

BILL NO. 11

Local Bill

*3rd Session, 56th General Assembly
Nova Scotia
44 Elizabeth II, 1995*

**An Act to Amend Chapter 63
of the Acts of 1992,
the Halifax County Charter**

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*Halifax
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Explanatory Notes

Clause 1

(a) adds polling districts 6 and 13 to the Community of Cole Harbour/Westphal; and

(b) changes the name of the community of Cole Harbour/Westphal to Cole Harbour-Westphal-Eastern Passage.

Clause 2 confers on the Council the same power to regulate pets, animals, reptiles and arachnids as is conferred on other municipalities by the *Municipal Reform (1994) Act*.

Clause 3 confers on the Council the same power to regulate dogs as is conferred on other municipalities by the *Municipal Reform (1994) Act*.

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Be it enacted by the Governor and Assembly as follows:

1 Subsection 30(2) of Chapter 63 of the Acts of 1992, the *Halifax County Charter*, is amended by

(a) striking out "Cole Harbour/Westphal" in the first and second lines and substituting "Cole Harbour-Westphal-Eastern Passage"; and

(b) adding "and that area of the Municipality that, on the first day of January 1995, was included in polling districts 6 and 13" immediately after "25" in the last line.

2 Subsection 120(1) of Chapter 63 is amended by

(a) striking out all the words immediately following the comma in the seventh line of clause (d) to the end of that clause and substituting "with power to set the penalty for a violation of the by-law";

(b) striking out the period at the end of clause (m) and substituting a semicolon; and

(c) adding immediately after clause (m) the following clause:

(n) regulating the keeping of pets, animals, reptiles and arachnids and defining areas within which such pets, animals, reptiles and arachnids may be kept or within which the keeping of them is prohibited.

3 Section 123 of Chapter 63 is repealed and the following Sections substituted:

123 (1) In this Section and Sections 123A and 123B,

(a) "dog" means any dog, male or female, or any animal that is the result of the breeding of a dog and any other animal;

(b) "owner" of a dog includes any person who possesses, has the care of, has the control of or harbours a dog and, where the person is a minor, includes a person with the custody of the minor.

(2) The Council may make by-laws in respect to all matters coming within the following classes of subjects:

(a) regulating or prohibiting the running at large of dogs, including prohibiting the running at large of dogs in certain places or at certain times;

(b) imposing an annual registration fee upon the owner of every dog, to be set by recorded resolution, with power to impose a larger fee for female dogs than for male dogs or for unspayed or unneutered dogs than for spayed or neutered dogs and with power to permit a reduced fee to be charged where an owner acquires a dog during the year;

(c) providing for issuing of tags for the identification of dogs registered under the by-law, including requiring every owner of a dog, in each year, before such date as is fixed by by-law, to procure from the Clerk, or the person designated by the Clerk or by the by-law, a tag for each dog owned and to keep the tag securely fixed on the dog at all times during the year and until a tag is procured for the following year, but allowing the tag to be removed while the dog is being lawfully used for hunting purposes;

(d) exempting from any registration fee a dog that is a stray dog and is harboured for up to a maximum period of time as set by by-law;

(e) defining fierce or dangerous dogs, including defining them by breed, cross-breed, partial breed or type;

(f) regulating or prohibiting the keeping of fierce or dangerous dogs;

(g) regulating or prohibiting the keeping of a dog that persistently disturbs the quiet of the neighbourhood by barking, howling or otherwise;

(h) authorizing the dog control officer to impound, sell, kill or otherwise dispose of dogs

(i) that run at large contrary to the by-law,

(ii) in respect of which the fee or tax imposed by any by-law is not paid,

(iii) that are fierce or dangerous,

(iv) that are rabid, or appear to be rabid or exhibiting symptoms of canine madness, or

(v) that persistently disturb the quiet of the neighbourhood by barking, howling or otherwise;

(i) requiring the owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, to remove the dog's faeces from public property and private property other than the owner's;

(j) requiring the owner of a dog to deliver in writing a statement of the number of dogs owned or harboured, or that are habitually kept upon the premises occupied by the owner, and providing that any person who neglects or refuses to provide a statement within ten days after having received notice requiring it to be provided is guilty of an offence.

(3) A dog that is trained to assist and assists a person with a disability is exempt from any registration fee.

(4) Where a dog tag is required by by-law, the dog tag should bear a serial number and the year for which it was issued, and a record shall be kept by the Clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

(5) The owner of a kennel of pure-bred dogs that are registered with the Canadian Kennel Club may, in any year, pay a fee set by Council by recorded resolution as a tax upon the kennel for that year and upon payment of such amount, the owner of the kennel is exempt from any further fee in respect of dogs for that year.

(6) Where required by by-law to do so, the owner of a dog may enter upon private property to remove the dog's faeces unless prohibited by the owner of the property.

(7) A by-law passed pursuant to this Section does not require the approval of the Minister.

123A (1) Upon information on oath by a peace officer that it is believed on reasonable and probable grounds that a person is harbouring, keeping or has under care, control or direction a dog that is fierce or dangerous, any judge may, by warrant under the judge's hand, authorize and empower a person named in the warrant to enter and search the place where the dog is at any time, to open or remove any door, lock, fastening or obstacle preventing access to the dog, to break, remove or undo any chain, rope, lock or fastening of the dog to the premises and to seize and deliver the dog to the pound.

(2) Where the person named in the warrant is unable to seize the dog in safety, that person may destroy the dog.

(3) The peace officer must satisfy the judge upon information on oath of the reasons or grounds of belief before a warrant under this Section may be issued.

123B (1) At the trial of a charge laid against the owner of a dog that is fierce or dangerous contrary to a by-law,

(a) the judge may, in addition to the penalty, order that the dog be destroyed by the pound keeper or otherwise dealt with, and order that the owner pay any costs incurred by the Municipality related to the dog including costs related to the seizure, impounding or destruction of the dog; and

(b) it is not necessary to prove that

Clause 4 preserves *The Dog By-law* of Halifax County Municipality.

Clause 5 provides that Clauses 2 to 4 came into force effective on the repeal of Part I of the *Sheep Protection and Dog Regulation Act* and Sections 13 to 15 of the *Stray Animals Act*.

(i) the dog previously attacked or injured any domestic animal, person or property,

(ii) the dog had a propensity to injure or to do damage to any domestic animal, person or property, or

(iii) the defendant knew that the dog had such propensity or was or is accustomed to doing acts causing injury or damage.

(2) No judge shall order the release of any dog and no pound keeper shall release any dog to the owner until the owner pays all fees, costs and expenses of the pound keeper while the dog was impounded and kept at the pound.

4 By-law No. 13, *The Dog By-law*, passed by the Halifax County Municipal Council on January 18, 1972, and approved by the Minister of Municipal Affairs, does not cease to be in force by reason only of the repeal of Part I of the *Sheep Protection and Dog Regulation Act*.

5 Sections 2 to 4 have effect on and after February 6, 1995.

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1st Reading: April 20, 1995

2nd Reading:

C.W.H.:

3rd Reading:

**Dennis A. Richards
Cole Harbour-Eastern Passage**

1995
