

**CORPORATION OF THE TOWNSHIP OF
HORTON**

ANIMAL CONTROL BY-LAW NO. 2014-34

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Being a By-law to regulate the keeping and control of animals, or any class thereof, the animal identification system, licensing and restraint of dogs certain other aspects of animal control within the Corporation of the Township of Horton.

WHEREAS the Municipal Act, S.O. 2001, C.25 Sec. 9, 11, 103, 105 and 391 (1), as may be amended from time to time, provides that a Municipality may pass By-laws prohibiting, regulating and restricting the keeping of animals or any class thereof, the destruction thereof and allow for a licensing and animal identification system pursuant to the provisions thereof;

AND WHEREAS Section 20 of the Animals for Research Act, R.S.O. 1990, Chapter A. 22, provides for the impounding and sale or destruction of a dog pursuant to the provisions thereof;

AND WHEREAS the Dog Owners Liability Act, R.S.O. 1990 Chapter D. 16, provides for the protection of persons and property; (See Schedule "D" attached for copy of Act)

AND WHEREAS the Ontario Police Services Act, R.S.O. 1990 Chapter P. 15 as amended provides that Council may appoint Municipal Law Enforcement Officers to enforce all municipal By-Laws;

NOW THEREFORE the Council of the Corporation of the Township of Horton enacts as follows:

1. TITLE

This By-Law shall be known and may be cited as "THE ANIMAL CONTROL BY LAW"

2. DEFINITIONS

As used in this By-Law, the following terms shall have the meaning hereinafter ascribed to them:

- a) "**Animal**" means any member of the animal kingdom, other than a bird, fish, insect or human being.
- b) "**Animal Control Officer**" means a person appointed by the Corporation of the Township of Horton for the purposes of enforcing the provisions of this By-Law and related provincial offences by authority of the *Ontario Police Services Act, 1990, Chapter P. 15, Section 15.*
- c) "**Animal Shelter**" means any premises designated by the Township of Horton for the purpose of impounding and caring for animals taken by the agents of the Corporation in violation of this By-Law.
- d) "**At Large**" means a dog found off the property of its owner, without permission of the property owner and not under control of a competent person by means of a leash or some other restraint.
- e) "**Clerk**" shall mean the Town Clerk of the Corporation of the Township of Horton or that person appointed to act in his or her capacity.
- f) "**Corporation**" shall mean the Corporation of the Township of Horton.
- g) "**Dangerous Dog**" shall mean any individual dog that:

- (i) has killed a domestic animal without provocation while off the owner's property;
 - (ii) has bitten or injured a human being or domestic animal without provocation on public or private property;
 - (iii) is attacked trained;
 - (iv) is trained and kept for the purpose of security or protection, whether residential, commercial, or industrial, or persons or property.
- h) **"Dog"** shall mean any domesticated canis, male or female.
- i) **"Fenced Yard"** means a yard which is completely enclosed by a fence constructed in accordance with the specifications set out in Schedule "C" to this By-law provided that the walls of continuously occupied building are considered as portions of the required fence, provided that all doors in such walls are equipped with locks and that all doors providing access to the fenced yard are locked when a vicious dog is inside the fenced yard.
- j) **"Forthwith"** means immediately without delay.
- k) **"Gate"** means a swinging or sliding barrier used to fill or close an access and includes a door.
- l) **"His"** or other words importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females as well as males and vice versa.
- m) **"Inspector"** means any municipal employee of the Township of Horton delegated with enforcing or maintaining the provision of this by-law
- n) **"Kennel"** means any premises where domestic animals are kept, boarded or bred solely for profit or gain.
- o) **"Leash"** means any form of material lead or restraint which has the capability to control an animal from annoying, bothering or irritating persons or other animals.
- p) **"Licence"** means a license issued under this By-Law.
- q) **"Livestock"** means any domestic fowl (including chickens, geese, ducks, pigeons, turkeys, guinea fowl etc.) horse, donkey, mule, ox, cow or other cattle, goat, swine, sheep, llama, mink, fox, emu or ostrich, or the young thereof.
- r) **"Muzzled"** means to have securely affixed around the snout or the mouth and nose of a dog a device commonly known as a muzzle manufactured in such a way that the dog, when muzzled, will be prevented from biting a person or other animal.
- s) **"Nuisance Animal"** means any animal that unreasonably annoys humans, endangers the life or health of other animals, or substantially interferes with the rights of citizens to enjoyment of life or property.

- t) **“Owner of a Dog”** includes person who owns, possesses, harbors or has the care and control of a dog. Where the owner is a minor, the person responsible for the custody of the minor shall be considered the owner.
- u) **“Park”** shall mean an area of land consisting largely of open space which many include a recreational area, playground, sports field or similar use, whether publicly or privately owned.
- v) **“Person”** means any human being considered as a distinct entity or personality.
- w) **“Private Property”** means land which is owned and controlled by an individual, group, company or organization.
- x) **“Public Property”** means land for public or common use which is owned and controlled by the Township of Horton or other government agency.
- y) **“Pure Blood”** means registered or eligible for registration with an Association incorporated under the Animal Pedigree Act (Canada).
- z) **“Residential Zone”** means those areas designated as residential in the zoning by-laws of the Corporation of the Township of Horton.
- aa) **“Rural Zone”** means those areas designated as rural in the zoning by-laws of the Corporation of the Township of Horton
- ab) **“Township”** shall mean all lands contained within the geographical limits of the Township of Horton.

3. **LICENCING AND DOG IDENTIFICATION SYSTEM**

- 3.1 Every owner of a dog shall annually, and not later than March 31 in each year, and within seven (7) days of becoming an owner of a dog, cause the dog to be licensed with the municipality.
- 3.2 On application for a licence, the owner of a dog may be required to provide a certificate signed by a practicing veterinarian, showing that the dog has been inoculated with an anti-rabies vaccine within the period to the thirty-six (36) months immediately prior to the date of application for licence.
- 3.4 All licenses and tags issued pursuant to this By-law shall be serially numbered and a record of their issue shall be kept by the Corporation. Such record shall set out the name and address of the owner, the name of the dog and may include information as to the date of the dog’s last anti-rabies inoculation.
- 3.5 At the time of registration, the owner/applicant shall be required to pay to the municipality the required license fee pursuant to Schedule “A” of this By-law.
- 3.6 Upon payment of the license fee for a dog, the owner shall be furnished with a tag which shall bear the serial number relating to the application, and/or sticker indicating the year in which the tag is valid.

- 3.7 The owner of a dog shall keep the tag securely affixed on the animal for which it was issued at all times.
- 3.8 The fee charged for the replacement of lost dog tags shall be that set out in Schedule "A" to this By-law.
- 3.9 No owner shall assign or transfer the license which has been issued for a dog to any other owner or dog.

4. DUTY OF OWNER

- 4.1 No person shall keep, harbor or possess a dog in the Township of Horton without first obtaining a dog license and registering the dog under the provisions of this by-law.
- 4.2 No person shall allow a dog to run at large within the Township of Horton.
- 4.3 No person shall permit or allow a dog to trespass on any private or public property.
- 4.4 The owner of any dog, or person having care and custody of any dog, shall remove forthwith and properly dispose of any excrement left by his dog on any public or private property, including the owner's property in the municipality.
- 4.5 No person shall permit a dog to become a nuisance by persistent barking or causing excessive noise at anytime so as to disturb the peace or quiet of any residence or any persons in the vicinity.
- 4.6 No person shall permit a dog to attack, bite or chase any person or other animal or cause a nuisance.

5. IMPOUNDMENT

- 5.1 An Animal Control Officer or designate may seize any dog found running at large within the Township of Horton or found to be in the contravention of the provisions of this By-law and cause such dog to be delivered to an animal shelter or pound.
- 5.2 If a dog is found trespassing upon another person's property, or public property, an Animal Control Officer, or designate, may seize and impound such animal.
- 5.3 The owner of any dog may obtain the release of such animal that has been delivered to the animal shelter or pound, by:
- a) payment of the fee required by the animal shelter or pound operator; and
 - b) purchase of a valid dog license or identification accepted as valid or issued by the Corporation for such animal.
- 5.4 If an owner fails to claim the dog during the time period prescribed in the regulations of the animal shelter or pound, the animal may be sold or disposed of.

5.5 Where a dog is seized and/or impounded, and the services of a veterinarian are necessary, the owner shall pay to the Township, all fees and charges of the veterinarian in addition to all other fees and charges payable under this by-law.

6. DESTRUCTION/DISPOSAL

6.1 Any animal found running at large, if apparently diseased, injured or potentially dangerous, may be destroyed by the Animal Control Officer, or Police Officer at his/her discretion.

6.2 Where an animal which has been seized, is injured, or should be destroyed without delay for humane reasons, the Animal Control Office or Police Officer may dispose of the animal in a humane manner as soon after seizure as he/she thinks appropriate without permitting any person to reclaim the animal, or without offering it for adoption, and no damages or compensation shall be received on account of such disposition.

7. DANGEROUS DOGS

7.1 No person shall permit a dog to attack or bite any person, or other animal, or fight with another dog, and shall maintain effective control of his dog by means of a muzzle and/or leash at all times.

7.2 If a dog attacks or bites any person, or other animal, without provocation, such dog shall be deemed to be a "dangerous dog".

7.3 Any dangerous or vicious dog or dog included in Schedule "B" to this by-law shall not be kept within the limits of the Township and any owner, keeper or harbourer of such animal found to be fierce, dangerous or vicious as defined in this By-law shall be subject to the penalty provided for in this By-law.

7.4 Once a dog is deemed to be "dangerous", the Animal Control Officer, or his designate, shall notify the owner of the "dangerous dog", in writing, that the dog has been deemed to be "dangerous" and the owner shall ensure the following:

- a) the "dangerous dog" does not attack or bite any person or other animal whether on the owner's property or not;
- b) when the "dangerous dog" is on the property of the owner, it is confined in an enclosed area, in a fenced yard, on a chain or other suitable restraint device capable of restraining the animal;
- c) when the "dangerous dog" is off the property of the owner, it is securely leashed and muzzled in a manner that prevents it from biting or attacking a person or other animal and is under the control of a person over the age of eighteen (18) years.

7.5 In the event a dog which has been previously deemed "dangerous" and the owner has been duly notified of such pursuant to Section 7.4 of this By-law, attacks or bites for the second time; the "dangerous dog" shall not be permitted within the limits of the Township of Horton.

- 7.6 In the event a dog which has previously been deemed “dangerous” attacks or bites for the second time; the Animal Control Officer, or his designate, shall provide notice in writing to the owner of the “dangerous dog” of the requirement to remove the “dangerous dog” from within the Township of Horton; and the owner shall be ten (10) days from the date of the written notice to comply with this request.
- 7.7 The owner of the “dangerous dog” after having been notified in writing to comply with the provisions of this by-law, may request, and is entitled to, a hearing before Council who may exempt the owner from complying with some or all of the provisions of this by-law.
- 7.8 In addition to the requirements of this By-law, the owner of a “dangerous dog” may be subject to other legislation.
- 7.9 This section shall not apply to a police working dog while on duty.

8. RABIES CONTROL

- 8.1 Any animal which has bitten a person shall be promptly reported to the Township of Horton and/or the Renfrew County Health Department and shall be securely quarantined and shall not be released from such quarantine except by written permission of the Medical Officer or Health or his designate. Such quarantine may be on the premises of the owner unless otherwise specified by the Medical Officer of Health or his designate. In the case of dogs or cats whose ownership is unknown, such quarantine shall be at an animal shelter of the Township’s choosing.
- 8.2 Every dog over the age of three (3) months shall be vaccinated with an anti-rabies vaccine. The Animal Control Officer may require an owner to produce proof that the dog has been vaccinated within the past thirty-six (36) months.
- 8.3 Every dog owner, upon demand made by the Corporation, shall forthwith surrender any dog which has bitten a human, or which is suspected of having been exposed to rabies, for supervised quarantine. Such expense shall be borne by the owner.
- 8.4 The Renfrew County Health Department shall direct the disposition of any animal found to be infected with rabies.
- 8.5 No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when such demand is made by the Corporation or medical Officer of Health or designate.

9. KENNELS

- 9.1 No person shall operate a Kennel as defined in this By-law within the boundaries of the Corporation of the Township of Horton, on property that is not zoned for a Kennel under the Township’s current Comprehensive Zoning By-law and complies with the requirements of the Zoning By-law for Kennels as defined in that By-law.
- 9.2 Every person who owns, operates or conducts a kennel shall annually and not later than March 31st in each year obtain a licence from the municipality to operate a kennel and shall pay the licence fee set out in

Schedule “A” to this By-law. A Kennel shall mean an establishment in which greater than three dogs are housed, groomed, boarded, bred or trained for gain or profit. An inspection by the Township’s Animal Control Officer shall be made at least twice per calendar year. Each dog under the Kennel Licence shall be individually tagged by the Township with exception of unweaned pups. This includes Kennels for purebred dogs which are registered with the Canadian Kennel Club pursuant to the Statutes of Ontario.

9.3 If there is a change of ownership of a Kennel during the licence year the new owner must purchase a new licence.

10. NUMBER OF ANIMALS PERMITTED

10.1 There shall be no more than two (2) dogs kept, possessed or harboured at any one household with exception to the Rural Zone.

10.2 The provisions of Section 10.2 shall not apply to dog litters, when the pups are under four (4) months of age.

10.3 The following grandfathering provision applies. Notwithstanding Section 10.1; the allowable amount of animals of up to three (3) dogs can be kept, possessed or harboured at any one household provided they exist at the time this by-law comes into effect and the animals are registered. The grandfathering clause will not apply to any future animals at a household if the number exceeds the amount specified in Section 10.1.

11. PROHIBITED ANIMALS

11.1 No person shall keep, possess or harbor:

a) any animal, as listed in Schedule “B” to this By-law; and,

b) No person shall keep livestock in any area of the Township unless the area is zoned for that purpose or is used for that purpose.

11.2 Notwithstanding the provisions of this By-law, the temporary keeping of animals, insects and fowl where required as part of a school project is permitted.

11.3 This By-law shall not apply so as to prevent a person from keeping these prohibited animals, if such animals were lawfully owned prior to the date of passing of this By-law provided that:

a) prior to six (6) months from the date of passing of the By-law, these prohibited animals are registered with the Corporation; and,

b) the burden of proving the exemption is upon the person making the assertion, of which written registration with the Corporation shall be sufficient proof thereof.

12. NUISANCE ANIMALS

12.1 No person shall permit or allow any animal to:

- (i) be repeatedly at large;
- (ii) damage the property of anyone other than its owner'
- (iii) chase vehicles;
- (iv) excessively make disturbing noises, including, but not limited to, persistent howling, barking, whining, screeching or other noises that disturbs the peace, comfort, rest and enjoyment of the neighborhood;
- (v) causes unsanitary condition;
- (vi) Is offensive or dangerous to the public health, safety, or welfare of the neighborhood.
- (vii) attacks other animals or livestock.

13. POWER OF ENTRY

13.1 For the purposes of discharging the duties imposed by this by-law and to enforce its provisions, any agent of the Corporation shall exercise the powers and procedure in the manner as set out in the *Municipal Act S.O. 2001, c.25, sec. 425-431*, as may be amended from time to time.

14. EXEMPTIONS

14.1 Service dogs within the meaning of the Blind Persons' Rights Act, hearing aid dogs and therapy dogs working under the St. John Ambulance organization where a certificate is produced from a recognized training establishment stating the dog is being used as a service or therapy dog, are exempt from the payment of all license fees applicable pursuant to this By-law. Said dog(s) shall be licensed and wear the current years licence tag issued by the licensing agent.

14.2 The provisions of Section 4.5 of this By-law shall not apply to a blind person accompanied by a dog used as a guide or lead dog.

14.3 The provisions of this By-law shall not apply to a police working dog while on duty.

14.4 The provisions of Section 3 and Section 10.1 of this By-law shall not apply in the event that a person is harboring a dog for the purposes of rehabilitation, fostering, or for the temporary care thereof (babysitting), provided that the dog in question does not remain for more than two (2) months.

15. OFFENCES

15.1 Every person who contravenes any provision of this by-law is guilty of an offense and upon conviction, is liable to a fine as provided for in the Provincial Offences Act.

15.2 Each day a contravention continues may be deemed to be a separate offence.

16. SEVERABILITY

16.1 It is hereby declared that each and every of the foregoing provisions of this By-law should for any reason be declared invalid by any Court, it is

the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

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

BE IT FURTHER ENACTED, that all By-laws, or parts thereof, and all or any Resolutions Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed.

Read a First and Second Time this 03rd day of June 2014.
Read a Third Time and Passed this 03rd day of June 2014.

Mayor

CAO/Clerk

SCHEDULE "A": License Fees

a) License Fee for each dog:

From January 1 st to March 31 st of each year	1 st dog	\$15.00
	2 nd dog	\$20.00
Each Service or Therapy Dog		No Fee
After March 31 st of each year	1 st dog	\$20.00
After March 31 st of each year	2 nd dog	\$25.00
Each Service or Therapy Dog		No Fee

c) Release Fee:

As determined by Animal Shelter

d) Replacement Tag:

\$5.00

SCHEDULE "B": Prohibited Animals

BEING A LIST OF ANIMALS, THE KEEPING OF WHICH IS PROHIBITED IN ALL ZONES OF THE TOWNSHIP OF HORTON Except as noted

1. All Marsupials (such as Kangaroos and Opossums)
2. All Non-human Primates (such as Gorillas and Monkeys)
3. All Felids, except domestic cat
4. All Canids, except domestic dog
5. All Pit Bull Terriers, American Pit Bull Terriers, Pit Bulls, Staffordshire Bull Terriers, American Staffordshire Terriers, or any dog of mixed breeding which includes any of the aforementioned breeds.
6. All Viverrids (such as Mongoose, Civits and Genets), except domestic ferrets.
7. All Hyaenas
8. All Ursidies (Bears)
9. All Perissodactylus Ungulates (such as the Domestic Horse and Ass, Antelopes, Wild Bores, Gazelle and Zebras) except for Domestic Horse and Ass which shall be permitted as set out in the Rural Zone provisions.
10. All Elephants
11. All Pinipeds (such as Seals, Fur Seals and Walruses)
12. All Snakes of the Family Pythonidae and Biodae
13. All Venomous Animals (Vipers, Rattlers, Cotton Mouth, Copper Head, Cobras, Black Widow spider)
14. All Diurnal and Nocturnal Raptors (such as Eagles, Hawks and Owls)
15. All Edentates (such as Anteaters, Sloths and Armadillos)
16. All Crocodilians (such as Alligators and Crocodiles)
17. Skunks
18. Raccoons
19. Groundhogs

Examples of animals of a particular prohibited group are given in parentheses. They are examples only and shall not be construed as limiting the generality of the group.

SCHEDULE "C"

FENCE REQUIREMENTS

- a) Fences shall be 1.98 meters (6 feet) in height and installed such that no gap greater than 150 mm (4 inches) exists between the underside of the fence and the finished grade. Fences shall be of a design that will reasonably deter children from climbing it to gain access to the fenced-in area and that will prevent a vicious dog or a dog included in Schedule "A" to this By-law from digging its way out of or otherwise escaping from the enclosed yard. If a fence contains an opening for access, the opening shall be closed with a gate which shall provide protection equivalent to the fence and shall be equipped with self-closing, self-latching devices and locks located at the top of and inside the gates.
- b) A fence shall:
- i) If of chainlink construction:
1. Be of not greater than 50 mm (2 inches) diamond mesh;
 2. Be construction of galvanized steel wire not less than 3.6 mm diameter (No. 11 gauge) steel wire covered with a vinyl coating forming a total thickness equivalent of 3.6 mm (No. 9 gauge);
 3. Be supported by at least 38 mm (1.5 inches) diameter galvanized steel posts installed in accordance with good fencing techniques. Such posts shall be spaced not more than 3 m (10 feet) apart. Top horizontal rails shall be at least 32 mm (1.25 inches) diameter galvanized steel. Bottom horizontal rails shall be a 12 mm (.5 inch) diameter galvanized tension rail or a 32 mm (1.25 inches) diameter galvanized rail.
- ii) If of wood construction:
1. Be of alternating vertical boards attached to supporting horizontal members. Such vertical boards shall have a minimum dimension of 19 x 88 mm (1 x 4 inches nominal) and spaced at a maximum of 100 mm (4 inches);
 2. Supporting horizontal members shall have a minimum dimension of 38 x 88 mm (2 x 4 inches nominal) and shall be spaced a minimum of 1.4 m (4 feet 6 inches) apart;
 3. Horizontal members shall be supported by posts spaced not more than 2.4 m (8 feet) on center. Such posts shall be 88 mm (4 inches nominal) square or in diameter and securely placed to a minimum of 0.6 m (2 feet) below grade. That portion below grade shall be treated with a wood preservative or the post shall be of pressure treated wood.

- iii) If the fence design is other than specified in (i) or (ii) either in material or otherwise, such fence shall require approval by the Municipal Law Enforcement Officer.

SCHEDULE “D”

Dog Owners’ Liability Act R.S.O., Chapter D.16

Dog Owners’ Liability Act

R.S.O. 1990, CHAPTER D.16

INTERPRETATION

Definitions

1. (1) In this Act,

“owner”, when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor; (“propriétaire”)

“pit bull” includes,

- (a) a pit bull terrier,
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire terrier,
- (d) an American pit bull terrier,
- (e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (“pit-bull”)

“pound” has the same meaning as in the *Animals for Research Act*; (“fourrière”)

“regulation” means a regulation made under this Act. (“règlement”) R.S.O. 1990, c. D.16, s. 1; 2005, c. 2, s. 1 (2).

Same

(2) In determining whether a dog is a pit bull within the meaning of this Act, a court may have regard to the breed standards established for Staffordshire Bull Terriers, American Staffordshire Terriers or American Pit Bull Terriers by the Canadian Kennel Club, the United Kennel Club, the American Kennel Club or the American Dog Breeders Association. 2005, c. 2, s. 1 (3).

CIVIL LIABILITY

Liability of owner

2. (1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal. R.S.O. 1990, c. D.16, s. 2 (1).

Where more than one owner

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section. R.S.O. 1990, c. D.16, s. 2 (2).

Extent of liability

(3) The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (3).

Contribution by person at fault

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person’s fault or negligence caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (4).

Application of *Occupiers’ Liability Act*

3. (1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers’ Liability Act*. R.S.O. 1990, c. D.16, s. 3 (1).

Protection of persons or property

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. R.S.O. 1990, c. D.16, s. 3 (2).

PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT

Proceedings against owner of dog

4. (1) A proceeding may be commenced in the Ontario Court of Justice against an owner of a dog if it is alleged that,

- (a) the dog has bitten or attacked a person or domestic animal;
 - (b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals;
- or

- (c) the owner did not exercise reasonable precautions to prevent the dog from,
 - (i) biting or attacking a person or domestic animal, or
 - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (6).

Same

(1.1) A proceeding may be commenced in the Ontario Court of Justice against a person if it is alleged that the person contravened a provision of this Act or the regulations or a court order made under this Act. 2005, c. 2, s. 1 (6).

Nature of proceeding

(1.2) Part IX of the *Provincial Offences Act* applies to a proceeding under this section. 2005, c. 2, s. 1 (6).

Standard of proof

(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities. 2005, c. 2, s. 1 (6).

Interim order

(2) When a proceeding has been commenced under subsection (1) or (1.1), the Ontario Court of Justice may, pending a determination of whether an order should be made under subsection (3) or pending an appeal of such an order, make an interim order requiring the owner to take measures specified in the interim order for the more effective control of the dog. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (7).

Final order

(3) If, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in the manner specified in the order; or
- (b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (8, 9).

Examples, measures for more effective control

- (4) Some examples of measures that may be ordered under subsection (2) or clause (3) (b) are:
1. Confining the dog to its owner's property.
 2. Restraining the dog by means of a leash.
 3. Restraining the dog by means of a muzzle.
 4. Posting warning signs. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (10).

Automatic restraint order

(5) If a dog whose destruction has been ordered under clause (3) (a) is not taken into custody immediately, the owner shall restrain the dog by means of a leash and muzzle and such other means as the court may order until the dog is taken into custody. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (11).

Considerations

(6) Except as provided by subsections (8) and (9), in exercising its powers to make an order under subsection (3), the court may take into consideration the following circumstances:

1. The dog's past and present temperament and behaviour.
2. The seriousness of the injuries caused by the biting or attack.
3. Unusual contributing circumstances tending to justify the dog's action.
4. The improbability that a similar attack will be repeated.
5. The dog's physical potential for inflicting harm.
6. Precautions taken by the owner to preclude similar attacks in the future.
7. Any other circumstances that the court considers to be relevant. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (12).

Sterilization requirement

(7) The owner of a dog that is subject to an order under clause (3) (b) shall ensure that the dog is neutered or spayed, as the case may be, within 30 days of the making of the order or, if the court specifies a different time period, within the time period specified by the court. 2005, c. 2, s. 1 (13).

Mandatory order under cl. (3) (a)

(8) When, in a proceeding under this section, the court finds that the dog is a pit bull and has bitten or attacked a person or domestic animal, or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the court shall make an order under clause (3) (a). 2005, c. 2, s. 1 (13).

Same

(9) When, in a proceeding under this section, the court finds that the owner of a pit bull contravened a provision of this Act or the regulations relating to pit bulls or contravened a court order relating to one or more pit bulls, the court shall make an order under clause 3 (a). 2005, c. 2, s. 1 (13).

Onus of proof, pit bulls

(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog. 2005, c. 2, s. 1 (13).

Order to prohibit dog ownership

5. When, in a proceeding under section 4, the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, the court may make an order prohibiting the dog's owner from owning another dog during a specified period of time. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (14).

PRECAUTIONS BY DOG OWNERS

Owner to prevent dog from attacking

5.1 The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (15).

PIT BULLS — BAN AND RELATED CONTROLS

Pit bull ban

6. Except as permitted by this Act or the regulations, no person shall,

- (a) own a pit bull;
- (b) breed a pit bull;
- (c) transfer a pit bull, whether by sale, gift or otherwise;
- (d) abandon a pit bull other than to a pound operated by or on behalf of a municipality, Ontario or a designated body;
- (e) allow a pit bull in his or her possession to stray;
- (f) import a pit bull into Ontario; or
- (g) train a pit bull for fighting. 2005, c. 2, s. 1 (16).

Ownership of restricted pit bulls

7. (1) For the purposes of this Act, a pit bull is a restricted pit bull if,

- (a) it is owned by a resident of Ontario on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force; or
- (b) it is born in Ontario before the end of the 90-day period beginning on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force. 2005, c. 2, s. 1 (16).

Same

(2) Despite clause 6 (a), a person may own a pit bull if it is a restricted pit bull. 2005, c. 2, s. 1 (16).

Controls on restricted pit bulls

(3) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this Act and the regulations that relate to restricted pit bulls, within such time frames as are provided for those requirements in this Act or the regulations. 2005, c. 2, s. 1 (16).

Ownership of pit bull other than restricted

8. (1) Despite clause 6 (a), a pound may own a pit bull that is not a restricted pit bull for as long as is reasonably necessary to fulfil its obligations under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

Same

(2) Despite clause 6 (a), a research facility registered under the *Animals for Research Act* may own a pit bull that is not a restricted pit bull that is transferred to it under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

Transfer of pit bulls

9. (1) Despite clause 6 (c) and subject to the regulations, an owner of a restricted pit bull may transfer that pit bull by gift or bequest. 2005, c. 2, s. 1 (16).

Same

(2) No person who owned one or more pit bulls on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire a pit bull under subsection (1) after that day if the effect of the acquisition would be that the person owns more pit bulls after that day than on that day. 2005, c. 2, s. 1 (16).

Same

(3) No person who did not own a pit bull on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire more than one pit bull under subsection (1) after that day. 2005, c. 2, s. 1 (16).

Same

(4) The limits set out in subsections (2) and (3) do not apply to a pound operated by or on behalf of a municipality, Ontario or a designated body or to a research facility within the meaning of the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

Same

(5) Despite clause 6 (c), a pit bull may be transferred by its owner to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

Same

(6) Despite clause 6 (c), a pit bull may be transferred in accordance with section 20 of the *Animals for Research Act*, 2005, c. 2, s. 1 (16).

Importation of restricted pit bulls

10. (1) For the purposes of clause 6 (f), an individual who leaves Ontario with a restricted pit bull and returns to Ontario with that pit bull within three months is not importing that pit bull into Ontario. 2005, c. 2, s. 1 (16).

Same

(2) For the purposes of clause 6 (f), an individual who owns a pit bull on the day referred to in clause 7 (1) (a) and is legally resident in Ontario on that day, but who is not present in Ontario on that day, is not importing a pit bull into Ontario if he or she returns to Ontario with that pit bull within three months of that day. 2005, c. 2, s. 1 (16).

Municipal by-laws

11. Despite section 14 of the *Municipal Act, 2001* and section 11 of the *City of Toronto Act, 2006*, if there is a conflict between a provision of this Act or of a regulation under this or any other Act relating to pit bulls and a provision of a by-law passed by a municipality relating to pit bulls, the provision that is the most restrictive in relation to controls or bans on pit bulls prevails. 2005, c. 2, s. 1 (16); 2006, c. 32, Sched. C, s. 13.

SEARCH AND SEIZURE

Peace officers

12. For the purposes of this Act, the following persons are peace officers:

1. A police officer, including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of a police force.
2. A municipal law enforcement officer.
3. An inspector or agent under the *Ontario Society for the Prevention of Cruelty to Animals Act*.
4. A public officer designated as a peace officer for the purposes of this Act. 2005, c. 2, s. 1 (16).

Warrant to seize dog

13. (1) Subsection (2) applies where a justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that,

- (a) a dog is in any building, receptacle or place, including a dwelling house, other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act*; and
- (b) it is not desirable in the interests of public safety that the dog be in that location. 2005, c. 2, s. 1 (16).

Same

(2) In the circumstances described in subsection (1), the justice of the peace may issue a warrant authorizing a peace officer named in the warrant to enter any building, receptacle or place, including a dwelling house, to search for and seize the dog and any muzzle, collar or other equipment for the dog. 2005, c. 2, s. 1 (16).

Same

(3) Without limiting the generality of clause (1) (b), it is not desirable in the interests of public safety for a dog to be in a location other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act* if,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
 - (i) biting or attacking a person or domestic animal, or
 - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

Same

(4) A peace officer named in a warrant who is executing a warrant under this section may be accompanied by one or more veterinarians or animal control personnel as are reasonably required to give effect to the safe and humane seizure of the dog, whether the accompanying persons are named in the warrant or not. 2005, c. 2, s. 1 (16).

Same

(5) Every warrant issued under this section shall name a date on which it expires, which date shall be not later than 30 days after its issue. 2005, c. 2, s. 1 (16).

Same

(6) Every warrant shall be executed between 6 a.m. and 9 p.m., unless the justice by the warrant otherwise authorizes. 2005, c. 2, s. 1 (16).

Exigent circumstances

14. (1) Where the circumstances in clauses 13 (1) (a) and (b) exist and it would be impracticable to obtain a warrant because of exigent circumstances, a peace officer may exercise any of the powers of a peace officer described in section 13. 2005, c. 2, s. 1 (16).

Same

(2) In this section, exigent circumstances include circumstances in which the peace officer has reasonable grounds to suspect that entry into any building, receptacle or place, including a dwelling house, is necessary to prevent imminent bodily harm or death to any person or domestic animal. 2005, c. 2, s. 1 (16).

Seizure in public place

15. (1) A peace officer may seize a dog in a public place if the officer believes on reasonable grounds that,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
 - (i) biting or attacking a person or domestic animal,
 - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

Same

(2) Subsection (1) shall not be interpreted to restrict seizure of a dog in a public place if the seizure is otherwise lawful. 2005, c. 2, s. 1 (16).

Necessary force

16. A peace officer may use as much force as is necessary to execute a warrant issued under section 13 or to exercise any authority given by section 14 or 15. 2005, c. 2, s. 1 (16).

Delivery of seized dog to pound

17. A peace officer who seizes a dog under section 13, 14 or 15 shall promptly deliver the seized dog to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

OFFENCES**Offences**

18. (1) An individual who contravenes any provision of this Act or the regulations or who contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or both. 2005, c. 2, s. 1 (16).

Same

(2) A corporation that contravenes any provision of this Act or the regulations or that contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$60,000. 2005, c. 2, s. 1 (16).

Same

(3) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation to the offence. 2005, c. 2, s. 1 (16).

Identification of pit bull

19. (1) A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this Act is receivable in evidence in a prosecution for an offence under this Act as proof, in the absence of evidence to the contrary, that the dog is a pit bull for the purposes of this Act, without proof of the signature and without proof that the signatory is a member of the College. 2005, c. 2, s. 1 (16).

Immunity

(2) No action or other proceeding may be instituted against a member of the College of Veterinarians of Ontario for providing, in good faith, a document described in subsection (1). 2005, c. 2, s. 1 (16).

Onus of proof

(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt. 2005, c. 2, s. 1 (16).

REGULATIONS**Regulations**

20. (1) The Lieutenant Governor in Council may make regulations respecting the control of pit bulls. 2005, c. 2, s. 1 (16).

Same

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) respecting leashing and muzzling of restricted pit bulls;
- (b) respecting the spaying or neutering of restricted pit bulls;
- (c) authorizing persons or other bodies specified in the regulations to pass and enforce by-laws governing pit bulls for the purposes of unorganized territory or specified parts of unorganized territory in the same ways that a municipality can pass and enforce by-laws governing pit bulls for the purposes of its geographic jurisdiction;
- (d) governing the presence in Ontario of pit bulls in connection with dog shows, including regulations providing for exemptions, subject to any restrictions specified in the regulations, from any provision of this Act or the regulations;
- (e) designating bodies referred to as designated in this Act;
- (f) designating public officers as peace officers for the purposes of this Act. 2005, c. 2, s. 1 (16).

Same

- (3) Regulations may be general or specific. 2005, c. 2, s. 1 (16).

Same

(4) Without limiting the generality of subsection (3), a regulation may be made to apply or not to apply to a person or body specified in the regulation. 2005, c. 2, s. 1 (16).

SCHEDULE "E"

Set Fines for Use Under Part 1
of the Provincial Offences Act

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION	SET FINE (including court costs)
1.	Use Licence Receipt/Tag for Another Dog	3.9	\$155
2.	Own, Keep, or Harbour Unlicensed Dog	4.1	\$55
3.	Owner – Permit Dog to Run at Large	4.2	\$55
4.	Fail to Pick up Excrement	4.4	\$55
5.	Permit Excessive Noise by Dog	4.5	\$75
6.	Dog – Not Under Control	4.6	\$55
7.	Owner – Permit Dog to Attack, Bite a Person or Dog or Fight with another Dog	7.1	\$250
8.	Fail to Secure Dangerous or Potentially Dangerous Dog	7.4 (a)	\$250
9.	Fail to Confine or Restrict Dangerous or Potentially Dangerous Dog	7.4 (b)	\$250
10.	Fail to Securely Leash or Muzzle Dangerous or Potentially Dangerous Dog	7.4 (c)	\$250
11.	Operate Illegal Kennel	9.1	\$250