

THE CORPORATION OF THE MUNICIPALITY OF CENTRAL ELGIN

BY-LAW 465

Being a By-law respecting the designation and control of potentially dangerous and dangerous dogs

The Council of the Corporation of the Municipality of Central Elgin enacts as follows:

Part 1 - Definitions

1.1 In this by-law,

- a) "Canine Control Officer" means the Canine Control Officer appointed by by-law by the Municipality of Central Elgin or any authorized representative thereof;
- b) "Clerk" means the Clerk of the Municipality of Central Elgin and shall also include any person authorized by by-law to perform the functions of the Clerk;
- c) "Dog" means a male or female dog;
- d) "Dog Pound" means the dog pound maintained and operated by the City of St. Thomas and to which dog pound the Municipality of Central Elgin and its Canine Control Officer has a right of access and use.
- e) "Owner" of a dog includes a person who possesses or harbours a dog, and "owns" and "owned" have a corresponding meaning.

Part 2 - Potentially Dangerous/Dangerous Dogs

2.1 In this section:

2.1.1 "potentially dangerous dog" means:

- a) a dog that, in the absence of any mitigating factor, chases or approaches any person or domestic animal, anywhere other than on the property of its owner, in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling; or
- b) a dog that has been impounded by the Canine Control Officer or for whom the owner has been convicted on a total of three occasions within a twelve (12) month period for such dog being at large in the Municipality of Central Elgin.

2.1.2 "dangerous dog" means:

- a) a dog that, in the absence of any mitigating factor, has attacked, bitten, or caused injury to a person or has demonstrated a propensity, tendency or

disposition to do so;

- b) a dog that, in the absence of any mitigating factor, has significantly injured a domestic animal; or
- c) a dog, previously designated as a potentially dangerous dog, that is kept or permitted to be kept by its owner in violation of the requirements for such dog.

2.1.3 “mitigating factor” means a circumstance which excuses aggressive behaviour of a dog and, without limiting the generality of the foregoing, may include circumstances where:

- i) the dog was, at the time of the aggressive behaviour, acting in defence to an attack from a person or domestic animal;
- ii) the dog was, at the time of the aggressive behaviour, acting in defence of its young or to a person or domestic animal trespassing on the property of its owner; or
- iii) the dog was, at the time of the aggressive behaviour, being teased, provoked, or tormented.

2.1.4 “muzzle” means a humane fastening or covering device of adequate strength placed over a dog’s mouth to prevent it from biting.

2.2 The Canine Control Officer may, on his or her own initiative or as a result of a citizen’s complaint, conduct a fair and impartial inquiry into whether a specific dog should be designated as a potentially dangerous dog or dangerous dog, as the case may be; provided that, in conducting such inquiry, the Canine Control Officer may, but is not required to, communicate the facts and details of such inquiry to the owner of the dog which is the subject of such inquiry; and provided further that, upon completion of such inquiry, the Canine Control Officer shall decide if such specific dog shall be designated as a potentially dangerous dog or dangerous dog.

2.3 Where the Canine Control Officer designates a dog as a potentially dangerous dog, the Canine Control Officer shall serve notice upon the owner of such dog requiring the owner, upon receipt of such notice, to comply with any or all of the following requirements:

- a) to keep such dog, when it is on the lands and premises of the owner, confined:
 - i) within the owner’s dwelling; or

- ii) in an enclosed pen of sufficient dimension and construction to provide humane shelter for the dog while preventing the entry therein of unsupervised children;
- b) to securely attach a muzzle to such dog at all times when it is not on the property of the owner or on the property of another person with such person's consent; and/or
- c) to obtain and maintain in force a policy of public liability insurance issued by an insurer licenced by the Province of Ontario providing third party liability coverage in an amount of not less than ONE MILLION (\$1,000,000.00) DOLLARS for any damage or injury caused by such potentially dangerous dog and provide to the Canine Control Officer a certificate of such policy and each subsequent renewal thereof. Such policy shall contain a provision requiring the insurer to immediately notify the Canine Control Officer should the policy expire, be cancelled or be terminated for any reason.

2.4 Where the Canine Control Officer designates a dog as a dangerous dog, the Canine Control Officer shall serve notice upon the owner of such dog requiring the owner, upon receipt of such notice, to comply with the following requirements:

- a) to keep the dog confined:
 - i) within the owner's premises; or
 - ii) in an enclosed pen of sufficient dimension and construction to provide humane shelter for dog while preventing it from escaping therefrom and preventing entry therein of unsupervised children;
- b) to securely attach a muzzle to such dog at all times when it is not confined in accordance with clause a) above; and/or
- c) to obtain and maintain in force a policy of public liability insurance issued by an insurer licenced by the Province of Ontario providing third party liability coverage in an amount of not less than ONE MILLION (\$1,000,000.00) DOLLARS for any damage or injury caused by such dangerous dog and provide to the Canine Control Officer a certificate of such policy and each subsequent renewal thereof. Such policy shall contain a provision requiring the insurer to immediately notify the Canine Control Officer should the policy expire, be cancelled or be terminated for any reason.

2.5 The notice referred to in sections 2.3 and 2.4 above shall include:

- a) a statement that the Canine Control Officer has reason to believe the dog is a

potentially dangerous dog or dangerous dog, as the case may be; and

- b) the requirements that the owner must comply within accordance with this section and when such requirements take effect.

2.6 Within seven (7) days of receipt of any notice issued by the Canine Control Officer pursuant to sections 2.3 or 2.4 above, the owner of the said designated dog may request an appeal of such designation to Council for the Municipality of Central Elgin, such request to be made in writing delivered to the Clerk; provided that the requesting of any such appeal does not stay the requirements for control of the designated dog pending the said appeal hearings, save and except the requirement for obtaining and maintaining a policy of public liability insurance for damages or injuries caused by such designated dog.

2.7 Within a reasonable time after delivery of a request to appeal pursuant to section 2.6 above, Council for the Municipality of Central Elgin shall conduct a fair and impartial appeal hearing in respect of designation of a dog as potentially dangerous or dangerous by the Canine Control Officer and, after conducting such appeal hearing, shall either confirm or reverse such designation; provided that if the said designation is confirmed, then the owner of such designated dog shall forthwith comply with all control requirements provided for in the original notice issued by the Canine Control Officer, including obtaining and maintenance of public liability insurance for damage or injury caused by such dog; provided further that, if the said designation is reversed, then the control requirements provided for in the original notice issued by the Canine Control Officer shall be vacated.

2.8 Any notices served by the Canine Control Officer or requests for hearings made by an owner pursuant to this by-law shall be provided by hand delivery or prepaid registered mail and, in the event of service by prepaid registered mail, shall be deemed received on the fifth (5th) working day after the date of mailing.

2.9 An owner of a dog which has been designated as a potentially dangerous dog or a dangerous dog pursuant to this by-law shall advise the Canine Control Officer immediately if he or she transfers ownership of such dog to another person or changes the address at which such dog is kept and furnish the Canine Control Officer with the particulars of same.

Part 3 - Restoration of Impounded Dog

- 3.1 Where a potentially dangerous dog or a dangerous dog has been impounded for any reason, the Canine Control Officer shall not restore the said dog to its owner or any other person unless the Canine Control Officer is satisfied that the person to whom the dog is to be restored is aware of and in compliance of the requirements of sections 2.3 or 2.4 above, as the case may be. All fees otherwise payable to the Canine Control Officer upon restoration of an impounded dog to its owner are payable by the owner of a potentially dangerous dog or a dangerous dog for any length of time it may be held in the Dog Pound.
- 3.2 Where the owner of a potentially dangerous dog or a dangerous dog which has been impounded is unable to demonstrate compliance with the provisions of sections 2.3 or 2.4 above, as the case may be, to the reasonable satisfaction of the Canine Control Officer, or if such owner refuses to do so, the Canine Control Officer, after a reasonable period of time, may sell or otherwise dispose of the said designated dog.

Part 4 - Enforcement

- 4.1 Any person, being the owner of a dog designated as a potentially dangerous dog or a dangerous dog, as the case may be, pursuant to the terms of this by-law, who fails to comply with the control requirements of any notice issued by the Canine Control Officer hereunder is guilty of an offence and, upon conviction, is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chap. P. 33, as amended, or any successor legislation thereto.
- 4.2 In addition to that penalty set forth in section 4.1 above, where it is determined that a potentially dangerous dog or a dangerous dog is not subject to all control requirements provided for in any notice issued by the Canine Control Officer hereunder, then such dog may be impounded by the Canine Control Officer, without prior notice to the owner of such dog, and such dog shall be restored to its owner or any other person only in accordance with the provisions of Part 3 herein.

Part 5 - General

- 5.1 If a Court of competent jurisdiction should determine that any section or part of a

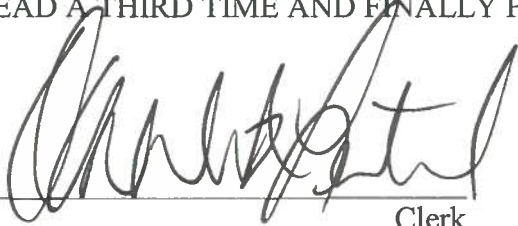
section of this by-law is invalid, such section or part of a section shall not be construed as having persuaded or influence Council of the Municipality of Central Elgin to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall remain as valid and still in force.

5.2 The headings contained in this by-law do not form part of the by-law but are included only for instruction and convenience of reference only.

5.3 This by-law will come into force and effect on the date of final passing hereof.

READ A FIRST AND SECOND TIME ON THIS 24TH DAY OF JUNE, 2002.

READ A THIRD TIME AND FINALLY PASSED ON THIS 24TH DAY OF JUNE, 2002.



Clerk



Mayor