

**VILLAGE OF MIDWAY  
ANIMAL CONTROL BYLAW  
No. 438**

A Bylaw to provide for the licensing and control of animals within the Village of Midway

WHEREAS the Community Charter enables Council to establish regulations and fees for the licensing and control of animals within its jurisdiction;

NOW THEREFORE the Municipal Council for the Village of Midway, in open meeting assembled, enacts as follows:

**CITATION**

1. This Bylaw shall be cited as the “Village of Midway Animal Control Bylaw No. 438, 2012”.

**REPEAL**

2. Village of Midway Animal Control Bylaw No. 230 and all amendments thereto are hereby repealed.

**DEFINITIONS**

3. In this Bylaw, unless the context otherwise requires:

“Animal” includes any cattle, horse, sheep, swine, farm animal, poultry, bird, reptile, dog, cat, rodent, fur-bearing animal and wild animal;

“Animal Control Facility” means the premises used to keep and maintain Animals pursuant to this Bylaw;

“Assistance Dog” means a dog trained and certified to assist a disabled person or a guide dog trained and certified to assist the visually impaired;

“At Large” means being elsewhere than on the lands or premises of the Owner of the Animal, and is not under the immediate control of a responsible person, and with respect to a Dog, not on a Leash;

“Bylaw Enforcement Officer” means the person(s) appointed by the Council as a Bylaw Enforcement Officer from time to time, and includes a Peace Officer;

“Cat” means the member of one of the Feline or Felis Domesticus species;

“Council” means the Municipal Council of the Village of Midway;

“Dangerous Dog” means a Dog which meets any one or more of the following conditions:

- (a) a Dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so,
- (b) a Dog that, while running At Large, has attacked, bitten, killed or caused injury to a domestic Animal,
- (c) a Dog that, while running At Large, has aggressively pursued or harassed a person, or
- (d) a Dog that, while running At Large, has aggressively pursued or harassed a domestic Animal;

“Dog” means an Animal of the canine species, irrespective of sex or age;

“Hen” means a female domestic chicken kept for the purposes of egg production;

“Kennel” includes a facility or premises where five or more Dogs are kept, trained, cared for, bred, treated, or boarded for remuneration or for the purpose of sale;

“Leash” means a line, thong, chain or material of sufficient strength that does not exceed 366 centimeters (12 feet) in length and that is suitable for control of the Dog it is used for;

“Licence” means a Licence issued by the Village and paid for the current Licence Year;

“Licence Year” means the time period from January 1st to December 31st, inclusive, in each and every year;

“Owner” means any person who owns, keeps or harbours an Animal;

“Unlicensed Dog” means a Dog that is not licensed by the Village of Midway or is not wearing a valid dog license tag either affixed to a collar securely fastened around the Dog’s neck, or to a harness securely fastened about the Dog;

“Village” means the Village of Midway or the area within the municipal boundaries as the context requires;

## APPLICATION

### Authority of Bylaw Enforcement Officer

4. Every Bylaw Enforcement Officer is authorized to enter at all reasonable times upon any land in the Village for the purpose of ascertaining whether the requirements of this Bylaw are being observed.

### Obstruction of Bylaw Enforcement Officer

5. No person shall hinder, impede, delay or obstruct the Bylaw Enforcement Officer or other Village officer or employee in the execution of his or her duties for any purpose relating to this Bylaw, including seizing, detaining or impounding any Dog or other Animal.

## PROHIBITIONS

### At Large

6. The Owner of a Dog, Cat or Animal must not allow or permit the Dog, Cat or Animal to be At Large in the Village.

### Animal Waste

7. The Owner of a Dog, Cat or Animal must not allow or permit the Dog, Cat or Animal to leave or deposit excrement on any public place or on private property other than the property of the Owner, unless the Owner immediately takes steps to remove such excrement and to dispose of it in a sanitary manner.

### Noise

8. The Owner of a Dog, Cat or Animal must not allow or permit the Dog, Cat or Animal by its barks, cries, or other noises to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of persons at two or more residences in the vicinity of where the Dog or Animal is kept.

9. The Owner of a Dog, Cat or Animal must not allow or permit the Dog, Cat or animal to call, cry or bark, continuously or sporadically for 15 minutes or more, in such a way that the noise is audible outside the parcel where the Dog, Cat or animal is kept, as the Bylaw Enforcement Officer believes such noise is objectionable and liable to disturb the peace, rest, enjoyment, comfort or convenience, of individuals or the public.

10. No animal leashed or at large, is permitted in designated playground or sports field areas belonging to the Village of Midway except where express written permission has been given for use of a sports field or other park area for the purposes of an event sanctioned by the Village of Midway.

## ANIMALS

11. No person shall keep or harbour more than six cats at any residence, including any premise that houses a suite, a boarder or tenant.

12. Except as may be allowed in the Village of Midway Zoning Bylaw, or provision of this bylaw, no horses, mules, donkeys, cows, pigs, llamas, alpacas, cattle, sheep, goats, bees, poultry or fowl shall be harboured within the Village.

## DOGS

### Dog Licence Required

13. No person may keep, harbour or permit to be kept on a parcel of property any Dog over the age of 6 months unless a Dog Licence has been issued by the Village and the Owner has paid a Dog Licence fee provided in Schedule "A". Dog Licence fees are not refundable.

14. The Owner of a Dog must, annually, on or before the first day of January of each year, or as soon thereafter as the Dog attains the age of 6 months, cause the Dog to be registered, numbered, described and licensed with the Village. All Dogs within the Village of Midway, including those owned by operators of breeding kennels require an annual Dog Licence.

15. Upon payment of the appropriate Dog Licence fee, the Village shall issue to the Owner a dog licence tag which must be securely fastened to a collar or harness worn by the Dog at all times except when the Dog is penned or enclosed on the Owner's land or premises. Dangerous Dogs will be issued a distinctive tag.

16. A dog Licence and a dog licence tag are not transferable to another Dog, but may be transferred to a new Owner upon registration and payment to the Village of a transfer fee provided in Schedule "A".

17. Where a dog licence tag has been lost, destroyed or mutilated, the Owner must acquire a replacement dog licence tag from the Village.

18. The Village shall issue a duplicate dog licence tag upon being satisfied by the Owner that the original dog licence tag issued by the Village has been lost or stolen and upon payment of the duplicate licence tag fee provided in Schedule "A".

19. Where an Owner of a licensed Dog has a change of address within the Village, the Owner must promptly notify the Village of his/her new address.

20. A Dog Licence and a dog licence tag will be provided at no charge to registered guide dogs for the blind or registered assistance dog for the disabled, upon presentation of appropriate documentation.

### Maximum Number of Dogs Allowed

21. No person shall keep or harbour more than four (4) Dogs over the age of six (6) months at any residence including any premises that houses a suite, a boarder or tenant unless that person has obtained a Business Licence for the operation of a Kennel pursuant to Village of Midway Business Licence Bylaw and Village of Midway Zoning Bylaw.

### Dog in Heat

22. The Owner of a female Dog in heat must at all times when the Dog is in heat either keep the Dog securely confined indoors or within a building or enclosure that will prevent the escape of the Dog or the entry of other Dogs, or keep the Dog on a Leash while it is off the Owner's property.

## Dangerous Dog

23. Where a Bylaw Enforcement Officer deems a Dog to be a Dangerous Dog, the Bylaw Enforcement Officer shall advise the Owner in writing of this designation and requirements of this Bylaw.

24. Every Owner of a Dangerous Dog must at all times keep the Dog:

- (a) securely confined indoors such that the Dog cannot escape;
- (b) in an enclosed pen or other enclosure which prevents the entry of young children and prevents the Dog from escaping; and
- (c) on a Leash and muzzled and under the immediate control of a competent person while in a public place, or any other place that is not owned or controlled by that person to prevent the Dog from biting another Animal or person.

25. Where a Bylaw Enforcement Officer deems a Dog to be a Dangerous Dog and that Dangerous Dog is At Large or in a place prohibited under section 24 of this Bylaw, a Bylaw Enforcement Officer may, alone or with others, seize and impound the Dangerous Dog at the Animal Control Facility.

26. The Owner of a Dangerous Dog must within three (3) working days of selling, giving or otherwise transferring the Dangerous Dog provide the Village with the name, address and telephone number of the Dangerous Dog's new owner, and provide the new owner with notice of the Dangerous Dog's designation as a Dangerous Dog and of the requirements and conditions for keeping a Dangerous Dog.

27. The Owner of a Dangerous Dog must display at each entrance to the parcel of land which, and the building or structure in which the Dangerous Dog is kept, a sign containing the words "WARNING DANGEROUS DOG ON PREMISE" measuring at least six (6) centimeters high and twenty (20) centimeters wide. This sign must also include a realistic picture of the head of a Dog with bared teeth measuring at least fourteen (14) centimeters high and fourteen (14) centimeters wide.

28. Where a dog that has been deemed a Dangerous Dog attacks and injures another Animal or human, the Owner of the Dangerous Dog must surrender the Dangerous Dog to the Bylaw Enforcement Officer for impoundment pending application to have the Dangerous Dog destroyed.

## SEIZURE AND IMPOUNDING OF DOGS, CATS AND OTHER ANIMALS

29. A Bylaw Enforcement Officer may, alone or with others, seize, detain and impound any Dangerous Dog found in the Village, or any unlicensed Dog found in the Village, or any licensed Dog, Cat or other Animal found to be running At Large contrary to this Bylaw in the Village.

30. Where a Bylaw Enforcement Officer has reason to believe that an Unlicensed Dog, Cat or other animal has taken refuge on any premises, no person shall interfere with the Bylaw Enforcement Officer in seizing such Dog, Cat or other animal.

31. Where a Dog, Cat or Animal is impounded under this Bylaw, the Bylaw Enforcement Officer shall record the date and hour of impounding, a description of the Dog, Cat or Animal, and the Dog's Licence Tag.

32. Where a Dog, Cat or Animal is impounded under this Bylaw, the Bylaw Enforcement Officer must take reasonable efforts to find and notify the Owner of the Dog, Cat or Animal's impoundment. Where a Dog with a License is impounded, that Dog shall not be sold, relocated or destroyed until written notice is hand delivered to the Owner or posted at the Owner's residence as described on the City's Licence application. This notice shall state if the Dog is not claimed within a specified time that the Dog may be sold, relocated or destroyed.

33. Where a Dog, Cat or Animal is impounded under this Bylaw, the Bylaw Enforcement Officer must retain the Dog, Cat or Animal for a period of seventy-two (72) hours unless it is sooner reclaimed.

34. If the impounded Dog, Cat or Animal is not claimed and redeemed within seventy-two (72) hours of its impoundment, then the Bylaw Enforcement Officer may, alone or with others, sell, relocate or destroy the Dog, Cat or Animal.

35. The Owner of an impounded Dog, Cat or other Animal may redeem it from the Animal Control Facility within seventy-two (72) hours of impoundment by paying to the Village of Midway, at the Village of Midway office, the applicable impoundment and round-up/transportation fees set out in Schedule "A", together with a licence fee if the impounded Animal is an unlicensed Dog.

36. Where a Dog, Cat or Animal is redeemed or destroyed under this Bylaw, the Bylaw Enforcement Officer shall record a description of the Dog, Cat or Animal, the Dog's Licence Tag, the date and the hour of redemption or destruction, the name of the redeeming party and the applicable Schedule "A" fees.

37. When a Dog, Cat or Animal has been impounded and it is found that the Dog, Cat or Animal is suffering from injury, disease or sickness and would not survive the injury, disease or sickness, the Bylaw Enforcement Officer, in his or her discretion, and in consultation with a veterinarian, may immediately cause the Dog, Cat or Animal to be destroyed.

38. When a Dog, Cat or Animal has been impounded and it is found that the Dog, Cat or Animal is suffering from injury or sickness such that in the opinion of the Bylaw Enforcement Officer the services of a veterinarian are required and obtained, the Bylaw Enforcement Officer shall be entitled to demand and receive from the Owner, an amount equivalent to the veterinarian's services.

39. Any person who takes or rescues a Dog, Cat or Animal from the Animal Control Facility without the consent of a Bylaw Enforcement Officer shall be guilty of an offence under this Bylaw.

#### HENS

40. Notwithstanding the provisions of section 13, no more than three (3) hens may be kept on any parcel zoned for single family residential use (R1 and R2) provided that:

- (i) the lot size is a minimum of 512 square metres (1/8 acre);
- (ii) the property owner or renter has obtained and provided the City with written consent from all abutting neighbours;
- (iii) any structure housing hens, whether portable or stationary, is always located at least 1.5 metres from any property line;
- (iv) a minimum enclosed area of 0.4 square metres (4 square feet) is provided per hen;
- (v) only one structure containing hens is permitted on a parcel;
- (vi) any structure containing hens, whether that structure is portable or stationary, must not be located within the front yard setback;
- (vii) any structure housing hens and accompanying run must be fenced in such a manner to prevent the entry of vermin or predators and to confine the hens;
- (viii) structures housing hens are kept clean and free of odours;
- (ix) every structure housing hens and the grounds surrounding it are kept free of vermin;
- (x) poultry manure and waste products are composted or disposed of to prevent odours;
- (xi) any diseased hen is killed and the carcass destroyed;
- (xii) no slaughtering of hens occurs on the property;
- (xiii) eggs are only for personal consumption not for resale

Applications to the Bylaw Enforcement Officer in the form of Schedule “B” attached to and forming part of this bylaw for a permit for hens must be received by the Village prior to the hens arriving on the property.

- (a) Received applications will be reviewed by the Bylaw Enforcement Officer to ensure that all provisions are adhered to and issuance of a permit is at the sole discretion of the Village.
- (b) Permits issued under this provision are subject to revocation by Council where three (3) or more complaints from the public have been received and upon recommendation of the Bylaw Enforcement Officer.
- (c) Only one (1) permit per residence will be issued.
- (d) Application must be made by the permit holder to the Village annually by December 31st to renew a hen project permit. Lapsed permits will require reapplication with consent of the neighbours as identified in section 40(ii).
- (e) Hen project permits are not transferable.
- (f) Where the Village has refused to issue a hen project permit, the applicant may appeal the decision to Council.

#### OFFENCES AND PENALTIES

41. Every person who violates any of the provisions of this Bylaw, or who allows or permits any act or thing to be done in contravention of any of the provisions of this Bylaw, or who neglects to do, or refrains from doing, anything required to be done by any of the provisions of this Bylaw, or who does any act which violates any of the provisions of this Bylaw, will be guilty of an infraction and will be liable to the penalties imposed by this Bylaw. A warning notice may be issued for a violation of any provisions of this Bylaw.

41(a) A disabled person shall not be liable for penalties under this bylaw for failing to remove excrement left or deposited by their assistance dog when no other person is present to assist them.

42. A person who violates any of the provisions of this Bylaw will upon summary conviction be liable to a penalty of not less than \$50.00 and more than \$2,000.00 plus the costs of the prosecution.

#### SEVERABILITY

43. If any portion of this Bylaw is held invalid by a Court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Read a first time this 16th day of April, 2012

Read a second time this 16th day of April, 2012

Read a third time this 16th day of April, 2012

Adopted  
this 7th day of May, 2012

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Administrator

## SCCHEDULE "A"

### Dog Licence Fees

1. For any Dangerous Dog (as defined under this bylaw) \$ 1,000.00
2. For neutered or spayed dog 15.00
3. For any un-neutered or unsprayed dog 30.00
4. Lost tag replacement 10.00
5. Dog licence transfer fee 10.00

### Impoundment Fees

Impoundment fees for any Animal running at large, per day:

1. For any Dog or cat \$ 8.00
2. For a Dangerous Dog 100.00
3. For any other Animal 45.00
4. For every poultry, fowl, rabbit or for any other domesticated animal not otherwise specified in this schedule. 5.00

### Penalties

1. First offence and subsequent offences which are separated from the first offence by a period greater than 12 months \$ 50.00
2. Second offence 100.00
3. Third offence 200.00

Round-up and Transportation Fees of cattle, horses or other animals:

One man and truck per hour \$75.00

Extra man per hour \$30.00

### Disposal Fees

The fee for the disposal of any animal which the Bylaw Enforcement Officer has agreed to destroy or otherwise dispose of shall be:

1. Disposal Actual cost
2. Veterinary Fees Actual cost
3. Advertising Animal for Sale Actual cost

Schedule "B"  
Hen Project – Permit Application Form

Applicant Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

.  
I own the property (zoning, lot size square metres): \_\_\_\_\_

.  
I rent the property (zoning, lot size square metres): \_\_\_\_\_

Consent of abutting neighbours (neighbours on each side, and back if applicable):

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Applicant signature: \_\_\_\_\_