provisions of this By-law, the dog is:
- (a) implanted with a microchip; and,
 - (b) sterilized before reaching the age of 6 months or within 30 days of being designated.
44. (1) When a dog designated as a dangerous dog is not on the premises owned or occupied by the owner, the dog shall be equipped with a muzzle and secured with a leash in accordance with the following:
- (a) the muzzle shall be securely placed over the mouth of the dog at all times so that the dog cannot bite any person or domestic animal;
 - (b) a collar or harness shall be securely placed on the dog at all times so that the dog cannot detach the collar or harness;
 - (c) a leash shall be securely attached to the collar or harness at all times so that the dog cannot detach the leash from collar or harness; and,
 - (d) the dog shall be under the control of some person by means of the leash at all times.
- (2) When a dog designated as a dangerous dog is on a premises owned or occupied by the owner:
- (a) the dog shall be securely contained indoors; or,
 - (b) in the event that the dog is out of doors, the dog shall be contained in an enclosure or fenced area or restrained by a chain or other restraint sufficient to prevent the dog from leaving the premises;
45. Every owner of a dog designated as a dangerous dog shall:
- (a) provide proof, on demand, satisfactory to a Municipal Law Enforcement Officer, that the dog has been implanted with a microchip and/or sterilized; and,
 - (b) post in a conspicuous place at the entrance to the owner's premises a clearly visible sign warning of the presence of a dangerous dog.

46. The owner of a dog which has been designated as a dangerous dog may request a hearing by the Pound Keeper.
47. A request by the owner of a dog designated as a dangerous dog, for a hearing under section 46 shall be made in writing, accompanied by the applicable fee and delivered to the Pound Keeper within 15 days of issuance of the designation.
48. Notice of a hearing date to the owner of a dog who has made a request under section 47 shall include:
 - (a) a statement of the time, date and purpose of the hearing; and
 - (b) a statement that if the owner of the dog does not attend the hearing, the Pound Keeper may proceed in their absence without notice to them.
49. The notice of hearing under section 48 may be given by;
 - (a) delivering it personally; or,
 - (b) by sending it by prepaid registered mail to the last known address of the owner of the dog on file with the City; and,

when notice is given by registered mail, it shall be deemed to have been received on the 5th day after the day of mailing, unless the person to whom it is being given establishes to the satisfaction of the Pound Keeper, that they are acting in good faith, through absence, accident, illness or other cause beyond their control did not receive the notice of hearing until a later date.
50. The Pound Keeper shall hold a hearing pursuant to the Statutory Powers Procedure Act at the time, date and place set out in the notice of hearing and the Pound Keeper may:
 - (a) confirm or rescind the designation; and,
 - (b) confirm, rescind or vary the requirements of the owner imposed by the designation including substituting the Pound Keeper's own requirements that may be tailored to the specific circumstances before the Pound Keeper.
51. The decision of the Pound Keeper is final and binding and the designation of a dog as dangerous, including all of the requirements of the owner imposed by the designation, remains in effect until that decision is made.
52. Notwithstanding Section 43 and Section 51, the owner of a dog who has requested a hearing in compliance with sections 46 and 47 shall not be required

to have their dog implanted with a microchip or sterilized until 30 days after a decision of the Pound Keeper confirming these requirements.

53. Sections 41 to 52 shall not apply to a police dog being used by Police Officers when carrying out their duties.

PART 10: Vicious Dogs

54. (1) For the purposes of this Section, a vicious dog is a dog deemed to be a dangerous dog that:
- (a) has, in the absence of any mitigating factor, attacked, bitten or caused injury to a person subsequent to being designated a dangerous dog; or,
 - (b) has, in the absence of a mitigating factor, significantly injured a domestic animal subsequent to being designated a dangerous dog;
- (2) Subject to Section 8 and subsection 54(3) but notwithstanding any other provision of this by-law, no person shall keep a vicious dog within the City.
- (3) No person shall transfer the ownership or the possession of a vicious dog to another person without first giving written notice to the City of its relocation, including their name, the dog tag registration number where held, the microchip serial number, if any, the name and address of the person taking ownership or possession of the dog and the address where the dog is being or to be held, housed or harboured if different from the address of the person taking ownership or possession.
- (4) Without limiting the generality of subsection 54(2), this section does not apply to the City or its employees, agents or contractors while carrying out duties under this by-law.

PART 11: Cats

55. (1) No cat owner shall fail to prevent their cat from trespassing upon private property without the consent of the property owner.
- (2) No cat owner shall allow, acquiesce in, permit or cause their cat to trespass upon private property without the consent of the property owner.
- (3) Every cat owner shall prevent, by any and all means, their cat from trespassing upon private property without the consent of the property owner.

- (4) No person responsible for the temporary custody of a cat shall fail to prevent the cat from trespassing upon private property without the consent of the property owner.
 - (5) No person responsible for the temporary custody of a cat shall allow, acquiesce in, permit or cause the cat to trespass upon private property without the consent of the property owner.
 - (6) Every person responsible for the temporary custody of a cat shall prevent, by any and all means, the cat from trespassing upon private property without the consent of the property owner.
 - (7) For the purposes of this subsection, the unintentional or accidental interference with the confinement of a cat by another party is not a defence.
56. A Municipal Law Enforcement Officer may capture and take into custody any cat found trespassing.
57. (1) Where a cat that is captured and taken into custody under Section 56 has a tattoo or a registered microchip, or some such other means of identification, such that the Pound Keeper is able to identify the owner of the cat, a reasonable attempt shall be made to notify the owner of the cat, at the owner's last known address, that their cat has been captured.
- (2) A cat owner or a person satisfying the Pound Keeper that they are acting on behalf of the cat owner, shall attend at the pound no later than seventy-two hours after the disappearance of their cat, or where the pound is closed shall attend the next day the pound is open, to claim their cat.
58. (1) The Pound Keeper shall impound every cat delivered to the pound by a Municipal Law Enforcement Officer.
- (2) Every cat impounded under subsection 58(1) shall be detained for not less than three days, not counting the day of capture and not counting any day that the pound is closed to the public, unless the owner earlier claims the cat or subsection 59(1) applies.
59. (1) Where a cat that is impounded is not claimed within the time provided in subsection 58(2), the Pound Keeper may:
- (a) sell the cat for such price as the Pound Keeper may consider proper, and deduct the price obtained against fees owing by the owner, and with any revenues in excess of the fees owing being held in trust for the owner for a period not to exceed ninety calendar days from the date the subject cat was impounded;

- (b) pursuant to the Municipal Act or the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, c. 0.36, kill the cat in a humane manner and dispose of the cat, with the costs of these steps added to the amounts owing by the cat owner; or,
 - (c) detain the cat for such further time as the Pound Keeper considers necessary or proper and may both claim the fees applicable for impounding and care of the cat under this by-law, and carry out the sale or disposal of the cat as in paragraph (a) or (b), above, at a later time.
60. Notwithstanding Sections 58 and 59, where it is determined in accordance with the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, c. 0.36 as amended, the Livestock, Poultry and Honey Bee Protection Act, R.S.O. 1990, c. L.24 as amended, or in the opinion of a Municipal Law Enforcement Officer, Police Officer or the Pound Keeper, given the condition of the animal, that it would be inhumane not to destroy the animal without delay, or as determined necessary for reasons of safety to persons or animals, which reasons include but are not limited to the animal being injured or ill, that there is risk of imminent harm to a person or domestic animal, or that the cat is found running at large in an area where livestock are kept, the cat may be killed and disposed of without offering it for sale or for return to the owner.
61. Where a cat is captured or taken into custody and the services of a Veterinary Surgeon are necessary as determined by the Pound Keeper or other officer, whether or not the cat eventually dies or is killed without return to the owner, the owner shall pay to the Pound Keeper all fees and charges of the Veterinary Surgeon in addition to all other fees and charges payable under this by-law.
62. Every cat owner and any person other than a cat owner having control of a female cat in heat, shall keep the cat confined in a manner so as to prevent access to the female cat by male cats running at large.
63. (1) Where a cat is claimed from the pound, the owner, or any person claiming the cat on behalf of the owner, shall provide proof of ownership of the cat sufficient to satisfy the Pound Keeper of ownership, pay for and obtain any licence required under this by-law where the animal is unlicensed, and pay the pound and veterinary fees prescribed in this by-law.
- (2) Where a cat is taken into custody, and is required to be quarantined, the Pound Keeper shall follow the directions of the medical officer of health or public health officer as to the time or conditions of holding or releasing the cat to the owner or any person claiming the cat on behalf of the owner, and the fees as provided in this by-law are chargeable to the owner or to

the other person claiming the cat on the owner's behalf, for the period of custody of the cat.

64. The owner of a cat is liable to pay the fees for impounding and care of the cat owing as provided in this by-law regardless of whether the cat is claimed from the pound, which fees the Pound Keeper may claim from the owner if known.
65. No person shall attempt to retrieve a cat from the possession of a Municipal Law Enforcement Officer, without first identifying themselves for the purposes of determining ownership, and allowing a reasonable opportunity for the officer to confirm ownership through records maintained under this by-law.
66. A decision by a Municipal Law Enforcement Officer, Animal Control Officer, Police Officer, Pound Keeper, or other employee, agent or contractor of the City, made in good faith in the enforcement or administration of this by-law, to capture, take into custody, impound, sell, kill or dispose of a cat, shall not entitle the owner to compensation of any sort from any such person, the City, police board, or contractor, excepting only where the sale of the animal results in an amount in excess of the fees and costs owing under this by-law and the balance of the sale proceeds may be refunded to the owner if known by the Pound Keeper.

PART 12: Livestock

67. No owner of livestock shall permit said livestock to be at large.
68. Every owner of livestock shall ensure that said livestock is properly restrained and under the control of some competent person, except when such livestock is:
 - (a) on the premises owned or occupied by the owner of the livestock; or
 - (b) on a premises owned or occupied by a person who has given prior consent to the livestock being harboured thereon, whether restrained or not.
69. In Section 68, "premises" does not include any part of:
 - (a) a non-residential or residential premises that serves as a common area or common element for mutual occupiers or owners; or
 - (b) a non-residential premises that is open to the public.
70. No owner of livestock shall permit said livestock to be outdoors except where the livestock is:

- (a) contained in an enclosure or fenced area, including an area enclosed by electronic fencing known as invisible fencing; or
 - (b) restrained by a chain or other suitable restraint,
- sufficient to prevent the livestock from leaving the premises.

71. Notwithstanding section 58, a farmer may permit their dog to be outdoors on their farm and such livestock as will not leave the property of the farming business.

PART 12: Pigeons

72. Every owner of a pigeon shall ensure that the pigeon is banded with an identifying leg band issued by the Canadian Racing Pigeon Union Inc. or the Canadian Pigeon Fanciers' Association.

73. Every owner of a pigeon shall ensure that the pigeon is kept in the pigeon enclosure at all times except;

- (a) during a maximum of two flights daily:
 - (i) before 9:00 a.m. or after 5:00 p.m. from April 1 to September 30 in any one year;
 - (ii) before 10:00 a.m. or after 3:00 p.m. from October 1 in any one year to March 31 in the following year;
 - (iii) each flight including no more than one half of the total number of pigeons being kept by the owner;
 - (iv) each flight being supervised by the owner or by a competent person on the owner's behalf; or
- (b) during a flight conducted by the Canadian Racing Pigeon Union Inc. or the Canadian Pigeon Fanciers' Association.

PART 13: Impounding Animals excluding Cats and Dogs

- 74 (1) The provisions of Section 74 apply to all animals excluding Cats and Dogs.
- (2) The Pound Keeper, a Municipal Law Enforcement Officer or a Police Officer may seize any animal found at large or found trespassing and deliver it to the pound.

- (3) An animal seized under subsection 74(2) shall be considered impounded at the time and place it is seized by the Pound Keeper, a Municipal Law Enforcement Officer or a Police Officer.
 - (4) The Pound Keeper may impound any animal delivered other than a cat or dog to the pound by a Municipal Law Enforcement Officer, a Police Officer, its owner or, in the case of a wild, feral, stray or abandoned animal, the property owner or occupant that captured said feral, stray or abandoned animal.
 - (5) The Pound Keeper may keep, harbour or house an impounded animal at any location or on any premises within the City, deemed suitable by the Pound Keeper, at his or her discretion.
 - (6) Where an animal is impounded, the Pound Keeper has the authority to:
 - (a) inoculate the impounded animal, or cause the impounded animal to be inoculated, to provide immunization against any contagious or infectious disease;
 - (b) provide veterinary care for an injured or ill impounded animal;
 - (c) release the impounded animal to its owner, provided that the owner:
 - (i) submits evidence satisfactory to the Pound Keeper that they own the animal; and
 - (ii) pays the applicable fees;
 - (d) keep, sell or dispose of, including euthanize, the impounded animal; and
 - (e) recover from the owner of the animal the cost of such inoculation or veterinary care in addition to any other applicable fees for the release of the animal.
 - (7) The owner of an animal is liable to pay the applicable fees for impounding an animal regardless of whether or not they claim the animal from the pound.
75. (1) Where an animal other than a cat or dog cannot be seized and where the safety of persons or animals is endangered, the Pound Keeper, a Municipal Law Enforcement Officer or a Police Officer may euthanize the animal.
- (2) No compensation, damages, fees or any other amount of money on account of or by reason of the seizure, impounding, euthanizing, sale or

disposal of an animal shall be recovered by the owner or paid by the Pound Keeper or the City.

PART 14: Administration and Enforcement

76. The Manager is authorized to administer and enforce this By-law and has delegated authority granted by Council to execute the provisions of the By-law, including the imposition of conditions as necessary to ensure compliance with this By-law.
77. Licence fees and other fees, including fees for services provided by the Pound Keeper, shall be set and approved by Council from time to time.
78. The Manager may request Municipal Law Enforcement Officers to enforce this By-law who shall have the authority to carry out inspections, issue designations and other orders, give immediate effect to any designation or other order and otherwise enforce this By-law, and the Manager may assign duties or delegate tasks under this By-law whether in his or her absence or otherwise.
79. The Manager or a Municipal Law Enforcement Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a direction or order made under this By-law, including a designation of a dog as potentially dangerous or dangerous;
 - (c) a condition of a licence issued under this By-law; or
 - (d) an order made under s. 431 of the Municipal Act, 2001.
80. The Manager or a Municipal Law Enforcement Officer may, for the purposes of the inspection under Section 79:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by the Pound Keeper or Municipal Law Enforcement Officer from any person concerning a matter related to the inspection; or

- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
81. The Manager or a Municipal Law Enforcement Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, 2001 where he or she has been prevented or is likely to be prevented from carrying out an inspection under Sections 79 and 80, provided that in the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier is given notice concerning the inspection in accordance with subsection 438(5) of the Municipal Act, 2001.
82. If the Manager or a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Manager or a Municipal Law Enforcement Officer may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to:
- (a) discontinue the contravening activity; or
 - (b) do work to correct the contravention.
83. An order under Section 82 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of land, namely the municipal address or the legal description of the land, on which the contravention occurred;
 - (b) the work to be done, if any; and
 - (c) the date by which there must be compliance with the order.
84. Where a person does not comply with a direction or a requirement, including a designation or other order, under this By-law to do a matter or thing, the Manager, with such assistance by others as may be required, may carry out such direction or requirement at the person's expense.
85. The City may recover the costs of doing a matter or thing under Section 84 by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
85. The Manager is authorized to give immediate effect to any direction or requirement where the costs of carrying out the direction or requirement do not

exceed \$10,000 and, where the costs do exceed \$10,000, as the City's Council may authorize.

86. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.
87. Every person who contravenes any provision of this By-law or an order made under this By-law is, upon conviction, guilty of an offence and is liable to any penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.
88. In addition to, and without limiting, any remedy or other action that may be taken by the City, any fees or charges owed to the City that are associated with the provision of any service under this By-Law may be recovered by the City by action or may be added by the City Clerk to the tax roll against any lands of the Owner within the corporate boundaries of the City of Hamilton and collected in the same manner as municipal taxes.

PART 15: General Provisions

89. This By-law may be referred to as the Hamilton Animal Control By-law.
90. If a court of competent jurisdiction declares any subsection, section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

PART 16: Repeals, Amendments, Transition and Enactment

91. The following By-Laws, all as amended, are repealed;
 - (a) City of Hamilton By-law No. 01-169 Respecting the Control and Licensing of Dogs and Kennels;
 - (b) The Corporation of the City of Hamilton By-Law No. 84-191 Respecting the Keeping of Animals;
 - (c) The Corporation of the City of Hamilton By-Law No. 86-343 To Regulate and Control Cats;
 - (d) The Corporation of the City of Hamilton By-Law No. 87-16 To Amend By-law No. 84-191 Respecting Farm Animals, Exotic Animals, Pet Shops and Licensed Kennels;
 - (e) The Corporation of the City of Hamilton By-Law No. 87-255 To amend By-law No. 84-191 Respecting Petting Zoos;

- (f) The Corporation of the City of Hamilton By-Law No.94-012 to Amend By-law No. 84-191 Respecting The Keeping of Animals;
- (g) The Corporation of the City of Hamilton By-Law No. 98-231 To Amend By-law No. 84-191 Respecting the Keeping of Animals and By-law No. 86-343 To Regulate and Control Cats;
- (h) The Corporation of The Town of Ancaster By-law No. 92-22 To Regulate The Keeping of Animals in The Town of Ancaster and to Repeal By-law No. 73-22 and By-law No. 86-83;
- (i) The Corporation of The Town of Ancaster By-law No. 92-45 To Amend By-law No. 92-22 Being a By-law To Regulate The Keeping of Animals;
- (j) The Corporation of The Town of Dundas By-law No. 3612-86 A By-law of The Corporation of The Town of Dundas, Being a By-law To Regulate the Keeping of Various Kinds of Animals in The Town of Dundas;
- (k) The Corporation of The Township of Glanbrook By-law No. 575-99 A By-law Respecting The Regulating, Prohibiting, Controlling and Keeping of Cats, Dogs and Other Animals;
- (l) The Corporation of The Town of Flamborough By-law No. 93-83-L Being a By-law To Amend By-law No. 93-56-L The Dog Control By-law for The Town of Flamborough;
- (m) The Corporation of The Town of Flamborough By-law No. 93-123-L Being a By-law To Amend By-law 93-56-L, A By-law To Regulate The Keeping of Dogs and To Regulate Kennels in The Town of Flamborough;
- (n) The Corporation of The Town of Flamborough By-law No. 99-87-2 Being A By-law To Amend By-law No. 93-56-L Being a By-law To Regulate The Keeping of Dogs, Restricting The Number of Dogs Which May Be Kept in The Flamborough and Regulating Kennels;
- (o) The Corporation of The City of Stoney Creek By-law No. 3912-93 To Prohibit The Keeping of Certain Classes of Animals and To Regulate The Keeping of Certain Classes of Other Animals in The City of Stoney Creek;
- (p) The Corporation of The City of Stoney Creek By-law No. 4319-95 To Provide For The Operation of The Stoney Creek Animal Control Centre and For The Control and Keeping Dogs, Cats and Other Animals;
- (q) The Corporation of The City of Stoney Creek By-law No. 4721-98 To Amend By-law No. 4319-95 Entitled "To Provide for The Operation of The

Stoney Creek Animal Control Centre and For The Control and Keeping of Dogs, Cats, and Other Animals"; and

- (r) The Corporation of The City of Stoney Creek By-law No. 5230-00 To Amend By-law No. 4319-95 Entitled "To Provide for The Operation of The Stoney Creek Animal Control Centre and For The Control and Keeping of Dogs, Cats, and Other Animals."
92. Subsection 1 (h), and sections 12 and 13 of By-law No. 3612-86 (Dundas) and (f) By-law 85-148 (Hamilton) are deleted.
93. By-laws No. 93-56-L (Flamborough), No. 575-99 (Glanbrook), No. 4319- 95 (Stoney Creek), and No. 4320-95 (Stoney Creek), all as amended, are each amended by the addition of the following recitals, after the first recital in each of the respective by-laws:

"AND WHEREAS the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Sched. C, did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek;

AND WHEREAS the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Sched. C, provides that the by-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Council of the City of Hamilton deems it expedient to provide for the control and licensing of dogs and dog kennels by other enactment, and therefore intends to hereby amend By-laws of the former area municipalities, being By-law No. 93-56-L (Flamborough), No. 575-99 (Glanbrook), No. 4319-95 (Stoney Creek), and No. 4320-95 (Stoney Creek), to provide that they no longer apply to dogs or dog kennels "

94. By-laws No. 93-56-L (Flamborough), No. 575-99 (Glanbrook), No. 4319- 95 (Stoney Creek), and No. 4320-95 (Stoney Creek), all as amended, are each amended by the addition of section 1.a, after section 1 of the respective by-laws:

"1.a (i) Notwithstanding any other provision of this by-law, this by-law shall be deemed not to apply to dogs or dog kennels."

95. Subject to the amendments made in this By-law, in all other respects the by-laws of the former area municipalities, being By-laws No. 3612-86 (Dundas), No. 93-56-L (Flamborough), No. 575-99 (Glanbrook), No. 4319-95 (Stoney Creek), and No. 4320-95 (Stoney Creek), and any such by-law amended by section 31, all as amended, are hereby confirmed.
96. Notwithstanding the repeal of a by-law under Part 9:
- (a) the by-law shall continue to apply to proceedings in respect of offences that occurred before its repeal; and
 - (b) all licences issued under the by-law that are in effect at the time of the repeal shall be deemed to be licences as issued under this By-law, with all necessary modifications, and all the rules, requirements and regulations of this By-law shall apply.
97. This By-Law shall come into force and take effect on the date of its passing and enactment.

PASSED and ENACTED this day of , 2010.

MAYOR

CLERK

SCHEDULE "A" - Companion animals, excluding "Class B Animals"

SCHEDULE "B" - Companion animals", excluding "Class A Animals"

SCHEDULE "C" – Livestock

- (a) Antiodactyla, including cattle, goats, sheep, pigs, deer and elk, except a Vietnamese pot-bellied pig lawfully kept on the date this By-law is passed and enacted;
- (b) Carnivora, including mink,
- (h) Perissodactyla, including horses, donkeys, jackasses, mules, zebras and ponies), except where permitted by a City zoning by-law;
- (m) Anseriformes, including ducks, geese, swans and screamers);
- (n) Galliformes, including pheasants, grouse, guinea fowls, turkeys, chickens and peafowls);
- (o) Struthioniformes, including ostriches, rheas, cassowaries, emus and kiwis); or

SCHEDULE "D"

SCHEDULE "E" – Prohibited Exotic Animals

- (a) Carnivora, including pandas, otters, wolves, bears, seals, walruses, coyotes, foxes, wolves, tigers, leopards, cougars, lions, lynx, hyaenas, skunks, weasels, badgers, mongooses, civets, genets, coatimundi, cacomistles and racoons), except dogs and cats;
- (b) Chiroptera, including bats, myotis and flying foxes;
- (c) Edentates, including anteaters, sloths and armadillos;
- (d) Lagomorpha, including hares and pikas, except domestic rabbits;
- (e) Marsupialia, including koalas, kangaroos, opossums and wallabies, except sugar gliders derived from self-sustaining captive populations;
- (f) Primates, including chimpanzees, gorillas, monkeys and lemurs;
- (i) Proboscidea, including elephants, rhinoceros, hippopotamuses;
- (j) Rodentia, including porcupines, prairie dogs, nutria and chinchillas, except Rodentia that do not exceed 1,500 grams and are derived from a self sustaining captive population;
- (k) Crocodylia, alligators, crocodiles, gavials and caymans;
- (l) Squamata, lizards and snakes, except non-venomous snakes that do not exceed 60 centimetres in length at maturity and non-venomous lizards that do not exceed 30 centimetres from nose to vent at maturity;