

THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY WARREN

BY-LAW 2024-28

BEING A BY-LAW TO REGULATE, LICENSE AND CONTROL ALL ANIMALS IN THE MUNICIPALITY OF MARKSTAY-WARREN

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, as amended authorize a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 8 and 9 of subsection 10(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; the protection of persons and property; and animals;

AND WHEREAS section 103 of the *Municipal Act, 2001*, as amended, provides that where a municipality has passed a by-law to regulate or prohibit with respect to the being at large or trespassing of animals, the municipality may provide for the seizure, impounding and sale of seized and impounded animals;

AND WHEREAS Section 105 of the *Municipal Act, 2001*, as amended requires Council to hold a hearing to determine whether to exempt an owner in whole or in part from muzzling requirements of a dog, when so requested by the dog owner;

AND WHEREAS section 391 of the *Municipal Act, 2001*, as amended, provides that a municipality may pass bylaws imposing fees or charges for services or activities provided or done by or on behalf of the municipality;

AND WHEREAS section 425 of the *Municipal Act, 2001*, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence;

AND WHEREAS it is considered desirable to pass a by-law relating to Animal Control within the Municipality of Markstay-Warren.

NOW THEREFORE the Council of the Municipality of Markstay-Warren enacts as follows:

1. SHORT TITLE:

1.1. The short title of this By-Law shall be the “Responsible Animal Ownership (RAO) By-Law”.

2. DEFINITIONS

2.1. “Abandonment” means ceasing to care for an animal in circumstances that may cause the animal harm or leaving an animal in the care of another person without that person’s express knowledge and permission, or leaving an animal in the care of a person under false pretenses.

2.2. “At Large” means any animal found in any place other than the premises of the owner of the animal, or other private property with the consent of the owner of that property and not under the immediate physical control of any competent or reasonable person by means of a leash that is no more than two meters (m) in length.

- 2.1 “**Cat**” means a male or female domesticated cat.
- 2.2 “**Control**” includes care and custody.
- 2.3 “**Council**” means the elected Council for the Municipality of Markstay-Warren.
- 2.4 “**Daycare Facility**” means a premise that offers care and housing of dogs for profit for a period of no more than 10 hours in any 24-hour period per dog. For the purpose of this by-law, a daycare facility is not considered to be a kennel.
- 2.5 “**Disabled Person**” means a person with a disability.
- 2.6 “**Disability**” means both visible and non-visible disabilities pursuant to the Human Rights Code of Ontario.
- 2.7 “**Dispatch**” means to destroy, euthanize, or otherwise cause the death of an animal.
- 2.8 “**Dog**” means a canine of the species *canis familiaris* and shall include a male or female dog.
- 2.9 “**Domestic Animal**” includes a dog, cat or similar animal kept as a pet which is generally understood to be domesticated and is typically kept indoors at a dwelling unit.
- 2.10 “**Dwelling Unit**” means one or more rooms connected together as a self-contained, separate unit in the same building comprising all or part of the building and constituting an independent housekeeping unit for residential occupancy by persons with facilities for persons to sleep, cook, and eat and including its own sanitary facilities.
- 2.11 “**Fenced Yard**” means a yard which is completely enclosed by a fence constructed in accordance with the specifications set out in Schedule “C” of this By-Law provided that the walls or the continuously occupied building are considered a portion 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 or dog included in Schedule “B” to this By-Law is inside the fenced yard.
- 2.12 “**Grooming Facility**” means a premise that primarily offers bathing, nail trimming, and/or hair cutting of dogs for profit for a period of no more than 10 hours in any 24-hour period per dog. For the purpose of this by-law, a grooming facility is not considered to be a kennel.
- 2.13 “**Keep**” means to have temporary or permanent control or possession of an animal and the words “kept”, or “keeping” have a similar meaning.
- 2.14 “**Kennel**” means a premise, including outdoor areas (i.e. dog runs), where dogs are bred, raised, boarded, trained, or housed for similar purposes for a period of longer than 10 hours in any 24-hour period per dog for profit and shall exclude a Pound established by the Municipality.
- 2.15 “**Licence**” means a licence issued under this By-Law.
- 2.16 “**Livestock**” means cattle, goats, horses, sheep, swine, poultry, fur-bearing animals, bees, cultured fish, deer, elk, game animals or birds grown, produced or raised.

- 2.17 “**Menace or Harass**” means to display apparently and overtly threatening behaviour
- 2.18 “**Municipal Law Enforcement Officer**” means anyone appointed by the Corporation of The Municipality of Markstay-Warren to enforce the provisions of this By-Law.
- 2.19 “**Municipality**” means the Corporation of the Municipality of Markstay-Warren.
- 2.20 “**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 by a recognized manufacturer of muzzles for dogs such that the dog when muzzled will be prevented from biting a person or animal.
- 2.21 “**Owner**” means any person who possesses or harbours an animal and, where the owner is a minor, the person responsible for the custody of the minor, and includes a person who is temporarily the keeper or is in control of the animal.
- 2.22 “**Police work dog**” means a dog trained to aid Law Enforcement Officers and used by such Officers in the execution of their duties.
- 2.23 “**Pound**” means such place or places established by the Municipality for the impoundment of dog(s) seized pursuant to the provisions of this By-Law.
- 2.24 “**Premises**” means the entire lot on which a single dwelling unit building, or a multi-dwelling unit building is situated and includes a vacant lot.
- 2.25 “**Prohibited animal**” means any animal specified in Schedule ‘A’ of this By-Law.
- 2.26 “**Public property**” includes all lands owned by the Municipality.
- 2.27 “**Recognized Animal Shelter or Rescue**” A not-for-profit or charitable organization, registered with the Licence Issuer, whose mandate and practices are predominately the rescue and placement of animals, and facilitating the spaying or neutering of animals, or for animal welfare purposes.
- 2.28 “**Senior Citizen**” means a person who has attained the age of 65 years.
- 2.29 “**Service Dog**” means any dog used by a person with a disability for reasons relating to the disability where it is readily apparent that the animal is used by the person for reasons related to his or her disability; or where the person provides a letter from a physician or nurse confirming that he or she requires the dog for reasons related to his or her disability; or a presents a valid identification card signed by the Attorney General of Canada or a certificate of training from a recognized guide dog training school.
- 2.30 “**Tag**” means the tag or token issued under this By-law as proof of registration of the dog in the Municipality.
- 2.31 “**Town Limits**” means the areas defined as town limits within Schedule ‘D’ of this By-Law.
- 2.32 “**Vicious dog**” means any dog with a known propensity, tendency, or disposition to attack without provocation other domestic animals, persons or livestock that a municipal law Municipality’s Service Charges and Fees By-law enforcement officer has chosen to designate as

vicious pursuant to Section 10 of this By- Law; or any dog specified in Schedule “B” of this By-Law.

3. LICENSING AND REGISTRATION

- 3.1.** Every owner of a dog over the age of six (6) months shall annually license the dog and shall maintain the licence in good standing.
- 3.2.** Every owner of a dog shall annually renew the dog’s licence on or before its date of expiry.
- 3.3.** Every owner making an application for a dog licence shall provide the following information upon registration:
 - a)** The name, postal address, and telephone number of the owner; and,
 - b)** The name, age, sex, and description of each dog to be licensed.
- 3.4.** Every application for a dog licence shall be accompanied by a fee in accordance with the Municipality’s Service Charges and Fees By-law.
- 3.5.** Every owner, with proof of certificate, that requires the assistance of a guide, service or therapy dog, may, upon application to the Municipality, obtain a licence and no fee shall be charged for such licence.
- 3.6.** Upon payment of the dog licence fee, the owner shall be provided with a tag from the Municipality and shall keep the tag securely fixed on the dog at all times while the dog is in any place other than the premises of the owner or other private property with the consent of the owner of that property.
- 3.7.** The tag shall bear an identification number and a record shall be kept by the Municipality showing the name, address and contact information of the owner and a brief description of the dog.
- 3.8.** Every dog licence issued pursuant to the provisions of this By-Law shall be effective from the date of issuance until December 31st of the year purchased and no refund of any licence fee paid or any portion thereof shall be made in the event of the death, destruction, or removal from the Municipality of a dog before the expiration of the license period.
- 3.9.** For a ‘Lifetime’ license issued, the licence shall be valid from the date of issuance to the death of the dog and shall not be transferred to any other dog.
- 3.10.** If a tag is lost or stolen, the owner shall make an application for a replacement tag as per the Municipality’s Service Charges and Fees By-law.
- 3.11.** No dog licence shall be transferred from one dog to another.
- 3.12.** No person shall use for any dog, a licence receipt or a licence tag issued for another dog.
- 3.13.** If a licensed dog changes owners, the new owner shall notify the Municipality to update the registration within fifteen (15) days of becoming the owner.

- 3.14. The provisions of Section 3 of this By-Law shall not apply to owners temporarily in the Municipality for a period not exceeding fourteen (14) days.
- 3.15. Notwithstanding any provision of this by-law, a Service Dog, Police Work Dog, dogs used for livestock protection and/or for agricultural purposes or other working purposes, or a dog that is being fostered from a recognized animal shelter or rescue shall be provided with a licence and tag free of charge upon providing to the Municipality at the time of registration, evidence satisfactory to the Municipality.
- 3.16. No person shall keep or permit in or about any dwelling unit or premises more than three (3) dogs over the age of 6 months without a valid kennel license.
- 3.17. No person shall keep or permit in or about any dwelling unit or premises more than five (5) cats over the age of 6 months.
- 3.18. The provisions of section 3.16 shall not apply if the owner of dogs can prove that the dogs are used for livestock protection and/or for agricultural purposes or other working purposes.
- 3.19. Notwithstanding the provisions contained in section 3.16, any owner of dogs who owns, harbours, maintains or possesses more than the permitted total number of dogs on the effective date of this by-law, and is able to provide proof that these dogs were licensed prior to the passing of this by-law, or that they have been licensed within three (3) months after the passing of this by-law, shall be permitted to own these dogs until they are deceased and/or relocated.
- 3.20. Notwithstanding the provisions contained in section 3.16, any person who becomes a resident of the municipality after the passing of this by-law who owns, harbours, maintains or possesses more than the permitted total number of dogs on the date that they become a resident of the municipality, shall be permitted to own these dogs until they are deceased and/or relocated so long as all dogs are licensed within three (3) months of the owner becoming a resident of the municipality.
- 3.21. Notwithstanding the provisions contained in section 3.16, any dog owner who owns, harbours, maintains or possesses the permitted total number of dogs may, for a period not exceeding 14 days, allow to be kept one additional dog so long as that it is not kept for profit and so long as all dogs that permanently reside in the Municipality are licensed.
- 3.22. Notwithstanding the provisions contained in section 3.16, any owner of a daycare facility or grooming facility may harbour more than the permitted number of dogs for a period not exceeding 10 hours in any 24 hour period per dog.
- 3.23. Notwithstanding the provisions contained in section 3.16, lodges, hotels, motels and trailer parks may harbour more than the permitted number of dogs so long as the owner of the lodge, hotel, motel and/or trailer park only owns the permitted number of dogs and every dog owned by the owner of the lodge, hotel, motel and/or trailer park is licensed.

4. PROVISIONS OF CARE

- 4.1. Every person who keeps an animal within the Municipality shall ensure that such animal is provided with:

- a) clean and sanitary environment free from accumulation of fecal matter;
 - b) adequate and appropriate care, food, water, shelter and opportunity for physical activity;
 - c) necessary veterinary medical care when the animal exhibits signs of pain, illness or suffering.
- 4.2. Subsection 4.1 does not apply in respect of an activity regarding agricultural animal care, management or husbandry carried on in accordance with the reasonable and generally accepted practices of agricultural animal care, management or husbandry, unless the standards of care or administrative requirements expressly provide that they apply to that activity.
- 4.3. Subsection 4.1 does not apply to a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act as amended*;
- a) a person acting under the supervision of a veterinarian described in clause (a); and
 - b) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.
- 4.4. Every person who keeps a dog which normally resides outside, or which is kept outside unsupervised for extended periods of time, shall ensure the dog is provided with:
- a) A house or shelter that has sufficient space to allow the dog the ability to turn around freely and lie in a normal position, and that will provide protection from the outdoor elements as appropriate to the dog's weight and type of coat.
 - b) An exercise area (Run) with:
 - i a minimum area of 50 sq. ft.; and
 - ii a minimum of 5' between any 2 opposite walls of the enclosure.
 - c) If the dog is confined by means of a leash, the leash shall be long enough to allow the dog to have free movement in an area of at least 50 sq. ft. with no obstructions in that area so the dog cannot become trapped and/or restricted of movement.
- 4.5. No person shall cause or allow an animal to be hitched, tied or fastened while unattended by the owner to a fixed object where a choke collar, choke chain or pinch collar forms part of the securing apparatus, or where a rope or cord is tied directly around the animals neck or where the dog could become trapped or injured by an obstruction.
- 4.6. No person shall cause or allow an animal to be confined in an enclosed space, including a motor vehicle, without adequate ventilation.
- 4.7. No person shall transport or allow the transport of an animal outside the passenger compartment of any motor vehicle or trailer unless the animal is adequately confined or unless it is secured in a body harness or other manner of fastening which is adequate to prevent the animal from falling off the vehicle or otherwise injuring itself.
- 4.8. In any prosecution or proceeding under Section 4.5, the registered owner or operator, as applicable, of the motor vehicle or trailer shall be deemed to be the owner of the animal, unless he or she proves to the satisfaction of a Justice of the Peace that at the time of the offence, the motor vehicle was not being used to transport the animal by him/her and that the motor vehicle was not being used by any other person with consent, express or implied.

- 4.9. No person shall cause or allow a dog to be muzzled unless it is in the immediate care and control of the owner.
- 4.10. No person shall cause or allow the neglect, torment, abuse, or punishment of any animal in any manner to an extent that is cruel or unnecessary.
- 4.11. No person shall cause or allow the abandonment of an animal.
- 4.12. No person shall cause or allow a female dog who is in heat to be left unattended at any time outside the secure confines of a dwelling unit.

5. KENNEL OPERATION

- 5.1. No person shall own or operate or allow the ownership or operation of a kennel without a licence issued by a Municipal Law Enforcement Officer.
- 5.2. Kennels shall be managed and operated by the property owner on which the kennel is located, and the kennel operator/manager shall reside on the subject property.
- 5.3. Every person applying for a kennel licence shall submit to the Municipality a completed application together with the following:
 - a) a site plan drawn to scale showing the location of all buildings, structures, dog runs or facilities on the subject property, including the location of all buildings, structures, dog runs or facilities, or parts thereof, to be used as a kennel. The site plan must also specify the distance which separates the kennel from all property lines and all buildings, structures, dog runs or facilities;
 - b) a list of all dogs to be kept permanently at the subject property, noting verification of current rabies vaccination for each dog (excepts where they are under three (3) months of age);
 - c) the applicable fee, as required by the Municipality's Service Charges and Fees By-law, as amended; and
 - d) a declaration by the owner that they have never been convicted under Section 446 of the Criminal Code of Canada pertaining to animal cruelty.
- 5.4. All new or renewal licenses for a Kennel will only be approved by the Municipal Law Enforcement Officer once they have inspected the premises to ensure compliance with this or any other applicable by-law.
- 5.5. Every person renewing their kennel licence shall, yearly on or before the 15th day of February of the next year, submit the following to the Municipality:
 - a) a list of all dogs to be kept permanently at the subject property, noting verification of current rabies vaccination for each dog (excepts where they are under three (3) months of age); and
 - b) the applicable fee, as required by the Municipality's Service Charges and Fees By-law, as amended.
- 5.6. Every person who owns or operates a kennel shall comply with the applicable by-laws of the Municipality of Markstay-Warren and any other provincial or federal statutes or regulations. No kennel licence shall be issued unless such kennel complies with the by-laws of the Municipality.

Where an owner or operator of a kennel fails to comply with applicable by-laws or regulations, the kennel license may be suspended or revoked.

- 5.7.** An Officer or any other duly authorized person may enter upon and may inspect without notice any kennel, daycare facility, grooming facility or any place where dogs are kept at any reasonable time.
- 5.8.** The kennel license issued pursuant to this by-law is not transferable.
- 5.9.** Owners and operators of kennels shall comply with the following regulations:
- a)** No Kennel may be established except where it is permitted in accordance with the Municipality's Zoning By-law, as amended.
 - b)** No kennel shall be permitted on a property of less than 5 acres (2 hectares) unless approval is granted through a Zoning By-law Amendment.
 - c)** No Part of a Kennel shall be constructed or maintained closer than 20 metres from the nearest property line of any adjacent residence.
 - d)** The Municipality may impose additional conditions with respect to the renewal of a kennel license as they deem necessary to ensure the health, safety, and well-being of the public and/or animals.
 - e)** After the issuance of a license, the owner shall not change or otherwise alter a kennel without first obtaining the written permission of the Municipality
 - f)** Every person who owns or operates a kennel shall keep no more than a maximum of twenty (20) dogs over twenty (20) weeks of age, unless approved by the Municipal Law Enforcement Officer.
 - g)** The floors of each room in which dogs are kept shall be:
 - i)** constructed of an impermeable material;
 - ii)** flushed with water and deodorized with a suitable disinfectant daily or more often if necessary and that the animals should be removed when this is being done; and
 - iii)** if such room is physically attached to a building used for human habitation, graded to an adequate drain which shall be connected to a drain sewage system or sewage disposal system.
 - h)** Each room that is used for the housing of dogs shall be equipped with a lighting system that is designed, constructed, and maintained to:
 - i)** distribute light as evenly and with as little glare as possible;
 - ii)** provide adequate light for the proper observation of every animal in the room;
 - iii)** adequately stay lit for a continuous period of at least eight (8) hours in every twenty-four-hour period; and
 - iv)** provide an eight (8) hour period of darkness in every twenty-four-hour period.
 - a)** Each room that is used for the housing of dogs shall provide ventilation for the health, welfare, and comfort of every dog by either:
 - i)** having an opening for natural ventilation with a minimum aggregate unobstructed free flow area of one percent (1%) of the floor area of the room, or
 - ii)** having a mechanical ventilation device in working order which changes the air at least twice each hour.
 - iii)** each room that is used for the housing of dogs shall at all times, be maintained at

a temperature suitable for the health, welfare, and comfort of every dog therein.

- b) Each cage or pen used for the housing of dogs shall be so constructed and maintained that:
 - i every dog in the cage or pen may comfortably extend its legs to their full extent, stand, sit, turn around, and lie down in a fully extended position;
 - ii it is not likely to harm any therein;
 - iii any dog therein cannot readily escape there from; and
 - iv it may be readily cleaned.
- c) Each doorway, window, and outside opening shall be screened during the period of May 1st to October 1st of each year.
- d) The yards and runways shall be:
 - i fenced so any dogs therein cannot readily escape there from;
 - ii partially shaded; and
 - iii gravelled and well drained or;
 - iv paved with concrete, asphalt, or other impermeable material;
 - v graded to an adequate drain or gutter, and;
 - vi cleaned at least once daily when in use.
- e) Each area in which dogs are kept shall, at all times be maintained in a clean and sanitary condition.
- f) Excreta, dead animals, and other waste resulting from the keeping of dogs shall be removed in a timely fashion from the premises.
- g) Every kennel shall have a manure receptacle for the storage of dog waste. All kennel owners shall comply with the provisions of Part V of the Environmental Act, R.S.O. 1990 and all regulations thereto with respect to waste management systems, including but not limited to the collection and disposal of waste.
- h) Every person who owns and operates a kennel shall give regard to the guidelines set out in the 'Code of Practice of Canadian Kennel Operations' of the Canadian Veterinary Medical Association.
- i) Every person who owns or operates a kennel shall undertake measures to ensure that residences on adjacent properties are not subjected to persistent noise by dogs kept at a kennel operation. Complaints concerning noise will be investigated subject to the Municipality's Noise By-law.
- j) Every dog shall be supplied with:
 - i food of a type and in amounts nutritionally adequate for the dog, and;
 - ii adequate amounts of potable water, and;
 - iii medical service for any disease or injury from which the dog may be suffering.
- k) The owner, operator or a person designated by the owner or operator shall attend the kennel at least once every 12 hours when dogs are currently being kept at the kennel.
- l) When the owner, operator or their designate is not present, all dogs must be kept separate by means of a cage or other similar measure from each other.
- m) The owner of a Kennel will collect from the owner of every dog that uses their facility the dog owners: name, address, phone number, emergency contact phone number and the most recent vaccination records of the dog. A record of when the dog is kept at the kennel shall also be kept. This information must be maintained for one year from the date of collection

and shall be shared with any Municipal Law Enforcement Officer upon request.

6. RUNNING AT LARGE / UNDER CONTROL

- 6.1.** No person shall allow or permit livestock to run at large in the Municipality of Markstay-Warren.
- 6.2.** No person shall allow or permit a dog to run at large in the Municipality of Markstay-Warren.
- 6.3.** No person shall allow or permit a prohibited animal to run at large in the Municipality of Markstay-Warren.
- 6.4.** A dog shall not be deemed running at large if it is a police work dog and is being used during police duties or in training.
- 6.5.** A dog shall not be deemed running at large if it is a hunting dog accompanied by the owner or other reasonable adult and is actively engaged in hunting or training for hunting, on un-posted land or on posted land with permission from the owner.

7. SEIZURE AND IMPOUNDMENT

- 7.1.** Subject to Section 6.2 of this by-law, an Officer may:
 - a)** seize and impound any dog found to be running at large.
 - b)** restore possession of the dog to the owner where:
 - i** the owner claims possession of the dog within three (3) working days (exclusive of statutory holidays and weekends) after the date of seizure; and
 - ii** the owner pays to the Municipality the Seizure/Impoundment Fee, in accordance with the Municipality's Service Charges and Fees By-law, for the dog seized and impounded, plus the cost of any damages, expenses and/or veterinary care.
- 7.2.** An Officer may order the dispatch of any dog, without first seizing or impounding it if the officer is unable to seize the dog after making reasonable attempts to do so if that dog is suspected to be rabid or, which, while at large has, is or is about to attack, kill, injure, menace, damage, or destroy, as the case may be:
 - a)** any person;
 - b)** another animal; or
 - c)** personal property;
- 7.3.** An Officer who seizes and impounds a dog shall make reasonable efforts to locate the owner of the dog and inform the owner of the seizure and/or impoundment.
- 7.4.** No person shall unlock, unlatch, or otherwise open a vehicle or cage in which dogs seized by an Officer have been or are being placed.
- 7.5.** Notwithstanding, any other provisions of this By-Law where, in the opinion of an Officer or his or her designate, a dog which has been seized requires the immediate services of a qualified veterinarian, or should be dispatched for humane reasons or reasons of public safety, the Officer

may dispatch the dog as soon after the seizure as the Officer or his or her designate thinks fit without first permitting the owner to reclaim the dog or offering the dog for sale. If such dog has been delivered to a qualified veterinarian for care, the owner of the dog shall be responsible for any and all costs or charges associated with the services provided by the veterinarian.

8. STOOP AND SCOOP

- 8.1.** Any person having control of an animal except horses being actively used in transportation shall immediately remove any feces left by the animal on any property, other than the owner's property including, but not limited to:
- a)** on a highway;
 - b)** in a public park;
 - c)** on any public property; or
 - d)** on municipal streets and roads.
- 8.2.** Any person having control of an animal shall have in his/her possession the necessary equipment to proceed immediately with the removal of any feces.
- 8.3.** Every owner of an animal shall remove from his or her property, in a timely manner, feces left by an animal, so as not to disturb the enjoyment, comfort, convenience of any person in the vicinity of the property.
- 8.4.** Section 8 does not apply to an owner of a service dog, where the owner is unable to remove animal waste due to a physical impediment or a blind or visually impaired pet owner.
- 8.5.** Every owner of a horse shall remove, within twenty-four (24) hours, any feces left by the horse on any roadway within fifty (50) metres of town limits or in any public park.

9. PROHIBITED ANIMALS

- 9.1.** No person shall keep in the Municipality, either on a temporary or permanent basis, any prohibited animal, as set out in Schedule 'A'.
- 9.2.** No person shall keep livestock in an area of the Municipality unless the area is zoned for that purpose or is lawfully used for that purpose.
- 9.3.** Despite Section 9.1, a provincially authorized wildlife custodian may keep an animal prohibited under this By-law in accordance with the authorization.
- 9.4.** Despite Section 9.1, a person who both resided within the Municipality and owned prohibited animal(s) at the time of passing of this by-law shall be permitted to apply for an exemption to Section 9.1.
- a)** An exemption must be applied for within the first three months of the passing of this By-Law.
 - b)** An exemption request
 - c)** must be made in writing to the Municipality and shall be accompanied by the applicants

name, address, phone number, email address, a list of animals that the applicant is applying to have exempt and a photograph of each said animal.

- d) An inspection shall take place of the location in which the prohibited animal(s) are to be kept to ensure the safety of the owners and public and the wellbeing of the animals.
- e) The granting of an exemption is left to the full discretion of the MLEO and may be denied for any reason.
- f) A granted exemption is for a single species of animal. A person with a granted exemption may keep and acquire multiple animals of that species provided that the keeping of said species has not lapsed for a period longer than 3 months.
- g) A prohibited animal with a granted exemption may not be transferred to another person unless through inheritance or if the owner is provably no longer able to care for the prohibited animal for physical or financial reasons. In these instances, no monetary exchange may occur for the prohibited animal. If the ownership of a prohibited animal is changed, the Municipality is to be notified within 5 working days. Additionally, an inspection of the new location in which the prohibited animal is to be kept may occur.
- h) An Officer may enter upon and may inspect without notice any location in which a prohibited animal is kept at any reasonable time.
- i) A granted exemption may be revoked by a MLEO following the conviction of a Part I or Part III charge or confirmation of a Municipal AMPS Notice relating to the keeping of an animal.

9.5. No person shall keep or permit to be kept any insect, arachnid or squamatea permitted under this By-law except in an escape-proof enclosure.

9.6. No person shall keep or permit to be kept any lagomorph, marsupial or rodent permitted under this By-law except in a suitable enclosure.

9.7. For the purposes of Section 9.6 “Institution and Facility” have the meaning given to those words by Canada’s Accredited Zoos and Aquariums. Despite Section 9.1, an institution whose facility is accredited by Canada’s Accredited Zoos and Aquarium may keep an animal prohibited under Section 9.1 if:

- a) the institution maintains its Canada’s Accredited Zoos and Aquariums accreditation;
- b) neither the institution or the facility sells or offers for sale, animals;
- c) the facility is on premises zoned under the Municipality’s zoning by-law permitting the use;
- d) the facility is on a premises where there is no residential use;
- e) the facility:
 - i) shares no common wall with any other use or is self-contained in accordance with its Canada’s Accredited Zoos and Aquariums accreditation;
 - ii) shares no NVAC system and no plumbing system with any other use;
- f) signs are posted in the facility at all public entrances/exits and in each room where animals are displayed that:
 - i) include the statements:
 - caution: the animals on display are unpredictable and may be dangerous;
 - after touching the animals or their living areas, wash your hands.

9.8. Despite Sections 9.5 and 9.6, animals kept on premises that meet the requirements of Section 9.7

may be kept outside of an escape-proof enclosure or a suitable enclosure for educational purposes.

10. VICIOUS DOGS

- 10.1.** No owner of a dog shall permit his or her dog to attack or to bite without provocation, a person, a domestic animal or livestock.
- 10.2.** No owner of a dog shall permit his or her dog to menace or harass without provocation a person, domestic animal or livestock.
- 10.3.** Where the Municipality is informed upon written complaint and is satisfied that a dog has attacked or bitten without provocation a person or domestic animal or livestock and has further been provided with satisfactory evidence as to the name and address of the owner of the dog, the Municipality may serve notice on the owner of the dog that the dog is deemed to be a vicious dog and requiring the owner to comply with any or all of the requirements set out in Subsections 10.4 and 10.5.
- 10.4.** Service of notice that a dog has been deemed a vicious dog may be affected on the person shown in the Municipality's records as the owner of the dog, or where the dog does not appear to be registered pursuant to the By-law, on such other person who appears to be the owner of the dog. Service may be affected by personal service, by mail or by posting up in a conspicuous place at the address shown in the records of the Municipality as the address for the owner of the dog, or where the dog is not registered under the By-law, at such address as appears to be the address of the owner of the dog. Service of the notice shall be effective upon the date that personal service is affected, or where served by mail or by posting, shall be deemed effective on the 3rd day after mailing or posting as the case may be.
- 10.5.** The owner of a vicious dog shall, at all times when the dog is not contained within the boundaries of the owner's lands:
- a)** keep the vicious dog muzzled
 - b)** keep the vicious dog under the effective control of a person sixteen (16) years of age or older and under leash not to exceed 1.23 meters (4 feet) in length.
- 10.6.** The owner of a vicious dog that is not contained within the boundaries of the owners lands but is otherwise contained within a vehicle, owned by the owner of the vicious dog, shall be exempt from Section 10.5 (b) provided that the vicious dog is contained within the vehicle by means of either a secure cage, dog seatbelt or similar means that would prevent the vicious dog from unintentionally escaping the vehicle if a door is opened.
- 10.7.** The restrictions of Section 10.5 shall still apply when a dog is not contained within the boundaries of the owners lands but is otherwise contained within the boundaries of the land of another person, including within the dwelling of another person.
- 10.8.** The owner of a vicious dog shall at all times, when it is not in the owners dwelling but otherwise within the boundaries to the owner's lands, ensure that the vicious dog shall be contained within an enclosed area, including a fence of an appropriate height for the breed of the dog, or in a

manner such that the vicious dog is unable to come into contact with persons or other animals. Gates in such an enclosure shall be locked at all times when the dog is in the enclosure, designed in such a fashion and with such material which will prevent the dog from digging its way out of or otherwise escaping from the enclosed run and not to restrict the generality of the foregoing having sides and top constructed of chain-link fencing as set out in Schedule "C" to this By-Law and a solid base securely attached to the side.

- 10.9.** Every owner of a vicious dog shall notify the Municipality within 2 working days of any change in ownership or residence of the vicious dog and provide the Municipality with the new address and telephone number of the owner.
- 10.10.** Every owner of a vicious dog shall notify the Municipality within two (2) working days if the vicious dog is deceased.
- 10.11.** Every owner of a vicious dog shall display a "beware of dog" sign in a conspicuous location on their property so as to be visible to every person entering the property from a public highway.
- 10.12.** Where the owner of a vicious dog is informed that his or her dog has been deemed to be a vicious dog, the owner may choose to appeal the decision by requesting for a hearing by the By-law Appeal Committee, in accordance with the process provided for under Municipality's By-law Appeal Committee By-law, as amended and the rules and procedures thereto, or successor by-law (s) as applicable. An application for a hearing shall be filed with the Clerk within ten (10) business days of the written order of the dog being deemed a vicious dog.
- 10.13.** An owner of a vicious dog shall notify the kennel owner or operator that his or her dog was deemed vicious.
- 10.14.** The notification that a dog is a vicious dog is effective from the date it is served, even if a hearing before Council is requested by the owner of the dog affected.
- 10.15.** No person shall operate a kennel containing a vicious dog or a dog included in Schedule "B" to this By-Law.
- 10.16.** The provisions of Section 10.15 of this By-Law do not apply to a person operating a kennel who has in the kennel a vicious dog or a dog specified in Schedule "B" to this By-Law for the purpose of providing any of the following services:
 - a)** the temporary boarding of such dog,
 - b)** the grooming of such dog,
 - c)** the training of such dog, or
 - d)** medical attention for such dog provided he/she complies with the provisions of Section 10.5.

11. POUNDS

- 11.1.** For the purpose of this By-Law, Council may establish a pound(s) for the impoundment of dog(s) seized by an Officer or their designate pursuant to the provisions of this By-Law and may establish, from time to time, such rules and regulations of such pound(s).

11.2. If a dog(s) is seized and/or impounded, an administration fee as outlined in the Municipality's Service Charges and Fees By-law will be imposed per dog on the owner of the dog(s), plus any fees incurred from the pound(s) itself.

12. ENFORCEMENT

12.1. Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction shall be liable to a fine prescribed and recoverable under the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, for each offence committed

12.2. The Administrative Monetary Penalty System By-law applies to each administrative penalty issued pursuant to this Bylaw.

12.3. No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, an employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-Law.

12.4. Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Monetary Penalty System By-law, be liable to pay to the Municipality an administrative monetary penalty.

12.5. Before the Officer and other appointed officials takes any action as a result of a complaint, the complainant shall give to the investigative Officer involved a written statement describing the incident, stating his or her name, address, telephone number, and date and time of incident.

12.6. Upon registering a conviction for a contravention of any provision of this By-Law, the Provincial Offences Court may, in addition to any other remedy and to any penalty imposed by this By-Law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

12.7. The penalty provided for violation of any of the provisions of this By-Law shall be separate from and in addition to the requirements for payment of expenses of confining the dog imposed by the Officer.

13. SEVERABILITY

13.1. Should a court of competent jurisdiction declare a part or whole of any provision of this By- Law to be invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

14. SCHEDULES

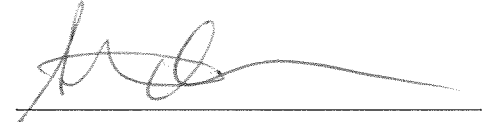
14.1. Schedules "A", "B", "C", "D" & "E" shall be deemed to form part of this by-law.

15. AUTHORITY

15.1. That By-Law 2013- 58 is hereby repealed.

15.2. This By-Law shall come into force and take effect on the day it is passed.

BE READ A FIRST, SECOND AND
THIRD TIME AND FINALLY
PASSED THIS 16 DAY OF
SEPTEMBER, 2024.



Mayor



Clerk

SCHEDULE “A”
RESPONSIBLE ANIMAL OWNERSHIP BY-LAW 2024-XX MUNICIPALITY OF MARKSTAY-
WARREN
PROHIBITED ANIMALS

1. All protected or endangered animals being all animals, native or non-native, whose possession or sale is prohibited because they are designated as protected or endangered pursuant to an international, federal, or provincial law, regulation, rule or agreement, unless the animal has been obtained in accordance with international, federal or provincial law, as applicable, and if the animal is not identified in this Schedule, and the animal is kept in accordance with this by-law and the Municipality of Markstay-Warren zoning by-law.
2. No person shall keep in the Municipality of Markstay-Warren, either on a temporary or permanent basis, any prohibited animal belonging to the following orders:
 - a) **Anseriformes** (e.g., ducks, geese, swans, and screamers), except on property where agricultural use is permitted;
 - b) **Artiodactyla** (e.g., cattle, goats, sheep, pigs, deer, elk, alpacas, and llamas), except on property where agricultural use is permitted;
 - c) **Carnivora** (e.g., otters, wolves, bears, coyotes, foxes, tigers, leopards, cougars, lions, lynx, mink, skunks, weasels, badgers, mongooses, and racoons), except dogs, cats and ferrets;
 - d) **Chiroptera** (e.g., bats, myotis and flying foxes);
 - e) **Crocodylia** (e.g., alligators, crocodiles, gavials, and caimans);
 - f) **Edentates** (e.g., anteaters, sloths, and armadillos);
 - g) **Galliformes** (e.g., pheasants, grouse, guinea fowls, turkeys, chickens and peafowls), except on property where agricultural use is permitted;
 - h) **Lagomorpha** (e.g., hares and pikas), except domestic rabbits;
 - i) **Marsupial** (e.g., koalas, kangaroos, opossums, and wallabies), except sugar gliders derived from self- sustaining captive populations;
 - j) **Non-Human Primates** (e.g., chimpanzees, gorillas, monkeys, and lemurs);
 - k) **Perissodactyla** (e.g., horses, donkeys, jackasses, mules, zebras, and ponies), except on property where agricultural use is permitted;
 - l) **Proboscidea** (e.g., elephants, rhinoceros, hippopotamuses);
 - m) **Raptors** (e.g., eagles, hawks, falcons, and owls), except as permitted under a provincial falconry licence;
 - n) **Rodentia** (e.g., porcupines, prairie dogs, nutria, and chinchillas) except the Patagonian Mara or where neither the female nor the male of the species exceeds or will exceed 1,500 grams in weight before or at maturity and that are derived from a self-sustaining captive population;
 - o) **Squamata** (e.g., lizards and snakes) except non-venomous snakes where neither the female nor the male of species exceeds or will exceed 2 metres in length from nose to tip of tail before or at maturity and non-venomous lizards (not including Iguana iguana) where neither the female nor the male of the species exceeds or will exceed 1 metre in length from nose to tip of tail before or at maturity; or
 - p) **Struthioniformes** (e.g., ostriches, rheas, cassowaries, emus, and kiwis), except on property where agricultural use is permitted
3. No person shall keep or permit to be kept an animal that is venomous or poisonous, except *Grammostola rosea* (Chilean Rose), *Brachypelma smithi* (Mexican Red-Knee) and *Avicularia avicularia* (Pink-Toe) Tarantulas and *Pandinus imperator* (Emperor) and *Heterometrus spinifer* (Asian Forest) Scorpions.

SCHEDULE “B”
**RESPONSIBLE ANIMAL OWNERSHIP BY-LAW 2024-XX MUNICIPALITY OF MARKSTAY-
WARREN**

List of dogs banned in the province of Ontario under the *Dog Owners Liability Act*.

- Pit bull terrier
- Staffordshire bull terrier
- American Staffordshire terrier
- American pit bull terrier
- A dog that has an appearance and physical characteristics that is substantially similar to the dogs above.

SCHEDULE "C"
**RESPONSIBLE ANIMAL OWNERSHIP BY-LAW 2024-XX MUNICIPALITY OF MARKSTAY-
WARREN**

Fences:

Fences shall be 1.8 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 that the finished grade and shall comply further comply to the Municipal Zoning By-law as amended and all other Municipal By-laws pertaining to fences. 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 "B" 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-latching devices and locks located at the top of and inside the gates.

A fence shall:

- If of chain-link construction:
 - a) Be of not greater than 50 mm (2 inch) diamond mesh;
 - b) Be constructed of galvanized steel wire not less than 3.6 mm diameter (no. 11 gauge), or of minimum 2.9 mm diameter (no. 11 gauge) steel wire covered with a vinyl coating forming a total thickness equivalent to 3.6 diameter (no. 9 gauge); and
 - c) 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 a 12 mm (.5 inch) diameter galvanized tension rail or a 32 mm (1.25 inches) diameter galvanized rail.

- If wood construction:
 - a) 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 maximum of 100 mm (4 inches);

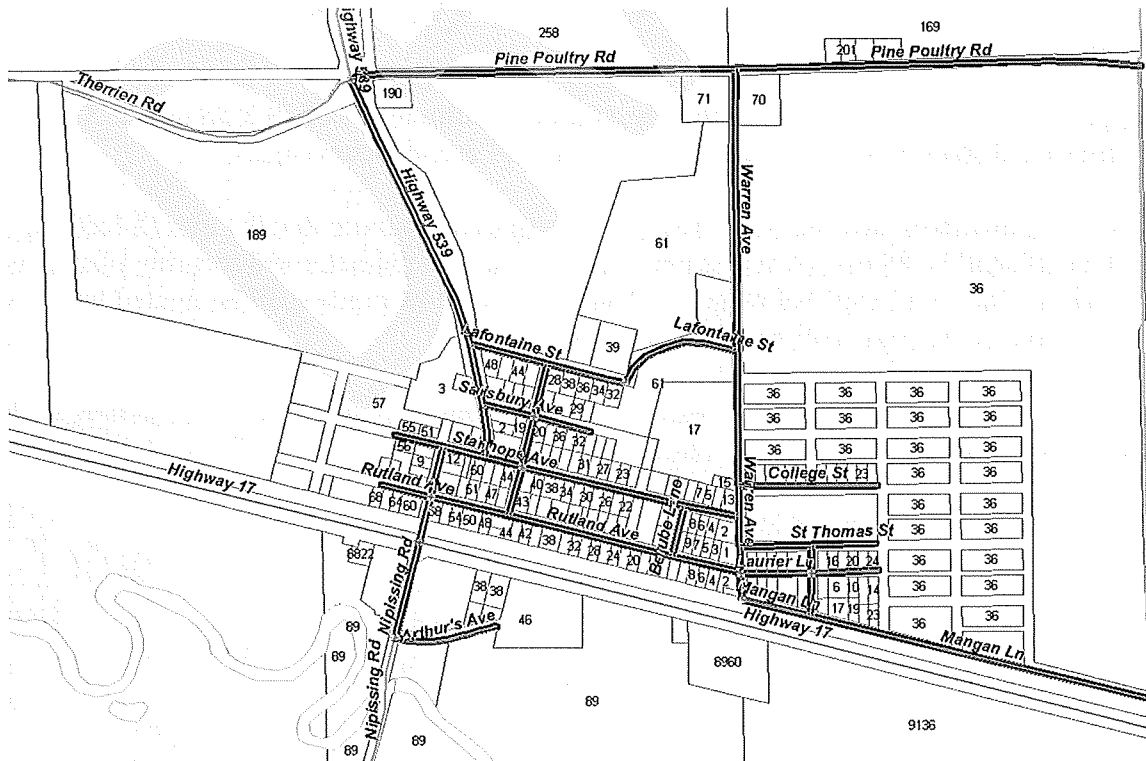
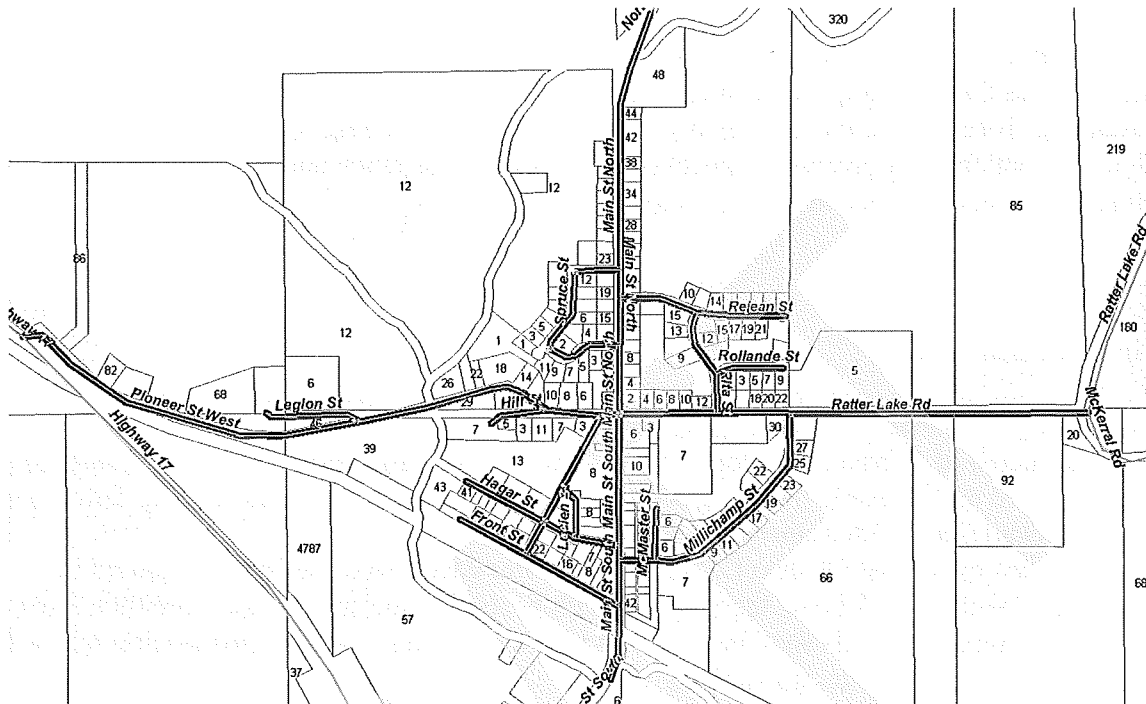
 - b) Supporting horizontal members shall have a minimum dimension of 38 X 88 mm (2 X 4 inches nominal) and shall be spaced a minimum of 1.4 m (4 feet 6 inches) apart; and

 - c) Horizontal members shall be supported by posts spaced not more that 2.4 mm (8 feet) on centre. 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.

- If the fence design is other than specified than wood construction or chain-link construction, such fence shall require approval by the By-Law Enforcement Officer.

SCHEDULE "D"
RESPONSIBLE ANIMAL OWNERSHIP BY-LAW 2024-XX MUNICIPALITY OF MARKSTAY-
WARREN

TOWN LIMITS



**SCHEDULE “E”
RESPONSIBLE ANIMAL OWNERSHIP BY-LAW 2024-XX MUNICIPALITY OF MARKSTAY-
WARREN**

PART 1 – PROVINCIAL OFFENCE ACT FINES

| ITEM | SHORT FORM WORDING | PROVISION CREATING OR DEFINING THE OFFENCE | SET FINES |
|-------------|--|---|------------------|
| 1 | Fail to license a dog | Section 3.1 | \$100.00 |
| 2 | Fail to keep a tag fixed to a dog while off premises | Section 3.6 | \$50.00 |
| 3 | Keep more than 3 dogs | Section 3.16 | \$100.00 |
| 4 | Keep more than 5 cats | Section 3.17 | \$75.00 |
| 5 | Fail to provide a clean and sanitary environment for an animal | Section 4.1 (a) | \$200.00 |
| 6 | Fail to provide appropriate care, food, water, shelter or physical activity to an animal | Section 4.1 (b) | \$200.00 |
| 7 | Fail to provide necessary veterinary care to an animal | Section 4.1 (c) | \$200.00 |
| 8 | Improperly hitch tie or fasten an animal | Section 4.3 | \$200.00 |
| 9 | Fail to provide an animal with proper ventilation | Section 4.4 | \$200.00 |
| 10 | Improperly transport an animal | Section 4.5 | \$200.00 |
| 11 | Improperly muzzle a dog | Section 4.7 | \$200.00 |
| 12 | Neglect, abuse torment or punish an animal | Section 4.8 | \$300.00 |
| 13 | Cause or allow the abandonment of an animal | Section 4.9 | \$300.00 |
| 14 | Cause or allow a dog in heat to be unattended | Section 4.10 | \$150.00 |
| 15 | Operate a kennel without a license | Section 5.1 | \$500.00 |
| 16 | Fail to maintain a kennel in a clean and sanitary condition | Section 5.9 (m) | \$300.00 |
| 17 | Fail to remove waste from a kennel in a timely fashion | Section 5.9 (n) | \$300.00 |
| 18 | Permit livestock to run at large | Section 6.1 | \$150.00 |
| 19 | Permit a dog to run at large | Section 6.2 | \$100.00 |
| 20 | Permit a prohibited animal to run at large | Section 6.3 | \$600.00 |
| 21 | Unlawfully unlock, unlatch, or open a vehicle or cage containing seized animal | Section 7.4 | \$300.00 |
| 22 | Fail to remove feces left by an animal | Section 8.1 | \$100.00 |

| | | | |
|----|---|-------------|----------|
| 23 | Fail to possess necessary equipment to remove feces | Section 8.2 | \$75.00 |
| 24 | Fail to remove feces from own property in a timely manner | Section 8.3 | \$100.00 |
| 25 | Fail to remove feces left by a horse | Section 8.5 | \$100.00 |
| 26 | Keep or permit to be kept a prohibited animal | Section 9.1 | \$400.00 |
| 27 | Keep livestock in an area not zoned for agricultural use | Section 9.2 | \$300.00 |
| 28 | Fail to keep an insect, arachnid or squamate in an escape proof enclosure | Section 9.4 | \$100.00 |

NOTE: Penalty Provisions for the offences indicated above is Section 12 of the By-law 2024-27, a certified copy of which has been filed.