

## MUNICIPALITY OF THE COUNTY OF RICHMOND

**POLICY NAME: BY LAW ENFORCEMENT POLICY**

**APPROVAL DATE: NOVEMBER 13, 2007**

### **PREAMBLE:**

This policy provides the framework for Municipal By-law enforcement and sets out the role and responsibilities of the Municipal By-law Enforcement Officer (hereinafter the "*By-law Officer*"). Schedules related to particular by-laws are additional to and do not replace the policy provisions which apply in every case.

### **THE POLICY:**

#### **Authority**

1. The By-law Officer shall be a Special Constable appointed under the *Police Act, S.N.S. 2004, c.31, as amended*;
2. The By-law Officer shall be appointed with authority to enforce the *Summary Proceedings Act, R.S.N.S. 1989, c. 450*, the *Municipal Government Act, S.N.S. 1998, c.18*, the *Environment Act, S.N.S. 1994-95, c.1*, and the By-laws of the Municipality of the County of Richmond, as any of these are amended from time to time, within the geographic territory of the Municipality of the County of Richmond.
3. The By-law Officer shall enforce those Municipal by-laws as are determined by Council from time to time to be subject to enforcement.
4. The By-law Officer shall enforce the Municipality's by-laws within the County of Richmond.
5. Subject to the limitations of his appointment, the By-law Officer is a peace officer while discharging and exercising his powers and responsibilities herein.
6. The By-law Officer shall retain in his records copies of the *Summary Proceedings*

*Act and Regulations* and the *Police Act and Regulations* and certified copies of each Municipal By-law which he is required to enforce.

### **Reporting Relationship**

7. The By-law Officer shall report directly to the department head responsible for the by-law under enforcement or, in his / her absence, to the Chief Administrative Officer (CAO) of the Municipality.

### **Responsibilities**

8. The By-law Officer's responsibilities shall include but not be limited to the following:

#### **Respond and Document**

- 8.1 Receiving and responding to complaints, allegations and information about possible by-law offences;
- 8.2 Documenting by written / typed record all such complaints, allegations and information including full particulars - *e.g. complainant identity and contact information, date of complaint, details of alleged offence;*
- 8.3 Deciding on appropriate response and where deciding not to investigate, annotating the record with reasons for decision - *e.g. insufficient information available to allow investigation, information not indicating by-law offence;*

#### **Investigate**

- 8.4 Making inquiries and taking witness statements;
- 8.5 Conducting inspections and surveillance and gathering evidence;
- 8.6 Determining if there are reasonable grounds to believe a by-law offence has been committed;
- 8.7 Identifying the particular offence with reference to the by-law and its provisions;

### **Contact**

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8.8 Making contact with the alleged or suspected offender, by one or more of the following approaches, in the Officer's discretion:

- (1) discussion in person or by telephone of by-law requirements;
- (2) **verbal warning** about by-law violation;
- (3) serving **written notice** of by-law violation;
- (4) serving written **Payment in Lieu of Prosecution (PLP) Notices**;
- (5) issuing and serving **Summary Offence Tickets (SOTs) - See Schedule A hereto**

#### **Record-keeping and Filing**

8.9 Maintaining records of all warnings and notices issued, including duplicates of all written notices and SOTs.

8.14 Filing PLP Notices with Municipal Administration staff for collection of payments in lieu of prosecution.

8.15 Filing issued SOTs with the Provincial Court Office.

8.16 Obtaining Hearing Results Report following Provincial Court arraignment day;

#### **Prosecution**

8.14 Giving immediate notice to the responsible department head for purposes of communication with the CAO and the Municipal Solicitor where an SOT is contested and /or set down for trial;

8.15 Compiling and providing to the Municipal Solicitor all applicable records and evidence to for conduct of the prosecution;

8.16 Cooperating with the Municipal Solicitor and giving evidence in court on behalf of the Municipality's prosecution.

#### **Decisions, Discretion and Consultation**

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9. The decision to proceed by verbal warning, notice, PLP notice (where applicable) or SOT shall be in the discretion of the By-law Officer, provided that where a penalty in excess of \$1,000 is sought, the By-law Officer shall consult with the responsible department head and the CAO prior to issuing an SOT.
10. In exercising discretion and making decisions with respect to by-law enforcement and issuing notices and SOTs, the By-law Officer, responsible department head and CAO as the case may be shall do so in a non-discriminatory and fair manner in the best interests of the Municipality and Municipal residents.
11. The decision to prosecute or stay proceedings in any given case will be made by the CAO pursuant to advice from the Municipal Solicitor, assessment of the evidence and merits of the case.

#### **General Duties**

12. The By-law Officer shall be responsible to provide basic by-law and by-law offence information and education to members of the public;
13. The By-law Officer shall further be responsible for such other duties as may be assigned from time to time by responsible department heads or the CAO with respect to requirements and enforcement of Municipal By-laws.

#### **By-law Officer Identification**

14. When performing his duties the By-law Officer shall
  - (14)1 wear a jacket or vest issued by the Municipality identifying him as Special Constable / By-law Enforcement Officer for the Municipality of the County of Richmond ;
  - (14)2 wear affixed to his jacket or vest or carry securely in an interior pocket, his Special Constable's badge and identification pursuant to the Police Act;
  - (14)3 identify himself and his authority to any individual interviewed by him;

#### **By-law Officer Conduct**

15. When performing his duties, the By-law Officer shall

- (15)1 at all times comply with the requirements of the *Police Act* and *Police Regulations* and Code of Conduct thereunder - **See Schedule "B" hereto**;
  - (15)2 act without bias or favour against or for any individual;
  - (15)3 be truthful and conscientious in the performance of his duties and in the creating of any records kept by him therefore;
  - (15)4 conduct himself in a manner which reflects well on the Municipality;
  - (15)5 be courteous and civil to members of the public in all of the circumstances;
  - (15)6 exercise reasonable care in investigating and ensuring the accuracy of information provided and in keeping confidential such information insofar as it may be subject to adjudication in a prosecution;
- 16. The By-law Officer shall not arrest or forcibly detain any individual in the performance of his duties.
  - 17. The By-law Officer shall report to the RCMP and seek assistance from the RCMP as appropriate in the conduct of his duties.
  - 18. The By-law Officer may consult with the Municipal Solicitor from time-to-time on issues arising in the performance of his enforcement responsibilities.

**Notices and SOTs**

- 19. Written notices served by the By-law Officer shall be in a standardized form as approved from time to time by the CAO.
- 20. Summary Offence tickets (SOTs) shall be in the form prescribed by the Provincial Court.
- 21. All notices and tickets issued by the By-law Officer shall identify the Municipality, the By-law Officer, the applicable legislation and by-law provision, particulars of offence alleged, direction and contact information.

22. All PLP Notices shall further clearly state:
- (22)1 that the accused is being offered a payment in lieu of prosecution option;
  - (22)2 the payment sum required to avoid prosecution;
  - (22)3 the civic and postal addresses for the Municipal Administration Building for purposes of making payment;
  - (22)4 the deadline for payment - e.g. 14 days from the date the notice is served;
  - (22)5 that an SOT will be issued if the offence continues and payment is not received within the deadline;
  - (22)6 the penalty which is available on summary conviction should the matter proceed to court.
23. The By-law Officer shall serve PLP Notices by personal service or by registered mail, provided that if circumstances require, service may be by posting at a property or site.
24. The By-law Officer shall serve SOTs personally.
25. The By-law Officer shall maintain records of Notices served and deadlines for response / payment / remediation and shall conduct follow-up inspections and contact Municipal administrative staff to confirm compliance and / or payment within the deadline provided.
26. In the event of non-compliance and / or non-payment under a PLP Notice the By-law Officer shall notify the responsible department head and issue an SOT for the accused.

**Records, Documents and Evidence**

27. All records made by the By-law Officer, whether documentary or photographic or in other media, and any evidence collected by the By-law Officer in the performance of his duties, shall be the confidential property of the Municipality and shall be logged and secured as potential evidence in a prosecution.
28. Access to and disclosure of the Municipality's records and evidence in any by-

law offence shall be provided through the auspices of the Municipal Solicitor and the By-law Officer shall cooperate with the Solicitor for that purpose.

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#### **Payment of Fines, Penalties and Payments in lieu of prosecution**

30. The By-law Officer shall not personally take receipt of fees, fines, penalties or payments in lieu of prosecution but shall provide appropriate direction to individuals wishing to remit payments to the Municipal Administration Building or, where applicable, the Provincial Court at the Port Hawkesbury Justice Centre.
31. Payments in lieu of prosecution and fees (such as dog license fees) shall be made at the Municipal Administration Building to Municipal staff.
32. Summary Offence Ticket fines shall be paid at the Provincial Court Administration, Port Hawkesbury Justice Centre.
33. The By-law Officer shall be notified of all payments received by Municipal Administration pursuant to By-laws (whether fees, fines, penalties, or payments in lieu of prosecution) for purposes of documenting same in his by-law enforcement records.

#### **Complaints about By-law Officer**

34. Any complaints received from any member of the public in regard to the conduct of the By-law Officer in the performance of his duties shall be referred to the responsible department head or to the CAO.
35. The responsible department head or CAO shall discuss the complaint with the By-law Officer, shall make a record of the complaint and his / her decision on appropriate response, and these records shall be reviewed in the By-law Officer's annual performance evaluation.

#### **Performance Evaluation**

36. The responsible department heads shall produce and provide to the CAO a written evaluation of the performance of the By-law Officer in the conduct of his by-law enforcement duties once a year, or, at minimum, prior to any application to renew the Special Constable's certification under the *Police Act*.

- 37. The performance evaluation shall be maintained on the By-law Officer's personnel file and shall be available to the Minister of Justice if requested in accordance with the requirements of *Police Act Regulation 10*.

**Annual Report**

- 38. The By-law Officer shall assist the responsible department head in the preparation of an annual by-law enforcement report for the purposes of departmental annual reports to Council, the report to include statistics on complaints received, investigated and prosecuted.

**Schedules**

- 39. The Schedules to this Policy are incorporated into and form part of the Policy. The Schedules are as shown here below and as may be approved and added by Council from time to time.

**Schedule A: Summary Offence Ticketing Procedure**

**Schedule B: By-law Officer's Code of Conduct per Police Regulations**

**Schedule C: Solid Waste Management By-law Enforcement**

**Schedule D: Dog Control By-law Enforcement**

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## SCHEDULE A

### **SUMMARY OFFENCE TICKETING (SOT) PROCEDURE**

1. The By-law Officer should review and be familiar with Section 8 of the *Summary Proceedings Act* which sets out the basic SOT procedure.

#### **The Tickets**

2. The By-law Officer shall obtain and use books of SOTs from the Clerk of the Provincial Court, at the Port Hawkesbury Justice Centre, 15 Kennedy Street, Port Hawkesbury, Nova Scotia.

#### **Arraignment Schedule**

3. The By-law Officer shall obtain from the Clerk of the Provincial Court the schedule of arraignment / plea days for Richmond County. Arraignment/plea days are conducted for Richmond County in the Court House in Arichat, Richmond County, Nova Scotia, on a regular schedule. The schedule may be subject to change and the By-law Officer is responsible to ensure his schedule is current.
4. The arraignment date for an SOT should be the first arraignment date scheduled for more than 30 days after the date the SOT is issued.

#### **Completing the SOT**

5. The By-law Officer shall complete the SOT in accordance with the requirements of Section 8 of the *Summary Proceedings Act*, including but not limited to:
  - (1) stating the particulars of the offence charged by reference to the subject statute and by-law\*, the specific provision alleged to have been breached and, concisely, what that breach comprises, as well as the date and place of the alleged breach;
  - (2) the penalty payable out of court on entering a guilty plea;
  - (3) the summons to appear identifying location of court house (in Arichat) and date and time appearance is required - being the first arraignment date available not less than 30 days after the date the SOT is issued;
  - (4) in printed letters on the summons portion of the SOT, the By-law Officer's name.

**Serving and Filing the SOT**

6. The By-law Officer shall personally serve the SOT on the accused individual, confirming the identity of that individual, and shall sign the information portion of the ticket certifying personal service.
7. The By-law Officer shall retain the copy of the SOT designated for police / municipal records, and shall file the required pages including the Information portion with the Court Clerk at the Port Hawkesbury Justice Centre, for processing.

**Arraignment Hearing Results**

8. The By-law Officer is not required to attend the Court on arraignment date but shall obtain a Hearing Results Report from the Court Clerk to confirm the status of Municipal SOTs (i.e. whether guilty pleas have been entered and fines are pending, or whether not guilty pleas have been entered in which case an adjourned date for hearing will have been scheduled). Hearing Results Reports are available usually about 2 days after the arraignment date and the By-law Officer shall confirm with the Court Clerk whether to collect the Report at the Court Offices in Port Hawkesbury or take delivery by fax or other means.
9. Where a guilty plea has been entered and a fine scheduled for payment, the By-law Officer shall follow-up with the Court Clerk no later than two weeks after the fine is due to confirm payment or enforcement by the Court.

**Notice of Adjourned Date**

10. Where a not guilty plea has been entered and / or the matter adjourned to a further Court date, the By-law Officer shall immediately notify the responsible department head, the CAO and the Municipal Solicitor.

**The Offence Charged**

11. The information and charging section of an SOT must be accurate if the charge is to be enforceable in Court. There are two forms of charge: (a) Charge under the Municipal Government Act; and, (b) Charge under the By-law itself.
  - a. **Charge under the Municipal Government Act.** Violating any duly enacted municipal by-law is an offence punishable on summary conviction pursuant to ss. 505(1) of the Municipal Government Act. The charge should identify the offence as being contrary to ss.505(1), then provide particulars including the specific by-

law. For example:

*. . . did on or about 10 August 2007, commit an offence contrary to ss.505(1) of the Municipal Government Act by depositing solid waste at an unauthorized location, namely on the Main Road, Arichat, contrary to s.17 of By-law #17 Solid Waste Management By-law of the Municipality of the County of Richmond.*

The above is the proper charging form for a violation of the Municipality's Solid Waste Management By-law.

- b. **Charge under the By-law itself.** If a Municipal By-law has been made a schedule to the Summary Proceedings Regulations by the Legislature, then violation of the by-law is an offence punishable on summary conviction under the by-law itself. In this case, the charge may refer directly to the By-law without reference to the Municipal Government Act. For example:

*. . . did on or about 10 August 2007 commit an offence by being the owner of a dog which was running at large on or around Main Street, Arichat, contrary to s.13(a) of By-law 13, the Dog Control By-law of the Municipality of the County of Richmond.*

The above is the proper charging form for a violation of the Municipality's Dog Control By-law.

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**Note #1:** As at 1 August 2007, the Dog Control By-law is the only one of the Municipality's by-laws which is a schedule under the Summary Proceedings Regulations. The By-law Officer should be notified by the responsible department head or CAO in any other by-law is added under the Regulations for purposes of the SOT charging form.

**Note #2:** **Subsection 505(1)** of the ***Municipal Government Act*** is reproduced on the next page for convenient reference. This should not be treated as an official copy of the legislation.

**MUNICIPAL GOVERNMENT ACT, S.N.S. 1998, c. 18**

***Offence and penalty***

505 (1) A person who

(a) violates a provision of this Act or of an order, regulation or by-law in force in accordance with this Act;

(b) fails to do anything required by an order, regulation or by-law in force in accordance with this Act;

(c) permits anything to be done in violation of this Act or of an order, regulation or by-law in force in accordance with this Act; or

(d) obstructs or hinders any person in the performance of their duties under this Act or under any order, regulation or by-law in force in accordance with this Act,

is guilty of an offence.

(2) Unless otherwise provided in a by-law, a person who commits an offence is liable, upon summary conviction to a penalty of not less than one hundred dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of not more than two months.

(3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(4) In addition to a fine imposed for contravening a provision of this Act, a regulation or a by-law of a municipality made pursuant to this Act, a judge may order the person to comply with the provision, order, regulation or by-law under which the person was convicted, within the time specified in the order.

(5) Any person who fails to comply with an order under subsection (4) is guilty of an offence

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**BY-LAW OFFICER'S CODE OF CONDUCT**

1. As a Special Constable appointed under the *Police Act*, the Municipal By-law Officer is bound to conduct himself in a proper manner, in accordance with the Policy and with the Code of Conduct at *Police Regulations 24*.
2. The By-law Officer should possess official versions of the *Police Act and Regulations*. He need not carry these with him in the conduct of his duties. The By-law Officer should familiarize himself with the requirements of the Code of Conduct.
3. **Police Regulation 24** is reproduced below for convenient reference. This is an unofficial copy of the Regulation and reference should be made to the official version as appropriate. References to “*member*” in the Code reproduced hereunder include **special constables and by-law enforcement officers** as well as police officers.

***Police Regulations***

***made under subsection 97(1) of the Police Act, S.N.S. 2004, c.31***

***OIC 2005-567 (December 20, 2005, effective January 1, 2006), N.S. Reg. 230/2005***

***Code of Conduct and Disciplinary Defaults***

***Code of Conduct***

***24 (1)*** A member who engages in discreditable conduct in any of the following ways commits a disciplinary default:

***(a)*** acting in a disorderly manner or in a manner that is reasonably likely to bring discredit on the reputation of the police department;

***(b)*** contravening an enactment of the Province, a province or territory of Canada or the Government of Canada in a manner that is likely to bring discredit on the reputation of the police department;

***(c)*** assaulting another member;

***(d)*** using oppressive or abusive conduct or language towards another member;

***(e)*** being discourteous or uncivil to a member of the public, having regard to all the circumstances;

*(f) knowingly being an accessory to a disciplinary default by aiding, abetting or conniving with a party;*

*(g) being improperly dressed or being untidy or unkempt in appearance while wearing a uniform on or off duty;*

*(h) withholding or suppressing a complaint or report against another member.*

*(2) A member who is insubordinate, either by word or action, by disobeying, omitting or neglecting to carry out a lawful order without adequate reason commits a disciplinary default.*

*(3) A member who neglects their duties in any of the following ways commits a disciplinary default:*

*(a) neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member;*

*(b) failing to work in accordance with orders;*

*(c) leaving an area detail or other place of duty without permission or sufficient cause or, having left a place of duty with permission or cause, failing to return without undue delay;*

*(d) being absent from duty without adequate reason;*

*(e) being tardy in reporting for duty without adequate reason;*

*(f) neglecting or lacking concern for the health or safety of a person in the member's custody.*

*(4) A member who is deceitful in any of the following ways commits a disciplinary default:*

*(a) wilfully or negligently making or signing a false, misleading or inaccurate written statement or entry, including by electronic means, in an official document or record;*

*(b) wilfully or negligently making a false, misleading or inaccurate oral or written statement or signing a false, misleading or inaccurate written statement pertaining to the*

*member's duties;*

*(c) without lawful excuse, destroying, mutilating or concealing an official document or record or altering, erasing or adding to an entry in an official document or record.*

**(5)** *A member who improperly discloses information in any of the following ways commits a disciplinary default:*

*(a) communicating information that the member has as a member of a police department without proper authority;*

*(b) making an anonymous communication to any member of a police department;*

*(c) signing or circulating a petition or statement in respect of a matter concerning the police department as a representative of a certified police union, association or federation, except through the proper official channel of correspondence or established grievance procedure or in the bona fide performance of the member's duties as a member.*

**(6)** *A member who engages in corrupt practice in any of the following ways commits a disciplinary default:*

*(a) failing to properly account for, or make a prompt or true return of, any money or property received by the member in the course of duty;*

*(b) directly or indirectly soliciting or receiving a payment, gift, pass, subscription, testimonial or favour without the consent of the chief officer;*

*(c) being under a pecuniary or other obligation to any person in a manner that might affect the proper performance of the member's duties as a member;*

*(d) improperly using their position as a member for private advantage.*

**(7)** *A member who abuses their authority in any of the following ways commits a disciplinary default:*

*(a) making an arrest without good or sufficient cause;*

(b) using unnecessary force on or cruelly treating any prisoner or other person with whom the member may be brought into contact in the course of duty;

(c) unlawfully exercising authority as a member.

(8) A member who improperly uses a firearm or intermediate weapon in any of the following ways commits a disciplinary default:

(a) without proper authorization, carrying while on duty any firearm or intermediate weapon other than one issued by the police department;

(b) discharging a firearm or intermediate weapon while on duty, other than during a training exercise, and failing to make a written report of the incident to a senior officer as soon as practicable.

(9) A member who damages property in any of the following ways commits a disciplinary default:

(a) wilfully or negligently causing waste, loss or damage to police property or any other property entrusted to the member's care as a member;

(b) failing to promptly report any waste, loss or damage referred to in clause (a), whether the waste, loss or damage was caused by the member or discovered by the member.

(10) A member who consumes or uses alcohol or drugs in a manner prejudicial to the carrying out of their duty in any of the following ways commits a disciplinary default:

(a) reporting for duty, being on duty or standing by for duty while unfit to do so because of the use of alcohol or a drug;

(b) without proper authority, using or possessing alcohol or drugs prohibited by law.

## SCHEDULE C

### SOLID WASTE MANAGEMENT BY-LAW ENFORCEMENT

1. The By-law Officer is responsible to enforce the Municipality's Solid Waste Management By-law (By-law #17) and the Facility Rules (the "Rules") which are incorporated into the By-law.

#### **Responsible Department Head**

2. The By-law Officer shall report directly to the Director of Public Works as the department head responsible for the Solid Waste Management By-law and Rules, or, in the Director's absence, to the Deputy Clerk.

#### **Offences**

3. Offences\* under the Solid Waste Management By-law and Rules include but are not limited to the following:
  - (a) Prohibited Dumping contrary to s.17 and / or s.18 of the By-law;
  - (b) Breach of Facility Rules contrary to ss.9-13 of the By-law;
  - (c) Breach of owner/occupant responsibilities contrary to s.19 of the By-law;
  - (d) Breach of commercial owner/occupant responsibilities contrary to ss.20,21 of the By-law;
  - (e) Breach of curbside collection requirements contrary to s.27 of the By-law.

\* in each case, the offence is defined by the language of the By-law provision and the By-law Officer should review the language with reference to the facts alleged or established to determine whether and which offence may have been committed.

#### **Penalties**

4. Penalties under the By-law include the following:
  - (a) Prohibited Dumping is punishable on summary conviction to a fine between \$5,000-\$10,000 and up to 90 days in prison in default of payment - see s.47 of the By-law;

- (b) All other offences are punishable on summary conviction to fines of \$100-\$1,000 and up to 90 days in prison in default of payment - see s.49 of the By-law;
5. The foregoing penalties are only payable on summary conviction through court proceedings or pursuant to guilty plea entered out of court under an issued SOT.

**Payment in Lieu of Prosecution**

6. The By-law Officer may issue and serve a ***Notice of By-law Violation*** offering the accused the option of paying a penalty to avoid prosecution - see ss. 50 and 51 of the By-law.
7. The By-law Officer is not required to provide this option in any case and may proceed directly with the issuing of an SOT.

**Responsibilities**

8. In enforcing the Solid Waste Management By-law and Rules, the By-law Officer's responsibilities include the following:
- (a) consulting Municipal staff to determine ownership and / or possession of lands on which breaches are alleged or suspected to be occurring;
  - (b) taking photographic or written descriptive records of dump sites under investigation or of other alleged breaches;
  - (c) gathering evidence of by-law violations;
  - (d) where removing evidence from a site, first photographing or describing in writing the position and location of the evidence, then placing the evidence in a clear plastic bag or suitable container and transporting it directly to the Municipal Offices for logging in and secure storage for purposes of chain of custody;
  - (e) compiling identification evidence including photographs, descriptions, license plate numbers respecting suspected offenders who avoid or refuse to identify themselves;
  - (f) posting warnings and notices at sites where prohibited activity has been or is

occurring;

**Hazardous Goods**

9. If the By-law Officer discovers or suspects the presence of hazardous goods, he shall immediately notify the Director of Public Works, the RCMP, and / or Department of Environment.

**Dangerous or Unsightly Premises**

10. In cases of solid waste dumping or deposit on private property which appears to violate the Solid Waste Management By-law, but may also contravene the dangerous or unsightly premises provisions of the Municipal Government Act, the By-law Officer shall consult with the Public Works Director and, as directed by him, with the **Administrator of Dangerous and Unsightly Premises** (the "Administrator") to discuss and coordinate the appropriate remedial or enforcement response.
11. Dangerous or unsightly conditions under the **Municipal Government Act** which may also comprise offences under the Solid Waste Management By-law and Rules include but are not limited to the following conditions:
  - (a) dumped and discarded appliances, or other equipment or machinery, or derelict vehicles, and or bodies or parts of any of these;
  - (b) decayed, deteriorated discarded waste materials on property which are unsightly or could create fire or other hazard or which are provoking complaints from passers by or neighbours or other members of the public.
12. The By-law Officer shall cooperate with the Administrator to assist in enforcement of the Solid Waste Management provisions of the **Municipal Government Act** .

**Persistent Offenders / Offences**

13. The Special Constable shall advise the Director of Public Works of persistent or recurrent breaches of the By-law by any individual(s) or at any location(s).

**Municipal Clean-up**

14. Where the Director of Public Works considers it appropriate, he may order and arrange for the Municipality to clean-up an illegal dump site or waste deposit , and in such cases the Director shall report on same to the Chief Administrative Officer.
  
15. In such a case, the Director of Public Works shall provide to the CAO any information obtained by the By-law Officer which may assist in recovering costs of the Municipal work.

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## SCHEDULE D

### DOG CONTROL BY-LAW ENFORCEMENT

1. The By-law Officer is responsible to enforce the Municipality's Dog Control By-law (By-law #13) and the Facility Rules (the "Rules") which are incorporated into the By-law.

#### **Responsible Department Head**

2. The By-law Officer shall report directly to the Deputy Clerk - Treasurer, as the department head responsible for the Dog Control By-law, or, in the Deputy Clerk's absence, to the Chief Administrative Officer.

#### **Offences**

3. Offences under the Dog Control By-law are described as violations of the responsibilities of dog owners set out in the By-law and include but are not limited to the following:
  - (a) owning a dog which runs at large contrary to s.13(a) of the Bylaw;
  - (b) owning a dog for which the dog tax is not paid contrary to s.13(b) of the By-law;
  - (c) owning a dog which has without provocation attacked or injured a domestic animal, person or property contrary to s.13(c) of the By-law;
  - (d) owning a restricted dog which is in a public place without being muzzled and under effective control adult control by harness or leash, contrary to s.13(d) of the By-law;
  - (e) owning a dog which persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise, contrary to s.13(e) of the By-law.

#### **Restricted Dog**

4. The By-law imposes specific "control" requirements at ss. 13(d) in regard to "restricted dogs" , being dogs belonging to or being hybrids of any of the following breeds:

Rottweiler; Bull mastiff; Dobermann pinscher; American pitbull terrier; Staffordshire bull terrier; Pitbull terrier.

#### **Penalties**

## **DOG CONTROL BY-LAW ENFORCEMENT**

## **SCHEDULE D (2)**

5. Violations of the By-law are punishable on summary conviction by fines of \$100 to \$5,000 and up to 90 days in prison on default of payment - see ss. 21, 22 of By-law.
6. Every day an offence continues is a separate offence under the By-law for which a new SOT may be issued and an additional penalty sought.

### **Payment in Lieu of Prosecution**

7. Not currently applicable to this By-law. Monetary penalties may only be imposed on summary conviction following the issuing of an SOT.

### **Warnings, Notices and SOTs**

8. The By-law Officer has discretion to provide warnings, and notices prior to or instead of issuing an SOT in the interests of encouraging compliance with the By-law and providing education about the By-law requirements to dog owners.
9. Payment in lieu of prosecution is not currently an option under the Dog Control By-law.

### **Responsibilities**

10. In enforcing the Dog Control By-law, the By-law Officer's responsibilities include the following:
  - (a) maintaining dog registrations - records of annual dog taxes paid per dog;
  - (b) capturing and impounding dogs found running at large, dogs for which the dog tax is not paid, fierce and dangerous under the By-law, dogs which are or may be rabid, and dogs which are persistently disturbing the peace of the neighbourhood contrary to the By-law;
  - (c) giving notice of impounding as required by the By-law;
  - (d) providing proper humane care and handling and fit conditions for impounded dogs;
  - (e) disposing of unclaimed, unregistered impounded dogs including by humane killing, by sale or gift to responsible person or animal welfare agency on such conditions as are determined appropriate by the By-law Officer;

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## **SCHEDULE D (3)**

- (f) keeping impound and disposal records providing particulars of the time a dog is in impound, the condition of the dog, and the method and terms of disposal;
- (g) contact a veterinarian as appropriate in case of an impounded dog in need of medical treatment.

### **Registration Particulars**

11. In registering dogs on payment by the owner of the dog tax, the By-law Officer shall obtain and include the following particulars:
  - (a) the dog's breed and, where the dog is a mongrel or hybrid, such particulars as may reasonably be provided to identify breed and contributing breeds;
  - (b) the dog's name, general description (which may be by photograph affixed to the record) and whether the dog has been spayed or neutered;
  - (c) full contact information (name, civic and postal address and telephone number) on the dog's owner.

### **Education and Information**

12. In the conduct of his responsibilities, the By-law Officer should provide information and education to members of the public about the requirements of the Dog Control By-law.
13. On registering or encountering a "restricted" dog, the By-law Officer should bring to the owner's attention the particular "control" requirements which apply to restricted dogs under the By-law.

### **Persistent Offenders / Offences**

14. The By-law Officer shall bring to the attention of the Deputy Clerk any persistent or recurrent violations by any individual owner as a factor potentially relevant to a decision to prosecute and / or to the quantum of penalty sought on prosecution.

### **General**

15. The By-law Officer shall use reasonable and humane techniques when capturing, handling and / or disposing of dogs.
16. The By-law Officer may contact a veterinarian and in consultation with the Deputy Clerk

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(4)**

may arrange for appropriate medical care for the animal.

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