

# THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

## BY-LAW NO. 29/2008

*Being A By-Law for the Licensing and Registration of Dogs  
and for the Regulation of Dogs and Prohibiting  
the Running at Large of Animals Within the Municipality of Port Hope*

WHEREAS pursuant to the Municipal Act 2001, S.O. c.25, Section 11, as amended, municipalities have the authority to pass by-laws with respect to animals;

AND WHEREAS the Council of the Corporation of the Municipality of Port Hope deems it expedient to pass such a by-law for the licensing and registration of dogs and for the regulation of dogs within the Municipality of Port Hope;

NOW THEREFORE BE IT RESOLVED that the Council of The Corporation of Port Hope hereby ENACTS as follows:

### **1. DEFINITIONS:**

- 1.1 That for the purposes of this bylaw the following definitions shall apply:
- a) **Animal** shall mean any dog, cat or puppy.
  - b) **Animal Control Officer** shall mean any person appointed by the municipality whose duties include the enforcement of this by-law and shall include the person who has entered into a contract with the Corporation of the Municipality of Port Hope to control animals and any delegate or agent of such person.
  - c) **Animal Shelter** shall mean the shelter with which the Municipality has an agreement for the housing of animals picked by the Animal Control Officer
  - d) **By-Law Enforcement Officer** shall mean any person appointed by the municipality to enforce by-laws, or any delegate or agent thereof.
  - e) **Cat** shall mean a male or female cat.
  - f) **Control and Muzzle Order** shall mean the order issued to the owner of a dog by the Animal Control Officer, where the officer is satisfied on the balance of probabilities and in the absence of any mitigating factor, that the dog has bitten a person or domestic animal.
  - g) **Dog** shall mean a male or female dog that is twelve (12) weeks or older.
  - h) **Dog tag** shall mean a numbered tag issued by the Municipality for a dog in accordance with provisions of this By-law.
  - i) **Host Municipality** shall mean the municipality in which a dog's owner resides.
  - j) **Mitigating factor** shall mean any circumstance which reasonably excuses aggressive behaviour of a dog and may included, but is not limited to:
    - (i) the dog was, at the time of aggressive behaviour, acting in defence of an attack by a person or domestic animal, or

- (ii) the dog was at the time of aggressive behaviour, acting in defence of its young or reacting to a person or domestic animal trespassing on the property of its owner, or
  - (iii) the dog was, at the time of aggressive behaviour, being teased, provoked or tormented.
- k) **Municipality** shall mean the Corporation of the **Municipality of Port Hope**.
  - l) **Owner** shall mean a person who possesses or harbours an animal as defined in Section 1.1 (a) above and, where the owner is a minor, the person responsible for the custody of the minor shall be deemed to be the owner.
  - m) **Peace Officer** shall include a Police Officer for the municipality or anyone working under his or her direct authority, and Animal Control Officers are recognized as Peace Officers under the authority of the Dog Owners' Liability Act to ensure the application of this Act.
  - n) **Puppy** shall mean any dog that is less than 12 weeks of age. The onus of proving that the dog is less than 12 weeks of age shall be on the owner.
  - o) **Running at large** shall mean any animal as defined in Section 1.1 (a) above that is found any place other than the premises of the owner of the dog and not under the physical control of any competent person and not leashed in accordance with the provisions of this By-law.

## **2. LICENSING PROVISIONS:**

- 2.1 No person shall own, possess, harbour or keep any dog within the Municipality unless a tag has been issued for the dog by the Municipality in accordance with the provisions of this By-law.
  - i) Dog tags may be obtained from the Treasurer of the Corporation of Municipality of Port Hope, the Animal Control Officer or the Animal Shelter.
  - ii) Each dog residing in a dwelling unit requires a dog tag;
  - iii) The following information is required in order to obtain a dog tag:
    - a) the name, address and telephone number of the owner;
    - b) the name, approximate age and gender of the dog;
    - c) if the dog is spayed or neutered;
    - d) a general description of the dog including it's colour, distinguishing marks/physical characteristics and the breed;
    - e) payment of the established tag fee as approved by Council and set out in the Municipality's Fees and Charges By-law.
    - f) whether a Muzzle Order has ever been issued.
- 2.2 No owner of a dog shall fail to ensure that the dog has been inoculated with an anti-rabies vaccine within the previous twenty (24) months.

- 2.3 No owner of an animal shall fail to produce a Certificate of Proof issued by a qualified veterinarian attesting to an up-to-date anti-rabies vaccine if requested to do so by the Animal Control Officer or Peace Officer.
- 2.4 Every dog tag shall bear the serial number and year in which it was issued and a record shall be kept by the Treasurer of the Municipality showing the name and address of the owner and the serial number of the tag.
- 2.5 No person or owner of a dog shall fail to keep the tag issued for a dog securely fixed on the dog.
- 2.6 Should a dog tag become lost, the owner shall upon payment of a replacement fee as outlined in Section 2.1 (e) above be entitled to the issuance of a replacement tag and license.
- 2.7 No person shall keep or permit to be kept more than three dogs within or about any dwelling unit within the designated settlement area identified on attached map (see Appendix "B") regardless of whether that person is the owner of the dogs, save and accept properties containing kennel licenses, approved businesses and veterinary offices.
- 2.8 The Municipality hereby designates the Animal Shelter, the Treasurer, or their authorized designate or agent for the purpose of licensing animals within the Municipality and all fees shall be remitted to the Municipality.

### **3. DOG OWNERS OBLIGATIONS:**

- 3.1 No person who owns, harbours or keeps a dog will cause, allow or permit, whether on private or public property, a dog to:
  - (a) bite or attack a person or other domestic animal or
  - (b) behave in a manner that poses a menace to the safety of persons or other domestic animals.

### **4. DOG OWNER LIABILITY ACT:**

- 4.1 The Dog Owners' Liability Act shall be enforced under the Provincial jurisdiction, and further that the Animal Control Officers are recognized as Peace Officers under the authority of The Dog Owners Liability Act to ensure the expedient and efficient application of this Act.

### **5. CONTROL AND MUZZLE ORDER:**

- 5.1 The Animal Control Officer in his or her sole discretion may issue a control and Muzzle Order (See Appendix A) upon receipt of a written complaint that:
  - (a) a dog has bitten or attacked a person or domestic animal; or
  - (b) a dog has behaved in a manner that poses a menace to the safety of persons or domestic animals or
  - (c) an owner did not prevent a 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 people or domestic animals.

- 5.2 Notwithstanding other sections of the By-law, when a Control and Muzzle Order has been served on the owner of a dog, the owner:
- (a) shall keep the dog, when on the owner's premises, confined within the dwelling and under the effective control of an adult, or enclosed in a pen constructed with a secure top, sides and bottom, so as to prevent escape of the dog and prevent entry there in of unsupervised persons;
  - (b) shall, when not confined in accordance with paragraph (a), to keep the dog under the effective control of an adult person and on a leash of not more than one metre in length;
  - (c) shall ensure that the dog is muzzled at all times that it is not confined in accordance with paragraph (a);
  - (d) shall notify the Animal Control Officer, or Peace Officer with a new address and telephone number within two working days of moving the dog, selling the dog, giving the dog away, or death of the dog;
  - (e) shall forthwith advise the Animal Control Officer, or the Peace Officer if the dog is at large, or has bitten or attacked any person or domestic animal;
  - (f) shall display signs warning of the presence of a dog, such signs shall be clearly visible to anyone entering the property and shall meet the approval of the Animal Control Officer or Peace Officer; and
  - (g) shall not contravene any other conditions imposed in the Control and Muzzle Order.
- 5.3 The Animal Control Officer responsible for administering the Animal Shelter shall maintain a record of all Orders to Control and Muzzle and shall notify the Host Municipality and local police authority of the issuance of the Order to Control and Muzzle and shall supply a copy of such Order to the Host Municipality and local police authority.
- 5.5 Any owner of a dog to whom a Control and Muzzle Order has been issued and is unable or unwilling to comply with the requirements of the Control and Muzzle Order shall surrender the dog to the Animal Control Officer or Peace Officer.

## **6. CONTROL AND MUZZLE ORDER – APPEAL:**

### 6.1

- (a) The owner of a dog to which a Control and Muzzle Order has been issued may request and is entitled to a hearing by a committee of the Municipal Council which may exempt the owner from the muzzling or leashing requirement or both.

- (b) An owner who wishes to have a hearing as a result of a Control and Muzzle Order has 7 days from the day of the receipt of the Order to file a request for a hearing with the Clerk of the Municipality. The Clerk shall provide a copy of the notice to the Animal Control Officer.
- (c) Upon determination of the hearing date the committee shall give notice in writing to the owner that:
  - (i) includes a statement of the time, date, place and purpose of the hearing, and;
  - (ii) includes a statement that if the owner of the dog does not attend the hearing, the committee may proceed in the absence of the owner and the owner will not be entitled to any further notice.
- (d) The notice of hearing referred to in this section may be given by delivering it personally or sending it by prepaid registered mail to the owner at the owner's last known address on file with the Municipality. When service is made by registered mail, the service shall be deemed to be made on the third (3rd) day after the day of mailing, unless the person on whom service is being made established that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control receive the written notice until a later date.
- (e) The committee shall hold a hearing with the date and place set out in the notice referred to in this section and the committee may:
  - (i) exempt the owner from the muzzling and/or leashing requirements,
  - (ii) confirm the muzzling and/or leashing requirements,
  - (iii) vary the muzzling and/or leashing requirements and other requirements of the Order, or
  - (iv) combine any exemption confirmation or variance as it sees fit.
- (f) The decision of the committee shall be final and binding.
- (g) An application made by the owner for a hearing under this section does not act as a stay of the Control and Muzzle Order which shall take effect on the day it is served or deemed served, and shall continue to be effective until the committee renders a decision indicating otherwise.

## **7. ANIMALS AT LARGE:**

- 7.1 No person shall cause, permit or allow any animal that the person owns, harbours or controls to run at large within the Municipality. For the purposes of this By-law, an animal shall be deemed to be running at large if the animal is found at any place other than the premises of the owner of the animal and is not under the control of any person.
- 7.2 A dog shall not be deemed to be under control unless accompanied by a person 12 years of age or over and further that the dog is on a leash of a maximum length of 2 metres or other effective means.

- 7.3 A Peace Officer or an Animal Control Officer may seize and impound any animal found running at large and deliver same to the Animal Shelter facility used by the Municipality.
- 7.4 Where an animal seized under this By-law is injured, or should be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the Animal Control Officer is given discretion to euthanize the animal in a humane manner at the Officer's discretion and no damages or compensation shall be recovered by the owner of the animal for such action.
- 7.5 An animal owner who has been notified that the owner's animal has been impounded by the Animal Control Officer or Peace Officer shall attend or contact the Animal Shelter forthwith upon being notified to procure the animal and pay or make arrangements to pay the required fees and penalties.
- 7.6 Where an animal's owner has been notified of the impoundment and fails to contact or attend the Shelter within four (4) days, the owner of said animal shall be responsible for any fees incurred by the Animal Shelter regardless of the length of time the animal is at the Animal Shelter and shall be collected in accordance with the Municipality's Collection Policies.
- 7.7 Where an animal is captured or taken into the custody of the Animal Shelter, including by order of a court, the owner shall pay to the Animal Control Officer all fees and charges payable under this by-law or any other applicable by-law, including the cost of the services of a veterinarian, whether the animal is alive, dies or is euthanized.
- 7.8 Where an injured animal is impounded or other wise detained and requires the immediate attention of a Veterinarian, the Animal Control Officer or Peace Officer may deliver the injured animal to a Veterinarian for treatment or to be euthanized and the owner, if known, shall be responsible for all costs incurred. No damages or compensation shall be recoverable by the owner or any other person.

**8. ENTITLEMENT TO POSSESSION OF ANIMAL:**

- 8.1 (a) The owner of an animal impounded for running at large shall be entitled to redeem the animal within 4 days from the time of impoundment, exclusive of the day of impoundment, statutory holidays and days during which the Shelter of Hope is otherwise closed upon paying the necessary fees and expenses that have been incurred by the Animal Shelter in caring for the animal.
- (b) In addition to subsection (a) above, the owner of a dog seized and impounded shall produce a valid licence for the dog before the owner may redeem it.
- (c) If no valid licence can be produced under subsection (b) above, the owner of the dog shall purchase a licence for the dog before possession is returned to the owner and the Animal Control Officer shall submit records of the registration and fees to the Municipality.

- (d) Where an animal that is impounded is not claimed by the owner thereof within the redemption period specified under this by-law, the animal shall become the property of the Animal Shelter and the Animal Control Officer may retain the animal for such further time as the officer may consider proper and during that time the officer may:
  - (i) sell the animal for such price as he may consider proper;
  - (ii) euthanize the animal;
  - (iii) dispose of the animal as the officer sees fit.

8.2 An animal once impounded will not be released until all fees have been paid.

## **9. SURRENDERING OF ANIMALS:**

- 9.1 An owner of an animal may give up ownership of the animal by surrendering the animal at the Animal Shelter.
- 9.2 Where an owner has surrendered an animal to the animal Shelter, the owner is deemed to have relinquished all rights of ownership and possession of the animal. To surrender an animal to the Animal Shelter, the owner shall pay the appropriate fees as required under this By-law. An animal that has been surrendered to the Animal Shelter shall become the property of the Animal Shelter and may be kept or disposed of as the Animal Control Officer deems appropriate.

## **10. PENALTIES:**

- 10.1 Every person who contravenes any provisions of any section of this by-law is guilty of an offence and upon conviction is liable to a fine and such penalties as provided in the Provincial Offences Act.
- 10.2 Notwithstanding the provisions of this section an Animal Control Officer may, in lieu of laying an information in respect of a dog being at large or trespassing, issue a violation notice to the accused specifying that a person may make a voluntary payment of a reduced penalty out of Court within seven (7) days of the date that the violation notice was issued. Once a person has paid the reduced penalty no further proceeding shall be taken against that person in respect of the offence alleged in the violation notice.
- 10.3 Anyone found in contravention of section 2.7 shall reduce the number of dogs to 3 or less by either re-homing the dog(s) or surrendering them to the Shelter within 30 days. Failing to comply, the excess dog(s) will become the property of the Shelter and be removed by Animal Control as well as subject to fees as if surrendering the dog(s) under section 9.

## **11. VALIDITY**

- 11.1 If any section, clause or provision of this By-law is for any reason declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council that the remaining sections, clauses or provisions of the by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions of this by-law shall have been declared to be invalid.

THAT By-law 37/2007 is hereby repealed.

THAT this By-law comes in force and takes effect upon the final passing thereof.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 25<sup>th</sup> day of March, 2008.

*Linda Thompson*

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Linda Thompson, Mayor

*S.C. Dawe*

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S.C. Dawe, Municipal Clerk



**APPENDIX "A"**

**ORDER TO MUZZLE**

**Issued pursuant to Municipality of Port Hope By-Law No. xx/2008**

**To (Name of Owner):** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone:** \_\_\_\_\_

I, \_\_\_\_\_,  
Animal Control Officer, or By-Law Officer of the Municipality of Port Hope, have reasonable grounds to believe that the dog residing at \_\_\_\_\_ has bitten or attacked a person or another domestic animal, as per the provisions of the \_\_\_\_\_ By-law No. \_\_\_\_\_.

You are hereby ordered:

- (a) To keep the dog, when on the owners premises, confined to within the dwelling and under effective control of an adult person, or enclosed in a pen constructed with a secure top, bottom and sides. The pen shall provide humane shelter for the dog, while preventing escaping there from and preventing any entry therein of unsupervised persons.
- (b) To keep the dog under effective control of an adult person and on a least of not more than 1 meter in length when it is not confined in accordance with paragraph (a).
- (c) To securely attach a muzzle to the dog at all times when it is not confined in accordance with paragraph (a).
- (d) To provide the Animal Control Officer, or Peace Officer with a new address and telephone number within two working days of moving, selling, or giving the dog away.
- (e) To advise the Animal Control Officer, or Peace Officer within two days of the death of the dog.
- (f) To advise the Animal Control Officer, or Peace Officer forth with if the dog is running at large, or has bitten or attacked a person or a domestic animal.
- (g) To display at the front of the house where it can not be easily removed, but is visible to any person who may enter onto the property a sign warning of the presence of the dog. The Animal Control Officer or the Peace Officer must approve such sign.
- (h) \_\_\_\_\_  
\_\_\_\_\_

This **CONTROL AND MUZZLE ORDER** takes effect immediately.

If you wish to **APPEAL** this Control and Muzzle Order you must apply to the Clerk of the Municipality of \_\_\_\_\_ within seven (7) days from the date this Control and Muzzle Order is received by you setting out your request for a hearing by a committee of the Municipal Council which shall include the reasons for appealing this Control and Muzzle Order, and the payment of the hearing fee in the amount of \$\_\_\_\_\_, failing which this Control and Muzzle Order is final and binding.

Please be advised that notwithstanding the making of an application for a hearing by a committee of Council regarding this Control and Muzzle Order, this Control and Muzzle Order takes effect immediately upon its receipt by you

and remains in effect for so long as the dog shall live or until the committee makes a decision on an appeal to rescind this Control and Muzzle Order.

A full copy of By-law No. \_\_\_\_\_, being a by-law of the \_\_\_\_\_ for the licensing and registration of dogs and for the regulation of dogs within the \_\_\_\_\_, is available from the Clerk of the \_\_\_\_\_ during normal business hours. It is RECOMMENDED that you obtain a copy of the By-law in order to be more fully aware of your rights and obligations in this matter and the basis for the issuing of this Control and Muzzle Order.

**DATED** at the \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_

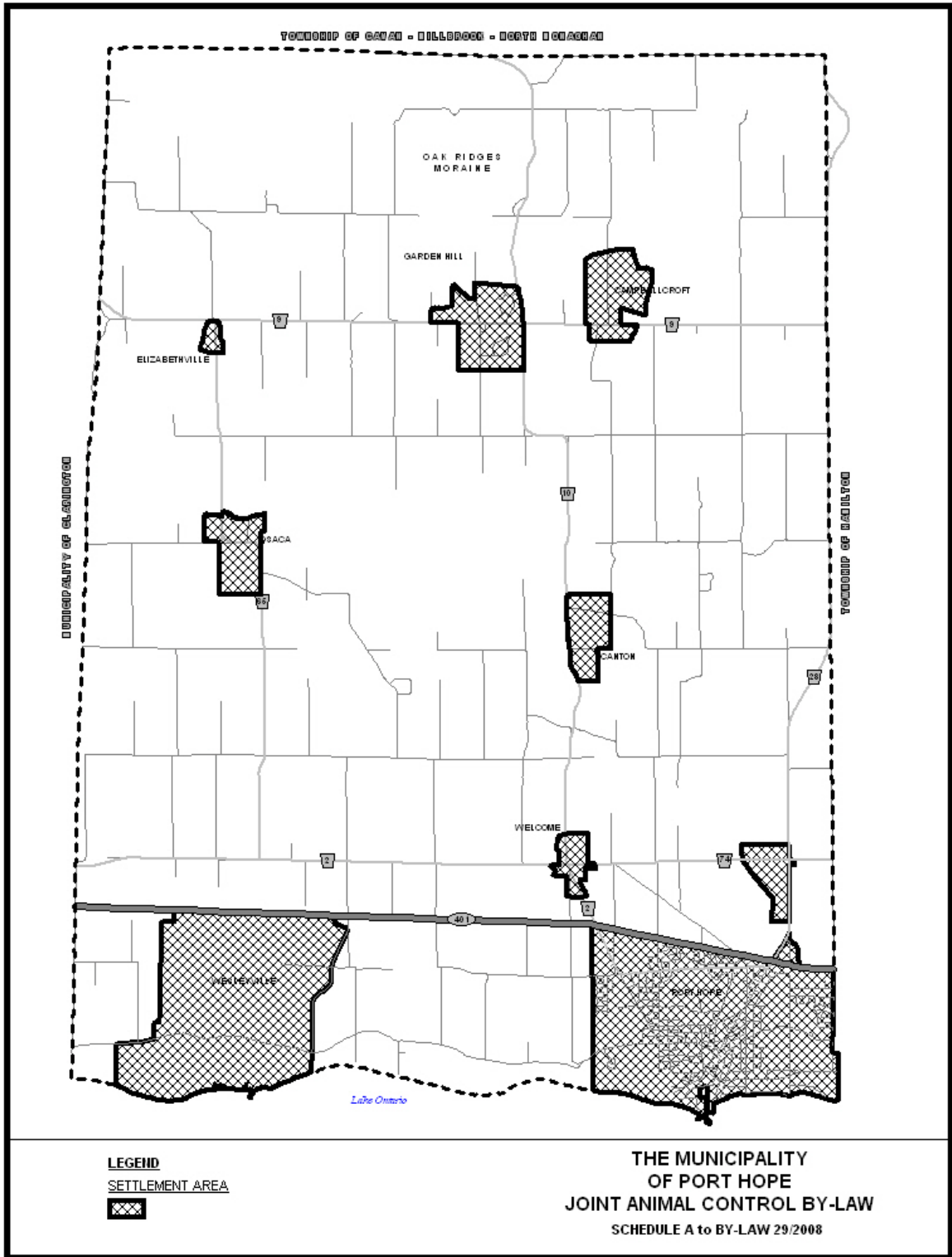
**i. Animal Control Officer for the** \_\_\_\_\_

For purposes of By-law No. \_\_\_\_\_

**ii. Signature**

\_\_\_\_\_

APPENDIX "B"



**APPENDIX "C"**

**Part 1 Provincial Offences Act  
Set Fine Schedule**

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1.	Dog – no dog tag	Section 2.1	\$75.00
2.	Failure to produce rabies vaccination certificate	Section 2.3	\$75.00
3.	Failure to affix dog tag	Section 2.5	\$75.00
4.	Animal at large	Section 7.1	\$75.00

**NOTE:** The penalty provisions for the offences indicated above is Section 10 of By-law 29/2008 and section 61 of the Provincial Offences Act, R.S.O. 1990, C.p.33. Certified copies of By-law 29/2008 have been filed.