

CITY OF MARKHAM
ONTARIO



BY-LAW 2018-91

Animal Protection and Services By-law

This By-law is printed under and
by authority of the Council of
the City of Markham

(Consolidated for convenience only
to December, 2018)

(Schedule/Attachment Included)

Amended by:

By-law 2018-152 – December, 2018



By-law 2018-91

Animal Protection and Services By-law

WHEREAS sections 9 and 11 of the *Municipal Act 2001*, S.O. 2001, c. 25 confers the power to pass by-laws regulating or prohibiting animals to a lower tier municipality; and,

WHEREAS section 9(3) of the *Municipal Act 2001* provides that a by-law passed under section 11 may regulate or prohibit respecting a matter, provide for a system of licences, permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renew a licence, permit, approval or registration; and,

WHEREAS section 103 of the *Municipal Act 2001* confers the power to regulate or prohibit animals from being at large or trespassing and for the seizure and impoundment of animals found at large or trespassing contrary to the by-law under certain conditions; and,

WHEREAS section 105(1) of the *Municipal Act 2001* provides that if a municipality requires the muzzling of dogs under any circumstances that the Council of a municipality shall upon the request of the dog owner, hold a hearing to determine whether or not to exempt the owner in whole or in part from the muzzling requirements; and,

WHEREAS section 105(3) of the *Municipal Act 2001* allows Council to delegate its powers under subsection 105(1) to a Committee of Council or an animal control officer of the municipality; and,

WHEREAS Council deems it appropriate to delegate its powers under section 105(1) to conduct a hearing to the Court Administrator for the City; and,

WHEREAS section 391 of the *Municipal Act 2001* enables a municipality to pass a by-law imposing fees or charges for services or activities provided or done by or on behalf of it; and,

WHEREAS section 434.1 of the *Municipal Act* provides that a municipality may require a Person to pay an administrative penalty if the municipality is satisfied that a Person has failed to comply with a by-law of the municipality passed under the *Municipal Act*; and,

WHEREAS section 435 of the *Municipal Act* provides for conditions governing the powers of entry of a municipality; and,

WHEREAS section 436 of the *Municipal Act* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law; and,

WHEREAS section 444 of the *Municipal Act* provides that a municipality may make an order requiring a Person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity; and

WHEREAS section 445 of the *Municipal Act* provides that a municipality may make an order requiring the Person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.

NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

SECTION 1- DEFINITIONS1. in this By-law:

“Animal” - means any member of the animal kingdom, other than a human;

“Animal Services Officer”- means a person designated and authorized by by-law of the City of Markham to enforce the City of Markham Animal Protection and Services By-law;

“At large” - means being off leash and not under the control of a person and found on any other property than that of the owner of the animal, except where the owner of a property permits the animal to be on his or her property, or in a public park designated by the City to be an off-leash park;

“Bite” - means piercing or puncturing of the skin as a result of contact with a dog’s tooth or teeth;

“Cat” - means a male or female cat of the feline domestic species which is over the age of 3 months;

“City” - means the Corporation of the City of Markham;

”Dog” - means a male or female dog which is over the age of 3 months;

“*Dog Owners’ Liability Act*” – means the *Dog Owners’ Liability Act*, R.S.O. 1990, c. D. 16, as amended;

“Dwelling Unit” -. means a room or suite of two or more rooms designated or intended for residential use by a person or persons in which culinary and sanitary conveniences are provided for the exclusive use of such person or persons and having a private entrance from outside or from a common hallway or stairway inside and which is located in a residentially zoned part of the City;

“Extreme Weather” means a cold warning, heat warning or other weather warning Alert issued by Environment Canada for weather in the City of Markham including But not limited to extreme cold or hot weather, snow storms, freezing rain, heavy Rainfall, hurricanes, tornadoes and/or strong winds;

“Keep” - means to have temporary or permanent control or possession of an animal, and keeping has the same meaning;

“Kennel” - means a licensed enterprise under this By-law dealing with the business of breeding, buying, selling, boarding or fostering of dogs, cats, and other small domestic animals;

“Killer traps” - means devices designed to capture and kill animals for which they are set, including but not limited to Conibear traps;

“Law Enforcement Working Dog” - means a dog trained to assist law enforcement officers and used by such officers in the execution of their duties;

“Leash” - means a chain or other material or device used by a person to restrain a dog, but excludes an electronic leash;

“Leg-hold traps” – means devices, other than killer traps or snares, that are designed to capture an animal for which they are set by the leg or foot;

“Licence” means a licence issued pursuant to this By-law;

“Livestock” - means any domestic fowl (including chickens, geese, ducks, turkeys, guinea fowl, etc.), domestic rabbits (when more than 3 rabbits are kept) horses, donkeys, mules, bulls, oxen, cows or other cattle, goats, pigs, sheep, llamas, mink, emus or ostriches;

“Manager” - means the Manager of By-law and Regulatory Services for the City, or his or her designate;

“Microchip” - means an approved „Canadian Standard“ encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to an owner's name and address, which is stored in a central data base;

“Muzzle” - A humane fastening or covering device that is strong enough and well-fitted enough
To prevent the dog from biting, without interfering with the breathing, panting or vision of the
dog or with the dog's ability to drink.

“Owner” - means any person who possesses or harbors 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 in control of the animal and “owns” has the same meaning;

“Park” - means a public area controlled by the City and set aside for use by the public for rest, recreation, exercise, pleasure, amusement and enjoyment, and includes playgrounds, sports- fields, wading and swimming areas, public pathways and trails;

“Petting Zoo” - means a collection of domestic animals that children may pet and feed and that are not exotic or prohibited animals;

“Pit bull” – means “pit bull” as defined by the *Dog Owners’ Liability Act*, R.S.O. 1990, c. D. 16, as amended;

“*Pounds Act*” means the Pounds Act, R.S.O. 1990, c. P. 17;

“Prohibited Animal” - means an animal identified as a “prohibited animal” in *Schedule “A”- Prohibited Animals*;

“Protective Care” - means the temporary, time-limited keeping of an animal by the City as a result of an eviction, incarceration or fire or medical emergency.

“Restrained” means being kept inside a building or house or in an enclosed pen of sufficient dimensions and strength to be humane and which prevents a dog from coming in contact with persons other than the owner of the dog;

“Restricted Pit bull” means “restricted pit bull” as defined by the *Dog Owners’ Liability Act*,
R.S.O. 1990, c. D. 16, as amended;

“Senior Citizen” - means a person who is sixty-five (65) years or older and is a resident of the City of Markham;

“Shelter” - means such premises and facilities designated as the City’s Animal Shelter and which is used for the purpose of the temporary housing and care of animals that have been impounded or taken into protective care pursuant to this by-law;

“Snares” - means devices for the capturing of animals whereby they are caught in a noose;

“Tag” - means an identification tag issued by the City which is to be affixed to the collar of the dog or cat for which it was issued;

“Valid Rabies Certificate” - means a rabies certificate issued by a licensed veterinarian certifying the dog or cat has been immunized and verifying that it will be current on the date of application for a licence or renewal licence;

“Wildlife” - means any Animal that is indigenous to North America, wild by nature or disposition (*ferae natural*), but does not include the domestic ferret;

“Without provocation” - means in the absence of teasing, tormenting, abusing or assaulting actions upon the dog or its owner, either in the past or in the present, by the person or domestic animal which has been bitten by the dog.

“Work Order” means an order issued under this By-law to a Person who contravened the By-law or who caused or permitted the contravention, or to the Owner of the Property where the contravention occurred, requiring the Person or Owner to do work to correct the contravention.

SECTION 2- CARE OF ANIMAL PROVISIONS

2.1 Every person who keeps an animal within the City’s boundary shall provide such animal, or cause it to be provided, with a clean and sanitary environment free from an accumulation of fecal matter, with adequate and appropriate care, food, water, shelter, warmth, opportunity for physical activity, attention, veterinary care as may be required, and an environment that is appropriate to meet the physical and behavioral needs of the species.

2.2 Every owner of an animal shall treat the animal in a humane manner, including but not limited to the provision of:

(a) a shelter for the animal that is waterproof and that protects it from exposure to

the elements;

(b) adequate food and water for the animal;

(c) access to shade during warm weather which does not include shade provided

by an animal enclosure; and

(d) adequate veterinary care deemed necessary by a reasonably prudent person to

relieve the animal from distress caused by injury, neglect or disease.

2.3 No person shall allow an animal to remain outdoors during Extreme Weather, except for brief walks or brief periods of exercise, unless the animal has access to an Animal Enclosure that will adequately protect the animal from the elements.

- 2.4 No person shall leave an animal unattended in a motor vehicle unless:
- a) the animal is restrained in a manner that prevents contact between the animal and any member of the public; and
 - b) the animal has suitable ventilation.
- 2.5 Notwithstanding subsection 2.4 of this By-law, no person shall leave an animal unattended in a motor vehicle if the weather conditions are not suitable for the animal to remain free from distress or injury.
- 2.6 Notwithstanding subsection 2.4 of this By-law, no person shall transport an animal outside the passenger compartment of any motor vehicle unless the animal is contained in a kennel or similar device that provides adequate ventilation, adequate space, protects the animal from the elements and is securely fastened in such a manner to prevent distress or injury to the animal.
- 2.7 Every owner of an animal shall ensure that the animal enclosure provided for the animal shall be of a size and in a condition such that the animal may:
- a) extend its legs, wings, and body to their full natural extent;
 - b) stand, turn around and lie down;
 - c) sit;
 - d) perch.
- 2.8 No person shall keep an animal within the City in an unsanitary condition.
- 2.9 For the purposes of section 2.7, an animal is kept in an unsanitary condition where there is an accumulation of fecal matter, an odour, insect infestation or rodent attractants which disturbs or is likely to disturb the enjoyment, comfort, convenience of any person or that endangers or is likely to endanger the health of any person or animal, unless the activity is part of a normal farm practice carried on in accordance with the *Farming and Food Production and Protection Act*, 1998, S.O. 1998, c. 1,
- 2.10 No person shall keep an animal tethered on a rope, chain or similar restraining device, unless:
- (a) the tether is of appropriate length for the species tethered
 - (b) the animal has unrestricted movement within the range of such tether; and (c) the animal cannot suffer injury as a result of tethering.
- 2.11 Notwithstanding section 2.9, the minimum length of a tether for a dog shall be three (3) meters provided that the tether does not permit the dog to go beyond the limits of the person's property.
- 2.12 The City is authorized to receive animals into protective care as a result of an animal owner's eviction, incarceration, or as a result of a fire or medical emergency, or for any other situation that the Manager deems appropriate.
- 2.13 Animals which are received into protective care by the City shall only be kept on a temporary basis for up to a maximum of five days.
- 2.14 When the City receives an animal into protective care, the owner of the animal shall pay to the City the per diem sheltering fees as outlined in *By-law 2012-137 Licensing and Service Fee By-law*), as amended and all costs incurred on behalf of such animal by the City for all required veterinary medical care prior to redeeming the animal.

- 2.15 If an animal is in protective care at the end of the five-day period and the animal has not been redeemed by the owner, then the City shall treat such animal as a day-one impounded animal pursuant to this by-law.

SECTION 3- DOGS

REGISTRATION AND LICENSING OF DOGS

- 3.1 (1) Every owner of a dog which is three months of age and older, shall:
- (a) within thirty (30) days of its acquisition, cause the same to be registered and licensed with the City in accordance with subsection 3.1(2) and pay an annual tag and licence fee as specified in *By-law 2012-137(Licensing and Service Fee By-law), as amended*);
 - (b) until ceasing to be the owner of that dog, obtain and renew such annual license no later than January 1st of each year;
 - (c) ensure that the tag issued by the City is securely affixed on the dog at all times; and
 - (d) obtain a replacement tag and pay the fee as set out in *By-law 2012-137Licensing and Service By-law), as amended* in the event that such tag is lost.
- (2) Every applicant for dog registration and license shall complete an application for a license or for the renewal of a license on the forms provided by the City which shall include the following information:
- (a) name, address, telephone number of the dog owner;
 - (b) name, age, gender, breed and colour of dog;
 - (c) a valid rabies certificate which proves that the dog's rabies vaccination is current on the date of application or renewal of a license;
 - (d) proof of sterilization from a qualified veterinarian if applicable; and
 - (e) proof of a microchip implant, if applicable.
- (3) Notwithstanding subsection 3.1(1), every owner of a dog under the age of three months which has been impounded pursuant to this By-law shall register the dog and pay an annual licence fee.
- (4) A tag issued by the City for a dog is not transferable to another dog.
- (5) The Animal Licensing Department shall:
- (a) review and process all applications for licenses and for renewal licenses; and
 - (b) issue all licenses and tags when an application is made in accordance with the provisions of this by-law and the appropriate license fee has been paid in full by the owner.
- (6) No person shall remove a tag from a dog without the consent of the owner thereof.

DOGS AT LARGE

- 3.2 (1) No owner of a dog shall cause or permit the dog to be at large in the City.
- (2) Where a dog is found to be at large, the owner shall be deemed to have caused or permitted it to be at large, unless the owner can prove, on a balance of probabilities that he or she took all reasonable precautions to control the dog and to prevent the dog from being at large.
- (3) For the purpose of this section, a dog shall be deemed to be at large if found in any place other than the premises of the owner of the animal and is off-leash.
- (4) Every owner of a dog shall keep their dog under control and restrained by a leash which shall not exceed two meters in length, unless the dog is:
- (a) on the premises of the owner;
 - (b) on private property where consent has been given by the property owner that the dog may be off-leash; or
 - (c) on parkland, or part thereof, which has been designated by a sign that a dog may be off-leash.
- (5) Law Enforcement Working Dogs are exempt from complying with the requirements of this section.

IMPOUNDMENT

- 3.3 (1) An Animal Services Officer may seize and impound any dog which has been found at large or is off-leash in contravention of subsection 3.2(1) of this by-law and may cause such dog to be delivered to the Shelter.
- (2) A dog which is seized pursuant to subsection 3.3(1) shall be considered impounded at the time and place when it comes under the control of Animal Services Officer.
- (3) Where a dog becomes impounded the Animals Services Officer may when:
- (a) a dog is identified with a current dog tag, the dog will be returned to the owner registered with the City
 - (b) a dog is not identified, deliver the dog to the facility designated as the City's Shelter and shall place the dog under the control of the Shelter.
- (4) The Shelter shall keep any impounded dog at the Shelter for a minimum of five days, exclusive of the day of impoundment statutory holidays, or days when the Shelter is not open, during which time an owner shall be entitled to redeem the dog

- (5) In order to obtain the release of an impounded dog during the redemption period pursuant to subsection 3.3(4), the owner shall:
 - (a) pay to the City a per diem impoundment fee in the amount specified *By-law 2012-137 Licensing and Service Fee By-law*, as amended;
 - (b) if the dog is unlicensed, obtain and pay for a license in accordance with this by-law;
 - (c) pay to the City the costs incurred for veterinary care provided while the dog was impounded; and
 - (d) take such other action as the Shelter or the Manager deems appropriate.

- (6) If the dog is not redeemed by the owner during the time period identified in subsection 3.3(4), the dog shall become the property of the City's Animal Services Provider and they may:
 - (a) put the dog up for adoption upon the payment of an adoption fee; or
 - (b) release the dog to its owner upon compliance with the requirements for release in subsection 3.3(5).

- (7) Notwithstanding subsection 3.3(4), where in the opinion of the Shelter a seized and impounded dog is injured or ill and should be euthanized without delay for humane reasons, the Shelter may euthanize the dog without permitting any person to reclaim the dog in accordance with the *Animals for Research Act*.

PREVENTING DOG BITES AND ATTACKS

- 3.4 (1) No owner of a dog shall permit or encourage his or her dog to attack, with or without provocation, any person or domestic animal, or fight with another animal.

- (2) Where a dog has attacked or bitten a person or another animal, or fights with another animal, the owner shall be deemed to have permitted or encouraged the attack, bite or fight, unless the owner can prove, on a balance of probabilities, that he or she took all reasonable precautions to control the dog and to prevent the attack, bite or fight from occurring.

- (3) Law Enforcement Working Dogs are exempt from the requirements of this section.

BITING DOGS

- 3.5 (1) Where the Manager has reasonable grounds to believe that a dog has bitten a person or domestic animal, the Manager shall:
 - (a) where the bite is the first bite on record and where the City may serve the owner with a Written Warning which shall caution the owner of the biting dog that a second bite will automatically result in the issuance of a Notice to Muzzle and possible prosecution under the *Dog Owners Liability Act*;
 - (b) where the bite is a second or subsequent bite in the City, the City may serve the dog owner with a Notice to Muzzle.

- (2) When an owner is served with a Notice to Muzzle, the owner shall:
 - (a) while it is on the property of the owner, the dog shall either be tethered or confined in a fenced-in area in a way that prevents the dog from escaping, or being accidentally or intentionally released;
 - (b) whenever it is off the property of the owner, the dog shall be muzzled and leashed, and shall only be under the control of a person 16 years of age or older; and
 - (c) within fourteen days of having been served with a Notice to Muzzle, have such dog identified with a microchip identification and shall promptly provide the City with the microchip identification.
- (3) A Written Warning and a Notice to Muzzle may be served on the owner by:
 - (a) delivering it personally to the owner of the dog; or
 - (b) sending it by regular mail to the last known address of the owner of the dog.
- (4) Service of a Written Warning or Notice to Muzzle by regular mail is deemed to be made on the seventh day after the day of mailing.
- (5) Where the owner of a dog is served with a Notice to Muzzle, the owner may request a hearing before the Licensing Appeal Committee by making such a request in writing and mailing or delivering it to the Manager of By-law and Regulatory Services within 7 days after the Notice to Muzzle is served on the owner.
- (6) A request for a hearing by the owner under subsection (5) does not act as a stay of the requirements of the Notice to Muzzle.
- (7) Where a hearing date before the Licensing Appeal Committee has been fixed and the owner who has been given notice of the hearing does not attend at the appointed time and place, the Licensing Appeal Committee may proceed in the absence of the owner and the owner will not be entitled to any further notice in the proceedings.
- (8) The Licensing Appeal Committee has the power to:
 - (a) exempt the owner in whole or part from any requirement set out in the Notice to Muzzle;
 - (b) impose conditions on any exemption granted under subsection (a) that the Licensing Appeal Committee considers appropriate; or
 - (c) confirm the requirements of the Notice to Muzzle.
- (9) The hearing shall be conducted pursuant to the provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended.
- (10) The decision of the Licensing Appeal Committee is final.

STOOP & SCOOP

- 3.6 (1) Every owner of a dog shall immediately remove excrement left by such dog on any private or public property in the City, other than on the owner's property.
- (2) Every owner of a dog shall remove and dispose of any such excrement on the owner's property in a timely manner, and in a way that does not disturb the enjoyment, comfort, convenience of any person in the vicinity of the property.

DOGS IN PARKS

- 3.7 (1) No owner shall take a dog onto City parkland, or any part thereof that is designated by signage as an area where dogs are prohibited either at any time, or during specific designated times, or in specific designated park areas.
- (2) No owner shall take a dog on City parkland, or any part thereof, within five meters of:
- (a) a play structure;
 - (b) a wading pool;
 - (c) a spray pad; or
 - (d) a splash pad.
- (3) No owner shall permit a dog to be off-leash on any City parkland or any part thereof, unless such park, or part thereof, is designated by signage that dogs may be kept off-leash, and providing that the person in control of such dog shall keep such dog in sight and under voice control at all times, and shall promptly leash such dog when confrontations with humans or other animals develop.

NUMBER OF DOGS RESTRICTED

- 3.8 (1) The maximum number of dogs over 16 weeks of age permitted in the City: to be kept in or about a dwelling unit in the City shall not exceed two (2), unless such premises are licensed by the City as a Kennel.
- (2) Notwithstanding subsection 3.8(1), a person may house or foster up to four dogs on a temporary basis where the dogs are the property of a recognized shelter or rescue group.
- (3) Notwithstanding subsection 3.8(1), any person who owns more than the permitted number of dogs on the date this By-law comes into force shall be permitted to keep those dogs until they have died or are otherwise disposed of, provided that such dogs are registered and licensed with the City in accordance with the provisions of this by-law within ninety (90) days of the date that the By-law comes into force.
- 3.9 No owner shall cause or permit a dog owned by him to bark persistently at any time.

(Amended by 2018-152)

SECTION 4 – CATS

REGISTRATION AND LICENSING

- 4.1 (1) Every owner of a cat, which is three months or older, shall:
- (a) within 30 days of its acquisition, cause the same to be registered and licensed with the City in accordance with subsection 4.1 and pay an annual tag and licence fee as specified in *By-law `2012-137 Licensing and Service Fee By-law), as amended;*
 - (b) until ceasing to be the owner of that cat, the owner shall obtain and renew such annual license no later than January 1st of each year, or the year in which a multi-year license is due for renewal;
 - (c) ensure that the tag issued by the City is securely affixed on the collar of the cat at all times, regardless whether the cat has received a microchip identification implant; and
 - (d) obtain a replacement tag at a fee specified by the City in the event that such tag is lost.
- (2) Every owner applying for cat registration and license or renewal thereof shall complete an application form provided by the City which shall include the following information:
- (a) name, address, telephone number of the cat owner;
 - (b) name, age, gender, breed and colour of cat;
 - (c) a valid rabies certificate which proves that the cat's rabies vaccination is current on the date of application or renewal of the license;
 - (d) proof of sterilization by a qualified veterinarian if applicable; and
 - (e) proof of a microchip implant if applicable.
- (3) Notwithstanding section 4.1, every owner of a cat under the age of three months which has been impounded pursuant to this By-law shall register the cat and pay an annual licence fee.
- (4) No person shall remove a tag from a cat without the consent of the owner thereof.
- (5) A tag issued by the City for a cat is not transferable to another cat.
- (6) The Animal Licensing Department shall:
- (a) review and process all applications for licenses and renewal licenses; and
 - (b) issue all licenses and tags when an application is made in accordance with the provisions of this by-law and the appropriate license fee has been paid
- in full by the owner.

CAT AT-LARGE

- 4.2 (1) No owner of a cat within in the area of the City shall permit his/her cat to be at large or allow such cat to cause damage or otherwise create a nuisance or disturbance either to another person, or another person's property, or to public property.
- (2) Where a cat is found to be at large, the owner shall be deemed to have caused or permitted it to be at large, unless the owner can prove, on a balance of probabilities that he or she took all reasonable precautions to control the cat and to prevent the dog from being at large.
- (3) For the purpose of this section, a cat shall be deemed to be at large if found in any place other than the premises of the owner of the animal and not under the control of the any person.

CAT IMPOUNDMENT

- 4.3 (1) An Animal Services Officer may seize and impound any cat which has been found in contravention of section 4.2(1) except that any such cat found on private property must be contained and confined by the property's occupant
- (2) A cat which is seized pursuant to subsection 4.2(1) shall be considered impounded when it comes under the control of an Animal Services Officer.
- (3) Where a cat becomes impounded, the Animal Services Officer may:
- (a) where such cat is identified with a current licence, such cat shall be
 - (b) returned to the owner registered with the City; or
 - (a)
 - (b) where such cat is not identified, such cat shall be impounded in the Shelter, under the control of the City's Shelter.
- (4) The Shelter shall keep any impounded cat at the Shelter for a minimum of three days, exclusive of the day of impoundment, statutory holidays, or days when the Shelter is not open, during which time an owner shall be entitled to redeem the cat.
- (5) In order to obtain the release of an impounded cat during the redemption period the owner shall:
- (a) pay to the City a per diem impoundment fee in the amount specified in
By-law 2012-137 (Licensing and Service Fee By-law), as amended;
 - (b) if the cat is unlicensed, obtain and pay for a license in accordance with this by-law;
 - (c) pay to the City the costs incurred for veterinary care provided while the cat was impounded; and
 - (d) take such other action as the Shelter or the City deems appropriate.

- (6) If the cat is not redeemed by the owner during the time period identified in subsection 4.3 (4), the cat shall become the property of the City's Animal Services Provider and they may:
 - (a) put the cat up for adoption upon the payment of a adoption fee; or
 - (b) release the cat to its owner upon compliance with the requirements for release in subsection 4.3(5).
- (7) Notwithstanding subsection 4.3(4), where in the opinion of the Shelter a seized and impounded cat is injured or ill and should be euthanized without delay for humane reasons, the Shelter may euthanize the cat without permitting any person to reclaim the cat in accordance with the *Animals for Research Act*.

NUMBER OF CATS RESTRICTED

- 4.4 (1) The maximum number of cats over of age of three months kept in or about a dwelling unit in the City shall not exceed four, except where both dogs and cats are kept the maximum number of both dogs and cats permitted shall be four, with the maximum number of two dogs and two cats or one dog and three cats permitted unless the premises are licensed by the City as a kennel.
- (2) No person shall keep more than the maximum number of cats permitted by subsection 4.4(1)
- (3) Notwithstanding subsection 4.4(1), a person may house or foster up to six cats on a temporary basis where the cats are the property of a recognized shelter or rescue group.
- (4) Notwithstanding subsection 4.4(1), any person who owns more than the permitted number of cats on the date that this by-law comes into force shall be permitted to keep those cats until they have died or are otherwise disposed of, provided that such cats are registered with the City within 90 days of date that this by-law comes into force

FERAL CATS, TRAP NEUTER RETURN PROGRAM

- 4.5 (1) Only City sanctioned Feral Cat Colonies are permitted in the City.
- (2) No person shall establish or maintain a Feral Cat Colony in a residential zone.
- (3) Notwithstanding section 4.2 (1), Feral Cats which are part of a City sanctioned Feral Cat Colony are exempt from this provisions.

SECTION 5- RABIES SUSPECTS

- 5.1 (1) Every owner of a dog or cat which is suspected of having been exposed to rabies, or which has bitten a person, shall, on demand, surrender such animal to the City to be held by the City in quarantine without cost to the owner for a period of ten (10) days.

- (2) Notwithstanding subsection 5.1(1), at the discretion of the Medical Officer of Health or the Manager an animal may be held in quarantine on the premises of the owner, or in a veterinary hospital or licensed kennel of the owner's choice and at the owner's expense.
- (3) An animal held in quarantine under subsections 5.1(1) or (2) shall not be released from such quarantine without permission from the Medical Officer of Health or the Manager of By-law Services and Licensing.

SECTION 6- KEEPING OF LIVESTOCK

- 6.1 (1) No person shall keep livestock in any area of the City unless the area is zoned for that purpose.
- (2) The City's Animal Services Provider, or any person acting under the authority of the *Pounds Act* may impound or restrain any livestock which is at large and impound it at a place designated as the Shelter for that purpose.
- (3) In the event that such livestock running at large cannot be safely impounded without danger to any person or without undue damage to crops or property, the Manager or the Animal Services Provider may authorize the tranquilizing or humanely euthanize the livestock.

SECTION 7- KEEPING OF DOMESTIC PIGEONS

- 7.1 (1) No person shall keep domestic pigeons or doves, or both in; a residential zone within the City.
- (2) Where a person is permitted to keep domestic pigeons or doves, or both, in the owner shall:
 - (a) be a member of a recognized pigeon club which is affiliated with a national pigeon association;
 - (b) not house the pigeons or doves in, upon, or under any building used for human habitation;
 - (c) keep all pigeons and doves in a loft of sufficient size to house all birds, which shall provide a minimum_space of 1.0 square meter of loft space for every 10 birds, and be so constructed as to prevent escape by pigeons;
 - (d) locate the bird loft a distance of not less than seven (7) meters from any dwelling, shop or apartment building, and at a distance of not less than three (3) meters from any adjoining property line;
 - (e) not exceed thirty (30) pigeons and doves permitted to be kept on any property
 - (f) ensure that each pigeon and dove wear a metal or plastic leg band that identifies the owner of the bird;
 - (g) the pigeons or doves not be permitted to stray, perch, roost, nest or rest upon any premises other than on the premises of the owner; and
 - (h) enters into agreement designating the flight times to the satisfaction of the Manager.

SECTION 8- KEEPING OF RABBITS

- 8.1 (1) No person shall keep rabbits in the area in the City unless:
- (a) no more than three (3) rabbits over the age of seven (7) weeks are kept on a property and/or in any dwelling unit;
 - (b) rabbits shall be kept as pets only;
 - (c) any rabbit routinely kept outside shall be kept in a properly constructed hutch or cage that is so constructed as to prevent escape by the rabbit;
 - (d) a rabbit hutch shall be constructed to protect the rabbits from the elements and shall provide a warm environment;
 - (e) a rabbit hutch shall be located on any property at a distance of not less than seven (7) meters from any dwelling, shop or apartment building, and at a distance of not less than three (3) meters from any adjoining property line; and
 - (f) all lands and premises where rabbits are kept shall be kept in a sanitary condition at all times, and all waste materials shall be disposed of in a manner that will not create a public nuisance or health hazard.

SECTION 9- KEEPING OF WILDLIFE

- 9.1 (1) No person shall keep Wildlife in the City.
- (2) Notwithstanding subsection 9.1(1), a person may keep an indigenous Wildlife if the person keeping such animal is permitted to do so under conditions and the authority of the *Fish and Wildlife Conservation Act 1997*, S.O. 1997, c. 41, and the Canadian Wildlife Service and provided that the place where such animals are kept is located in the area of the City designated for agricultural land use.

SECTION 10- TRAPPING OF WILDLIFE

- 10.1 (1) No person shall use the following traps within the City to capture animals:
- (a) killer traps;
 - (b) leg-hold; and
 - (c) snares.
- (2) Notwithstanding subsection 10.1(1), a person may use a killer trap, leg-hold trap or snare where specifically authorized by, and under the supervision of, the Ontario Ministry of Natural Resources and in accordance with the provisions of the *Fish and Wildlife Conservation Act 1997*, S.O. 1997, c. 41.

SECTION 11- REMOVING WILDLIFE FROM PUBLIC LANDS

- 11.1 (1) No person shall remove any Wildlife from any public land in the City unless authorized to do so by the Manager or the City's Animal Services Provider and provided the removal is done in a humane way.

SECTION 12- FEEDING OF WILDLIFE

- 12.1 (1) No person shall intentionally feed a wild animal or leave food or attractants of any type or in any form out of doors in such a manner as to attract, or be accessible by a wild animal, feral or stray domestic animal on private or public property.
- (2) Where the feeding of wildlife is occurring on a property contrary to the by-law, the owner or occupant is deemed responsible unless he or she can prove, on a balance of probabilities that he or she is not feeding wildlife.
- (3) Section 12.1 does not apply to the feeding of song birds on a property, provided the following feeding requirements are met by the owner or occupier:
- (a) seed is placed in a bird feeding device that is sufficiently above grade as to not attract or be accessible by wild animals; and
 - (b) bird feeding practices do not attract large flocks of homing birds such as wild, feral and domestic pigeons or gulls, ravens and birds of prey and
 - (c) spillage of seed upon the ground is removed by the property owner or occupier forthwith and disposed of in such a manner that it does not attract wild animals, feral or stray domestic animals.
- 12.3 Section 12.1 does not apply in the following situations:
- (a) the leaving of food as bait in a trap by a property owner to capture a nuisance animal inhabiting or habituating their property pursuant to the Fish and Wildlife Conservation Act, 1997, S.O.1997, c.41
 - (b) the leaving of food as bait by a licensed trapper, and employee of a licensed wildlife or pest control agency, Municipal Law Enforcement Officer, or a Police Officer, in the performance of their work.
 - (c) The leaving of food for a colony of stray or feral cats for the purposes of trap, neuter or spay and release program approved by the City.

SECTION 13- KEEPING OF CERTAIN ANIMALS PROHIBITED

- 13.1 (1) No person shall keep, either on a temporary or permanent basis any “prohibited animal” as listed in *Schedule “A”- Prohibited Animals* in the City.
- (2) Notwithstanding subsection 13.1(1), a person who owns an exotic or prohibited animal on the date the by-law comes into effect may keep such animal until the animal has died or is otherwise disposed of, provided that the animal is kept in an environment which is appropriate for the species and the owner has registered such animal with the City within 30 days of the date that the by-law comes into effect.

- (3) The provisions of this section do not apply to:
- (a) any of the City's animal care and control centres;
 - (b) any recognized Humane Society shelter;
 - (c) the premises of an accredited veterinary hospital under the care of a licensed veterinarian;
 - (d) the premises of any licensed zoo or exhibit, permanently located in the City;
 - (e) the areas of the City in which professionally produced films are made using such animals, provided that there is supervision by Inspectors of the Ontario SPCA or one of its affiliates;
 - (f) premises registered as research facilities pursuant to the *Animals for Research Act, R.S.O. 1990.c.A.22*;
 - (g) any such further or other premises as deemed appropriate and identified by the Manager; and
 - (h) the premises of an exhibit, public show, circus, carnival or other display or act of entertainment that meets the requirements of subsection 14.1(1) of this By-law.

SECTION 14- ANIMALS IN EXHIBITS, ENTERTAINMENT AND PERFORMANCES

- 14.1 (1) No person shall operate or carry on any exhibit, public show, circus, carnival or other display or act of entertainment in the City using any exotic animals or prohibited animals listed in the *Schedule "A"- Prohibited Animals*, or use such animal in any film or television production, unless:
- (2) has been inspected and approved by an authorized Humane Society Inspector or Agent, appointed under the Ontario SPCA Act, within seven (7) days of the exhibit or performance and the applicable inspection fee has been paid;
 - (3) the animals are used or kept in a place that has protective devices which are adequate to prevent such animal from escaping or injuring the public; and
 - (4) the animals are provided with a species-appropriate living environment while in the City.
- (5) A person may operate a:
- (a) a petting-zoo;
 - (b) agricultural show or exhibit; or
 - (c) pet show and other animal show; in the City provided that the animals used or kept are not exotic animals or in the City provided that the animals used or kept are not exotic animals or prohibited animals as identified in *Schedule "A"- Prohibited Animals*, and the use complies with all applicable zoning by-laws of the City.

SECTION 15- KENNELS

- 15.1 (1) No person shall operate a kennel within the City unless:
- (a) the owner or operator of the kennel has obtained a licence to operate a kennel and has paid the applicable licence fees in accordance with *By-law 2012-137 Licensing and Service Fee By-law, as amended*);
 - (b) the Kennel building is a separate building and is not in, upon, under or directly attached to any building used for human habitation;
 - (c) the Kennel Building complies with applicable zoning regulations of the City;
 - (d) the Kennel Building conforms to and is maintained in accordance with the Ontario Building Code;
 - (e) the Kennel Building is so constructed, and surrounding environs are kept in a way that prevents escape by any animal from the Kennel facility;
 - (f) the Kennel Building and all areas, premises and land where animals are kept are kept in sanitary condition at all times, free from offensive odours, and all waste materials are disposed of in a manner that will not create a public nuisance or health hazard;
 - (f) the owner or operator of the kennel complies with all applicable sections of this By-law; and
 - (g) the owner or operator of the kennel shall permit animal service officers and all other designated persons authorized by the City to inspect the premises for the purpose of determining compliance with the By-law.

SECTION 16 - ORDER TO DISCONTINUE ACTIVITY

16.1 (1) An Officer may issue an Order requiring any Person to discontinue a contravention of the by-law;

(2) An Order under this section shall identify:

- (a) the location of the Property on which the contravention occurred;
- (b) the reasonable particulars of the contravention of the By-law; and,
- (c) the date and time by which there must be compliance with the Order.

(3) An Order under this section may be given orally or in writing and if in writing, may be served Personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. Service on a corporation can also be effected by regular mail to the corporate mailing address as shown on the Corporation Profile report filed with the Ontario Ministry of Government Services for a Provincial Corporation, or on a Federal Corporate Search for a Federal Corporation, or on the assessment roll records of the City. If the Order is delivered by regular mail to the last known address of that Person, it shall be deemed to have been received on the third day after it is mailed. An Affidavit of Service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order.

SECTION 17 - POWERS OF ENTRY AND INSPECTION

- 17.1 (1) Officers and Persons acting under their direction may, at any reasonable time, or at any time when a contravention is occurring or alleged to be occurring, enter onto any Property to determine if the provisions of this By-law are being complied with and may enter onto any Property to carry out any remedial actions required to bring the Property into conformity with the By-law.
- (2) Officers are authorized, for the purposes of inspection to determine compliance with the By-law, to:
- (a) require any Person to produce for inspection all documents or things relevant to the inspection. Officers may remove documents for the purposes of making copies or extracts;
 - (b) alone or in conjunction with a Person possessing special or expert knowledge, make examinations, take tests, samples, audio recordings, video recordings, or photographs necessary for the purposes of inspection; and,
 - (c) require information from any Person concerning a matter related to the inspection.

SECTION 18 - WORK ORDERS

- 18.1 (1) Where a Person contravenes this By-law, an Officer may issue a Work Order to the Person or the Owner of the Property where the contravention occurred, directing them to do the work set out in the Work Order to correct the contravention. The Person or Owner shall comply with the Work Order within the time specified in the Work Order.
- (2) Order shall set out the:
- (a) reasonable particulars of the contravention adequate to identify the contravention on which the contravention occurred; and
 - (b) work to be done and the date by which the work must be done.
- (3) A Work Order may be served personally on the Person to whom it is directed or sent by regular mail to the last known address of that Person. Service on a corporation can also be effected by regular mail to the corporate mailing address as shown on the Corporation Profile report filed with the Ministry of Government Services for a Provincial Corporation, or on a Federal Corporate Search for a Federal Corporation, or on the assessment roll records of the City. If the Order is delivered by regular mail to the last known address of that Person, it shall be deemed to have been received on the third day after it is mailed. An Affidavit of Service shall be admissible in evidence in any proceeding as proof of service of mailing of the Order

SECTION 19 - FEES AND CHARGES FOR RECOVERY OF COSTS OF ENFORCEMENT

- 19.1 (1) The City may impose a fee or charge upon any Person creating, causing, or permitting a contravention of this By-law where any Person has caused a contravention of the By-law;
- (2) The amount of said fee or charge shall be the amount of administrative costs, costs of enforcement and all other costs incurred by the City in accordance with City By-law 2012-137, as amended in responding to and addressing contraventions pursuant to this By-law.
- (3) Fees and charges imposed on a Person pursuant to this By-law constitute a debt of the Person to the City.
- (4) Where all the Owners of certain Property are responsible for paying certain fees and charges pursuant to this By-law, the City may add such fees and charges to the tax roll for the Property and collect them in the same manner as municipal taxes.

SECTION 20 – ENFORCEMENT

- 20.1 (1) The provisions of this By-law may be enforced by an Officer.
- (2) An Officer who has reasonable grounds to believe that a Person has contravened any provision of this By-law may require that Person to provide their identification to the Officer.
- (3) Every Person who is required by an Officer to provide identification under section 20.2 shall identify themselves to the Officer. Giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to provide sufficient identification shall constitute obstruction of the Officer as set out in section 21.2 of this By-law.

SECTION 21 - OFFENCES

- 21.1 (1) Any Person who contravenes or fails to comply with any provision of this By-law, an Order, a Work Order, or any other order issued pursuant this By-law is guilty of an offence.
- (2) No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.
- (3) No Person shall fail to comply with any condition or term of any Order, Work Order, or any other order issued under this By-law. If there is a contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 21.2 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

SECTION 22 - ADMINISTRATIVE PENALTIES

- 22.1 (1) Instead of laying a charge under the *Provincial Offences Act* for a breach of any provision of this By-law, an Order, a Work Order, or any other order issued pursuant this By-law, an Officer may issue an Administrative Penalty to the Person who has contravened this By-law.
- (2) The Officer has the discretion to either proceed by way of an Administrative Penalty or a charge laid under the *Provincial Offences Act*. If an Administrative Penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.
- (3) The amount of the Administrative Penalty for a breach of a provision of this By-law, a Work Order or Order issued under this by-law is fixed as set out in By-Law No. 2016-84, A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences, as amended, or any successor by-law.
- (4) A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in By-Law 2016-84, A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences, as amended, or any successor by-law.

SECTION 23 - PENALTIES

- 23.1 (1) Pursuant to Section 429 of the *Municipal Act*, every Person who is guilty of an offence under this By-law shall be subject to the following penalties:
- a) Upon a first conviction, to a fine of not less than \$500.00 and not more than \$50,000.00.
 - b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$500.00 and not more than \$100,000.
 - c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may not exceed \$100,000.00.
 - d) Upon conviction for a Multiple Offence, for each offence included in the Multiple Offence, to a fine of not less than \$100.00 and not more than \$10,000. The total of all fines for each included offence is not limited to \$100,000.
- (2) Where a Person convicted of an offence is a corporation, the corporation is liable to a fine not less than \$500.00 and not more than \$100,000.00.

SECTION 24 - COLLECTION OF UNPAID FINES

- 24.1 (1) Pursuant to Subsection 441.1 of the *Municipal Act*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under Section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine, and collect it in the same manner as municipal taxes.

SECTION 25 - SEVERABILITY

25.1 (1) If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

SECTION 26 - CONTINUATION, REPETITION PROHIBITED BY ORDER

26.1 (1) court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the Person convicted, and such order shall be in addition to any other penalty imposed on the Person convicted.

SECTION 27 - INTERPRETATION

27.1 (1) The provisions of Part VI of the *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F shall apply to this By-law.

SECTION 28 - SHORT TITLE OF BY-LAW

28.1 (1) This By-law may be referred to as the "Animal Protection and Services By-law"

SECTION 29 - FORCE AND EFFECT

29.1 (1) This By-law shall come into force and effect on the day it is passed.

SECTION 30 - REPEAL

30.1 (1) That the Animal Control By-law 2005-254 as amended, be repealed in its entirety and this By-law replaces By-law 2005-254 in Schedule "A" of By-law 2018-84.(A By-law to implement an Administrative Monetary Penalty System for Non-Parking Offences)

Read a first, second, and third time and passed on June 26, 2018.



Kimberley Kitteringham
City Clerk



Frank Scarpitti
Mayor

SCHEDULE “A”- PROHIBITED ANIMALS

1. **All protected or endangered animals.**
2. All animals, native or exotic, 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.
3. **All dogs, other than domesticated dogs** (*Canis familiaris*) including but not limited to: wolf, fox, coyote, hyena, dingo, jackal, raccoon dog, bush dog, and any hybrid offspring of a wild dog and domesticated dog.
4. **All cats other than domesticated cats** (*Felis catus*) including, but not limited to: lion, tiger, leopard, ocelot, jaguar, puma, panther, mountain lion, cheetah, wild cat, cougar, bobcat, lynx, serval, and any hybrid offspring of a wild cat and domesticated cat.
5. **All bears**, including polar, grizzly, brown and black bears.
6. **All fur bearing animals of the family Mustelidae** including, but not limited to weasel, marten, mink, badger, ermine, skunk, otter, pole cat, wolverine, except for domestic ferret (*Putorius furo*)
7. **All Procyonidae**, including raccoon, kinkajou, cacomistle, cat-bear, panda and coatimundi.
8. **All carnivorous mammals of the family Viverridae**, including, but not limited to, civet, mongoose, and genet.
9. **All bats** (Chiroptera).
10. **All non-human primates**, including, but not limited to, monkey, ape, chimpanzee, gorilla and lemur.
11. **All squirrels** (Sciuridae).
12. **Reptiles** (Reptilia)

All Helodermatidae (gila monster and Mexican beaded lizard)

All front-fanged venomous snakes, even if de venomized, including, but not limited to: All Viperidae (Viper, pit viper);

All Elapidae (cobra, mamba,

krait, coral snake); All

Atactaspidae (African

burrowing asp);

All

Hydrophiidae

(sea snake); All

Laticaudidae

(sea krait);

All venomous, mid- or rear-fanged, Duvernoy-glanded members of the family Colubridae, even if de venomized.

Any member or hybrid offspring of the family Boidae, including, but not limited to the common or green anaconda and yellow anaconda.

Any member of the family Pythonidae, including but not limited to, The African rock python;

The Indian or

Burmese python;

The Amethystine

or scrub python;

Any member of the family Varanidae, including The white throated monitor;

Bosc's or African

savannah monitor; The

water monitor;

The Komodo

monitor or

dragon; The

Bornean earless

monitor;

- The Nile monitor;
The crocodile monitor;
Any member of the family Iguanidae, including the green or common iguana;
Any member of the Teiidae, including but not limited to the golden, common or black and white tegu.
All members of the family Chelydridae, including snapping turtle and alligator snapping turtle.
All members of the Crocodylia, including, but not limited to alligator, caiman and crocodile.
All other snakes that reach an adult length larger than three meters;
All other lizards that reach an adult length larger than two meters.
13. **Birds** (Alves) All predatory or large birds, including but not limited to, Eagle, Hawk, Falcon, Owl, Vulture, and Condor.
 14. Arachnida and Chilopod
 15. All venomous spiders, including, but not limited to, tarantula, black widow and solifugid; scorpion; All venomous arthropods including, but not limited to centipede.
 16. **All large rodents** (Rodentia), including, but not limited to gopher, muskrat, paca, groundhog, marmot, beaver, prairie dog, viscacha, and porcupine.
 17. **All even-toed ungulates** (Artiodactyla) including, but not limited to, deer, antelope, sheep, giraffe and hippopotamus.
 18. **All odd-toed ungulates** (Perissodactyla) other than domesticated horses (*Equus caballus*), including but not limited to zebra, rhinoceros and tapir.
 19. **All marsupials**, including but not limited to, Tasmanian devil, bandicoot, kangaroo, wallaby, opossum, wombat, koala bear, cuscus, numbat and pigmy, sugar and greater glider.
 20. **Sea mammals** (Cetacea, Pinnipedia and Sirenia), including, but not limited to, dolphin, whale, seal, sea lion, and walrus.
 21. **All elephants** (Proboscidea)
 22. **All hyrax** (Hyracoidea)
 23. **All pangolin** (Pholidota)
 24. **All sloth and armadillo** (Edentala)
 25. **All insectivorous mammals** (Insectivora); including aardvark (Tubulidentata), anteater, shrew, otter shrew, mole and hedge hog.
 26. **Gliding lemur** (Dermoptera)
 27. **All other venomous or poisonous animals**
 28. **Amphibians – African Dwarf Frog** (*Hymenochirus Boettgeri*)