

Being a By-law to regulate the care and control of animals in the City of Oshawa.

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**WHEREAS**

1. The Council of The Corporation of the City of Oshawa wishes to ensure that animals are kept and treated in a humane and responsible manner;

**NOW THEREFORE** the Council of The Corporation of the City of Oshawa ENACTS AS FOLLOWS:

**Interpretation**

1. In this By-law:
  - 1.1. “Animal” means any member of the animal kingdom or living beings, including mammals, birds, reptiles and fish but not including humans;
  - 1.2. “Animal Control Order” means an order given pursuant to section 13 and more particularly described in sections 14 and 15;
  - 1.3. “By-law” means this by-law and any schedule to this by-law as they may from time to time be amended;
  - 1.4. “Cat” means a domesticated feline animal;
  - 1.5. “City” means The Corporation of the City of Oshawa;
  - 1.6. “Council” means the City’s Council;
  - 1.7. “Director” means the City’s Director, Municipal Law Enforcement and Licensing Services, and, except for sections 11, 22, 37 and 38, includes the Manager and the Operations Coordinator;
  - 1.8. “Dog” means a domesticated canine animal;
  - 1.9. “Dwelling Unit” means a unit consisting of one or more rooms, which unit contains toilet and cooking facilities and which is designed for use as a single housekeeping establishment;
  - 1.10. “Euthanized” means humanely destroyed;
  - 1.11. “Ferret” means the species of Animal known as *mustela putorius furo*;
  - 1.12. “General Fees and Charges By-law” means the City’s By-law 13-2003 as from time to time amended and includes any successor by-law;

- 1.13. "Keep" includes to temporarily or permanently control, harbour, have custody of, keep, maintain, possess or store;
- 1.14. "Licence"
- (a) means a licence issued pursuant to this By-law; and
  - (b) includes a licence issued pursuant to the City's Responsible Pet Owners By-law 11-96 that had not expired or had not been suspended or revoked on the date on which this By-law was passed;
- 1.15. "Licence Decision Notice" means a notice given pursuant to section 8;
- 1.16. "Licence Revocation Notice" means a notice given pursuant to section 20;
- 1.17. "Manager" means the City's Manager, Municipal Law Enforcement;
- 1.18. "Minor" means a person under the age of eighteen (18) years;
- 1.19. "Muzzle" means a humane fastening or covering device that does not interfere with the breathing, panting, ability to drink, or vision of the Animal when fitted and fastened over the mouth of the Animal, but that is of sufficient strength to prevent the Animal from biting;
- 1.20. "Noise By-law" means the City's Noise By-law 112-82 as from time to time amended and includes any successor by-law;
- 1.21. "Normal Farm Practice" is as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1990, c. 1, as from time to time amended;
- 1.22. "Officer" means each of
- (a) the Director;
  - (b) the Manager;
  - (c) a Municipal Law Enforcement Officer appointed by Council or by the Director to enforce this By-law; and
  - (d) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police.
- 1.23. "Operations Coordinator" means the City's Municipal Law Enforcement Operations Coordinator;
- 1.24. "Owner" means each Person who Keeps an Animal and includes
- (a) each Person who applies for a Licence;
  - (b) each Person to whom a Licence is issued;
  - (c) each Person responsible for the custody of a minor Person who Keeps an Animal; and;
  - (d) each Person who owns or leases Premises on or in which an Animal is Kept by any Person;
- 1.25. "Penalty Notice" means a notice given pursuant to sections 34 and 35;
- 1.26. "Person" includes an individual, partnership, association, firm or corporation;
- 1.27. "Premises" includes a Dwelling Unit, a house or building and the land or premises on which the building or house is situated or attached;

1.28. "Responsible Pet Owners By-law 11-96" means the City's Responsible Pet Owners By-law 11-96 as from time to time amended to the date on which this By-law was passed;

1.29. "Running at Large":

- (a) in reference to an Animal, means being found in any place other than the Animal's Owner's Premises and not under the physical control of any Person; and
- (b) in reference to a Dog and in addition to the criteria in paragraph 1.29(a), includes not restrained by means of a leash not exceeding two (2) metres in length; and
- (c) includes an Animal to which subsection 14.5 relates.

1.30. "Veterinarian" means a person holding a licence to engage in the practice of veterinary medicine pursuant to the *Veterinarians Act*, R.S.O. 1990, c. V.3.

2. Where authority has been delegated by this By-law to the Director, the Manager and to the Operations Coordinator,

- 2.1. the determination of the Operations Coordinator as to whether to exercise the authority or the manner in which to exercise the authority is without effect to the extent of any conflict with the determinations of the Manager or the Director; and
- 2.2. the determination of the Manager as to whether to exercise the authority or the manner in which to exercise the authority is without effect to the extent of any conflict with the determination of the Director.

### **Licences – Cats, Dogs and Ferrets**

3. The Director may refuse to accept an application for a Licence unless the application is:

- 3.1. submitted on forms approved by the Director;
- 3.2. includes such information as the Director considers necessary for the proper administration of this By-law including, without limitation, the Owner's name, address, telephone number and e-mail address; and is
- 3.3. accompanied by payment in full of any fee prescribed by the General Fees and Charges By-law.

4. The Director's decision to refuse to accept an application is not subject to review including review by any Court.

5. No Person shall Keep a Cat, Dog or Ferret where the Cat's, Dog's or Ferret's age is greater than twelve (12) weeks except pursuant to a Licence in respect of each such Cat, Dog or Ferret and except pursuant to the following conditions, each of which is a condition of obtaining and continuing to hold a Licence:

- 5.1. The Person complies with all applicable law including this By-law;
- 5.2. The Person complies with any conditions to the Licence imposed pursuant to subsection 7.1;
- 5.3. The Person is not a Minor;
- 5.4. The Person notifies the Director in writing of any change to the information provided in an application submitted pursuant to section 3 within seven (7) days of the date of the change;

- 5.5. At all times during the term of the Licence, a legible tag acceptable to the Director and that evidences the Licence is affixed to the Cat, Dog or Ferret to which the Licence relates; and
- 5.6. The Person is not indebted to the City except:
  - (a) pursuant to an agreement in good standing; or
  - (b) in respect of current property taxes;
6. The Director shall issue a Licence to a Person where the Director is satisfied that the application complies with section 3 and that the Person has complied and will comply at all times with this By-law.
7. Where the Director is not satisfied for the purposes of section 6, the Director may
  - 7.1. issue a Licence and impose such conditions to the Licence as the Director determines are necessary to maintain the general intent and purpose of this By-law; or
  - 7.2. refuse to issue a Licence.
8. Where the Director issues a Licence with conditions or refuses to issue a Licence, the Director shall give to the Person a Licence Decision Notice as soon as is reasonably practicable which shall include the following information:
  - 8.1. where a Licence is issued with conditions, particulars of the conditions;
  - 8.2. where a Licence is refused, particulars of the reasons for refusing to issue the Licence;
  - 8.3. information respecting the process by which the person may exercise the Person's right to appeal to the Hearings Officer against the conditions or the refusal to issue a Licence; and
  - 8.4. a statement advising that the Director's decision, unless modified or rescinded by the Hearings Officer, shall be final and not subject to review including review by an Court.
9. A Person who receives a Licence Decision Notice may appeal the conditions or the refusal to the Hearings Officer pursuant to section 44.
10. A Licence Decision Notice that is not appealed pursuant to section 44 is final and is not subject to review including review by any Court.
11. Despite section 10 and subsection 44.1, the Director may rescind a Licence Decision Notice at any time.
12. A Licence expires on the earlier of:
  - 12.1. the first (1<sup>st</sup>) anniversary of the day on which it was issued; and
  - 12.2. the day on which it is revoked.

### **Animal Control Order**

13. In addition to any other remedy, an Officer may give to an Animal's Owner an Animal Control Order where the Officer has reason to believe that:
  - 13.1. the Animal has bitten or will bite a Person or another Animal;
  - 13.2. the Animal poses a threat to the health or safety of a Person or of another Animal; or that
  - 13.3. the Owner has not complied with this By-law.

14. An Animal Control Order may require the Owner to do at the Owner's expense any or all of the following as the Officer considers appropriate:
  - 14.1. to Muzzle the Animal indefinitely or for a specific period and subject to conditions as may be specified;
  - 14.2. to restrain or to confine the Animal in such manner and subject to such conditions as may be specified;
  - 14.3. to cause the Animal to be examined and treated by a Veterinarian;
  - 14.4. to give to the Director forthwith upon the Director's requests from time to time such information and documents that the Director determines are relevant to the Animal Control Order; and
  - 14.5. to cause the Animal to be surrendered or delivered to such Person as the Animal Control Order may direct.
15. An Animal Control Order shall include the following information:
  - 15.1. particulars of the reasons for which the Animal Control Order was given;
  - 15.2. particulars of the things the Owner is required to do; and
  - 15.3. information respecting the process by which the person may exercise the Person's right to appeal to the Hearings Officer against the Animal Control Order.
16. An Owner to whom or to which an Animal Control Order is given shall forthwith comply with it and may appeal to the Hearings Officer against it pursuant to section 44.
17. An appeal to the Hearings Officer does not operate as a stay of the Animal Control Order.
18. An Animal Control Order that is not appealed pursuant to section 44 is final and is not subject to review including review by any Court.
19. Despite section 18 and subsection 44.1, the Director may rescind an Animal Control Order at any time.

### **Licence Revocation**

20. In addition to any other remedy, where the Director has reason to believe that an Owner to whom a Licence has been issued has not complied with this By-law, the Director may give to the Owner a Licence Revocation Notice which shall include the following information:
  - 20.1. a statement that the Licence is to be revoked on a day which is no fewer than fourteen (14) days following the day on which the notice is given;
  - 20.2. particulars of the reasons for which the Licence is to be revoked;
  - 20.3. information respecting the process by which the Owner may exercise the Owner's right to appeal to the Hearings Officer against the Licence Revocation Notice; and
  - 20.4. a statement that the Director's decision to revoke the Licence, unless modified or rescinded by the Hearings Officer, shall be final and not subject to review including review by any Court.
21. An Owner who is given a Licence Revocation Notice may appeal to the Hearings Officer against the pending Licence revocation pursuant to section 44.
22. Despite subsection 44.1, the Director may rescind the Licence Revocation Notice at any time.

23. Where the Owner does not appeal against the pending Licence revocation pursuant to section 44, and where the Licence Revocation Notice is not rescinded pursuant to section 22, the Licence shall be deemed to be revoked on the fourteenth (14<sup>th</sup>) day following the day on which the Licence Revocation Notice is given.

### **Animal Control**

24. No Person shall Keep an Animal and no Owner shall permit to be Kept an Animal except pursuant to the following conditions:
- 24.1. The Animal is not described in Schedule "A" to this By-law;
  - 24.2. The Animal is not Running at Large;
  - 24.3. The Animal's excrement is forthwith collected and disposed of in accordance with all applicable law;
  - 24.4. The Animal is provided with shelter, food and water that as appropriate to the Animal's species;
  - 24.5. The Animal is treated humanely;
  - 24.6. The Animal is forthwith examined and treated by a Veterinarian when the Animal's health reasonably requires it;
  - 24.7. The number of Cats Kept at any Premises does not exceed six (6);
  - 24.8. The number of Dogs Kept at any Premises does not exceed three (3);
  - 24.9. The number of Ferrets Kept at any Premises does not exceed two (2);
  - 24.10. An Owner complies with the Noise By-law including in relation to any noise related to an Animal;
  - 24.11. The Animal is not on a public beach; and
  - 24.12. An Owner does not permit an Animal to threaten the health or safety of a person or of another Animal.

### **Running at Large**

25. Where an Officer finds an Animal to be Running at Large, the Officer may cause the Animal to be seized and impounded.
26. The Director may, subject to the *Animals for Research Act*, R.S.O., 1990, c. A.22, cause to be Euthanized an Animal impounded pursuant to section 25.
27. Where an Animal is not Euthanized pursuant to section 26, the Director may:
- 27.1. permit the Animal to be claimed by the Animal's Owner upon compliance with this By-law and payment of any fees prescribed by the General Fees and Charges By-law; or
  - 27.2. sell or otherwise dispose of the Animal.

### **Exceptions / Exemptions**

28. This By-law is without effect only to the extent of any conflict with the following:
- 28.1. a Normal Farm Practice;
  - 28.2. law enforcement by a municipal police force, the Ontario Provincial Police or by the Royal Canadian Mounted Police;

- 28.3. the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11, as from time to time amended;
  - 28.4. the lawful operation of an Animal hospital or clinic that is supervised by a Veterinarian;
  - 28.5. a pound or shelter lawfully operated by the City;
  - 28.6. any organization permitted by law to provide protection and humane treatment of Animals;
  - 28.7. emergency treatment to an injured, ill or abandoned Animal;
  - 28.8. the operation by the City of a public park, exhibition, or zoological garden; or
  - 28.9. the lawful operations of premises registered as research facilities under the *Animals for Research Act*, R.S.O. 1990, c. A.22, as amended.
29. Subsection 24.2 does not prevent an Owner from permitting the Owner's Dog to be unleashed in any area designated by Council for that purpose provided that at all times:
- 29.1. the Owner and the Dog are within the designated area; and
  - 29.2. the Owner otherwise complies with this By-law.
30. The Director may exempt any Person from all or any part of this By-law where the Director is satisfied that the granting of the exemption would maintain the general intent and purpose of this By-law.
31. The Director may impose such conditions as the Director determines are appropriate in relation to an exemption granted by the Director.
32. The Director's decision respecting an exemption pursuant to section 29 including any condition pursuant to section 31 is final and is not subject to review including review by any Court.

### **Administrative Penalties**

33. Each Person who contravenes any provision of this By-law shall, when given a Penalty Notice in accordance with section 34, be liable to pay to the City an administrative penalty in the amount of \$125 for each day or part of a day on which the contravention continues.
34. An Officer who has reason to believe that a Person has contravened any provision of this By-law may give to the Person a Penalty Notice.
35. The Penalty Notice shall be given to the Person as soon as is reasonably practicable and shall include the following information:
- 35.1. particulars of the contravention;
  - 35.2. the amount of the administrative penalty;
  - 35.3. information respecting the process by which the person may exercise the Person's right to appeal against the administrative penalty; and
  - 35.4. a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the appeal process, constitute a debt of the Person to the City.
36. No Officer may accept payment of an administrative penalty.
37. The Director may affirm the administrative penalty or extend the time to request a review of an administrative penalty.

38. The Director may cancel or reduce the administrative penalty where the Director is satisfied that doing so would maintain the general intent and purpose of this By-law and that
- 38.1. there is reason to doubt that the person contravened this By-law;
  - 38.2. the person took all reasonable steps to prevent the contravention; or that
  - 38.3. the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.
39. A Person who is given a Penalty Notice may appeal to the Hearings Officer against the administrative penalty pursuant to section 44.
40. An administrative penalty that is deemed to be affirmed pursuant to subsection 44.1 or that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to sections 37 or 38 or subsection 44.6, constitutes a debt to the City of each Person to whom or to which the Penalty Notice was given.
41. Where a Person has paid an administrative penalty that is then cancelled or reduced pursuant to sections 37 or 38 or subsection 44.6, the City shall refund the amount cancelled or reduced.
42. Where an administrative penalty is paid within fifteen (15) days after the date that it becomes due and payable, no Person to whom the Penalty Notice was given shall be liable for an offence in respect of the contravention described in the Penalty Notice.
43. Where an administrative penalty is not paid within fifteen (15) days after the date that it becomes due and payable, each Person to whom the Penalty Notice was given shall pay to the City a late payment administrative fee as from time to time prescribed by the General Fees and Charges By-law.

### **Hearings Officer**

44. The following applies to appeals to the Hearings Officer:
- 44.1. A Person's right to appeal expires if it has not been exercised in the manner prescribed in subsection 44.2 before 4:30 p.m. on the tenth (10<sup>th</sup>) day after the Licence Decision Notice, the Animal Control Order, the Licence Revocation Notice or the Penalty Notice is given to the Person at which time the Licence Decision Notice, the Animal Control Order, the Licence Revocation Notice or the Penalty Notice, as applicable, is final and is not subject to review including review by any Court.
  - 44.2. A right to appeal is exercised by:
    - (a) giving to the Director written notice of the appeal that includes particulars of all grounds upon which the appeal is made; and by
    - (b) paying the fee from time to time prescribed by the City's General Fees and Charges By-law.
  - 44.3. The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
  - 44.4. Where the Person fails to appear at the time and place scheduled for a hearing of the appeal, the Person's appeal shall be deemed to be dismissed and the Person shall pay to the City an administrative fee as from time to time prescribed by the General Fees and Charges By-law.
  - 44.5. Subject to subsection 44.4, the Hearings Officer shall not decide the appeal unless the Hearings Officer has given each of the Person, the Director and the Officer an opportunity to be heard at the time and place scheduled for the hearing of the appeal.

- 44.6. The Hearings Officer may make any decision that the Director or an Officer could have made pursuant to this By-law.
- 44.7. The decision of the Hearings Officer is final and not subject to review including review by any Court.

**Offences**

- 45. Each Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine of:
  - 45.1. not less than \$300 and not more than \$5,000.

**Notice**

- 46. Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
  - 46.1. when a copy is delivered to the Person to whom it is addressed;
  - 46.2. on the fifth (5<sup>th</sup>) day after a copy is sent by registered mail to the Person’s last known address;
  - 46.3. upon the conclusion of the transmission of a copy by facsimile transmission to the Person’s last known facsimile transmission number; or
  - 46.4. upon the sending of a copy by e-mail transmission to the Person’s last known e-mail address.
- 47. For the purpose of section 46, a Person’s last known address, last known facsimile transmission number and last known e-mail address are deemed to include those provided pursuant to subsection 3.2 as they may be changed pursuant to subsection 5.4.

**General**

- 48. For the purpose of subsection 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, it is the opinion of Council that the powers delegated to the Hearings Officer and to the Director pursuant to this By-law are of a minor nature.
- 49. Responsible Pet Owners By-law 11-96 is repealed on April 30, 2010.
- 50. This By-law is effective on April 30, 2010.
- 51. The short title of this By-law is the “Responsible Pet Owners By-law”.

By-law passed this eighth day of March, 2010.

*Original Signed By:*

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Mayor

*Original Signed By:*

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City Clerk

## Schedule "A" to By-law 14-2010

Prohibited Animals (Subsection 24.1)

### MAMMALS

<b>Marsupialia: Marsupials or Pouched Mammals</b>	
Macropodidae	Kangaroos
Didelphidae	American Opossums
Dasyruidae	Marsupial Wolf, Tasmanian Devil, Tasmanian Tiger, Pouched Mouse
Notoryctidae	Marsupial Mole
Peramelidae	Australian Bandicoot (not the Indian Bandicoot, which is a marsupial)
Caenolestidae	Pouched Rat
Phalangeridae	Koala, Cuscus (a marsupial monkey), Flying Phalanger (similar to a flying squirrel)
Phacoloromidae	Wombat

<b>Carnivora: Carnivorous land Mammals</b>	
Canidae	Wolf, Coyote, Fox, Wild DOG
Ursidae	Bear
Procyonidae	Racoon, Panda, Coatimundi
Mustelidae	Weasels, Stoat, Wolverine, Marten, Mink, Badger, Skunk, Otter
Viverridae	Mongoose, Civet, Genet
Hyaenidae	Hyena
Felidae	Ocelot, Lion, Tiger, Leopard, Panther, Lynx, Mountain Lion, Bobcat

Pinnipedia	Seals, Sea Lions, Walruses
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Chiroptera	Bats
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<b>Perissidactyla: Odd-toed hoofed Animals</b>	
Equidae	Horse, Ass, Zebra, Mule
Tapiridae	Tapir
Rhinocerotidae	Rhinoceros

<b>Artiodactyla: Even-toed hoofed Animals</b>	
Suidae	All Pigs, Warthog
Tayassuidae	Peccaries
Hippopotamidae	Hippopotamus

<b>Artiodactyla: Even-toed hoofed Animals</b>	
Camelidae	Camel, Dromedaries, Llama, Alpacas
Tragulidae	Mouse Deer
Cervidae	Deer, Reindeer, Caribou, Moose, Elk, Antelope
Giraffidae	Giraffe, Okapi
Antilocapridae	Prong-Horned Antelope
Bovidae	Sheep, Goat, Bison, Water Buffalo, Musk Ox, Cow Heifer, Steer Bull

<b>Edentata</b>	
Mymecophagidae	Anteaters
Bradypodidae	Sloths
Dasypodidae	Armadillos

<b>Proboscidea</b>	
Elephantidae	Elephants

<b>Primates</b>	
Prosimii	Tree Shrews, Lemurs, Lorises, Bush Babies, Tarsiers
Anthropoidea	Monkeys, Marmosets, Macaques, Baboons, Mandrills, Apes, Gibbons, Orangutans, Gorillas, Chimpanzees

## REPTILES

Helodermatidae	The only other order of venomous non-snakes among the Reptiles: Gila Monster, Beaded Lizard
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<b>Serpentes: Snakes</b>	
Boidae	Pythons, Boa
Elapidae	Coral Snakes, Cobras, Kraits
Hydrophiidae	Sea Snakes
Viperidae	Vipers, Adders, Rattlesnakes, Water Moccasins, Fer-de-Lance, Bushmaster

Crocodylia:	Crocodiles, Alligators, Caimans, Gavials
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**BIRDS**

<b>Paleognathae or Ratites</b>	
Struthiformes	Ostriches
Rheiformes	Rheas
Casuariformes	Cassowaries, Emus
Apterygiformes	Kiwis

<b>Raptors: Diurnal and Nortal</b>	
Falconiformes	Hawks, Falcons, Eagles, Buteos, Vultures, Kites, Condors, Ospreys, Sparrow Hawks
Strigiformes	Owls

Arachnids: All spiders
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Insects: All venomous insects, except bees as defined in the <u>Bees Act</u> , R.S.O. 1990, c. B.6
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