



Town of Whitby By-law # 7294-17

Responsible Pet Ownership By-law

Being a By-law to regulate the keeping of cats and dogs in the Town;

Whereas Section 10 and Section 11 of the Municipal Act, 2001 authorizes the Town to pass by-laws respecting animals; and

Whereas Section 103 of the Municipal Act, 2001 authorizes the Town to pass by-laws to provide for the seizure and impounding of animals being at large or trespassing, and provide for the sale of impounded animals under certain conditions; and

Whereas Section 105 of the Municipal Act, 2001 requires Council to hold a hearing to determine whether to exempt an owner in whole or in part from muzzling requirements of a dog, when so requested by the dog owner; and

Whereas Council considers it necessary to pass a by-law to regulate the keeping of cats and dogs in the Town;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. "animal" means a cat or a dog;
- 1.2. "Animal Services Appeal Committee" means the Animal Services Appeal Committee appointed by Town Council;
- 1.3. "animal services supervisor" means the animal services supervisor for the Town or his or her designate;
- 1.4. "animal services officer" means any employee of the Town whose duties include the enforcement of this by-law and related animal legislation in the Town and includes the animal services supervisor;
- 1.5. "cat" means an feline of the species felis catus;
- 1.6. "colony caretaker" means a person who harbours or provides regular care for a feral cat or feral cats;
- 1.7. "dog" means a canine of the species canis familiaris;
- 1.8. "dwelling unit" means a room or suite of two or more rooms designed 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 a common hallway or stairway inside and which is located in a residentially zoned part of the Town;

- 1.9. "feral cat" means a cat that lives exclusively outdoors with limited human contact and is un-socialized;
- 1.10. "feral cat colony" means a group of feral cats living in one geographic area on the date that this by-law takes effect;
- 1.11. "kitten" means a young feline of the species felis catus, under 12 weeks of age;
- 1.12. "leash free area" means an area designated by the Town where dogs are not required to be on a leash, but must be under verbal control of an owner;
- 1.13. "muzzle" means a humane fastening or covering device of adequate strength and design, which is suitable to the breed of dog, that fits over the mouth of the dog to prevent the dog from biting or attacking a person or domestic animal, but does not include a halti, gentle leader or promise collar;
- 1.14. "service dog" means a dog trained, qualified, and certified as a service dog for a person with a visual impairment or for a person with a disability;
- 1.15. "owner" means the owner of an animal and includes a person possessing or harbouring a cat or dog and, where the owner is a minor, the person responsible for the custody of the minor;
- 1.16. "tag" means a disc or other shape of metal or plastic provided by the Town to be fixed to the collar of a cat or dog for the purpose of identification;
- 1.17. "Town" means The Corporation of the Town of Whitby or the geographic borders of the Town of Whitby, as the context requires;
- 1.18. "veterinarian" means a person registered to practice veterinary science in accordance with the laws and qualifications in place in the Province of Ontario.

2. Interpretation

- 2.1. When reading and interpreting this by-law,
 - (1) unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections, clauses and schedules in this by-law;
 - (2) references in this by-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted;
 - (3) references in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable; and
 - (4) the words "include", "includes" or "including" are not to be read or interpreted as limiting the words, phrases or descriptions that precede them.

- 2.2. If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid, or to be of no force or effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.

3. Licensing of Cats and Dogs

- 3.1. Every owner of a cat or dog over the age of 12 weeks shall licence the animal with the Town and shall maintain the licence in good standing.
- 3.2. Every owner of a cat or dog shall annually renew the animal's licence on or before its date of expiry.
- 3.3. No owner shall provide false information when licensing an animal.
- 3.4. Every owner of a cat or dog shall at the time of licensing the animal, pay an animal licence fee to the Town in accordance with the Town's Fees and Charges By-law, as may be amended from time to time.
- 3.5. Upon payment of the animal licence fee, the owner shall be provided with a tag from the Town and shall keep the tag securely fixed on the cat or dog at all times.
- 3.6. A tag shall bear an identification number and a record shall be kept by the animal services supervisor showing the name, address, and contact information of the owner and the identification number of the tag.
- 3.7. If a tag is lost or misplaced for any reason, the owner shall make an application for a replacement tag.
- 3.8. Upon payment of the replacement animal licence tag fee in accordance with the Town's Fees and Charges By-law, as may be amended from time to time, the owner shall be provided with a replacement tag.
- 3.9. Notwithstanding any provision of this by-law, a service dog shall be provided with an animal licence and tag free of charge.
- 3.10. Notwithstanding Section 3.1. of this by-law, a feral cat that is part of a registered feral cat colony, spayed/neutered, ear tipped, microchipped, and vaccinated, including vaccination against rabies, is exempt from the licensing requirement.

4. Regulation of Cats and Dogs

- 4.1. For the purpose of this section, a cat or dog shall be deemed to be running at large when found in any place other than the premises of the owner of the cat or dog, and not under the control of any person.
- 4.2. Every owner of a dog shall keep the dog securely leashed and under the control of a person when the dog is off of the premises of the owner unless prior consent is given by the person owning the land on which the dog is found.

- 4.3. No owner of a dog shall knowingly or unknowingly allow the dog to interfere with or bite a person or a domestic animal.
- 4.4. No owner of a cat or dog shall knowingly or unknowingly allow the cat or dog to run at large in the Town.
- 4.5. Every owner of a cat or dog shall immediately remove excrement left by the cat or dog on property anywhere in the Town.
- 4.6. No owner of a dog shall knowingly or not knowingly allow a dog to howl or bark excessively for any period of 20 minutes or longer.
- 4.7. No person, being the owner, tenant or occupant of a dwelling unit shall own or harbour, or permit to be kept, owned or harboured more than 2 dogs in or about the dwelling unit.
- 4.8. Notwithstanding Section 4.1. of this by-law, a feral cat that is part of a registered feral cat colony, spayed/neutered, ear tipped, microchipped, and vaccinated, including vaccination against rabies, and not interfering with a resident's enjoyment of property is not deemed to be at large.

5. Control of Cats and Dogs

- 5.1. Any person shall be permitted to take charge of any cat or dog found running at large and shall forthwith deliver the animal to an animal services officer.
- 5.2. Nothing in Section 5.2. of this by-law confers upon any person the right to enter any dwelling unit or premises;
- 5.3. An animal services officer may seize and impound any cat or dog delivered to him or her pursuant to Section 5.1. of this by-law or found running at large in the Town, or at the request of Whitby Fire and Emergency Services or the Durham Regional Police Service.
- 5.4. An animal services officer shall restore possession of a cat or dog to the owner where,
 - 5.4.1. the owner claims possession of the cat or dog;
 - 5.4.2. the owner pays the Town the impoundment fee in accordance with the Town's Fees and Charges By-law, as may be amended from time to time;
 - 5.4.3. the owner pays the Town the daily care fee in accordance with the Town's Fees and Charges By-law, as may be amended from time to time;
 - 5.4.4. the cat or dog is licensed in accordance with Section 3.1. of this by-law or is deemed to be exempt from registration; and
 - 5.4.5. the owner pays the full cost of any veterinary care received by the cat or dog while impounded.

- 5.5. Where on the sixth day after that date of seizure and impounding, exclusive of Sundays and Statutory Holidays, possession of the cat or dog has not been restored to the owner in accordance with Section 5.4. of this by-law, the animal services supervisor may, at his or her discretion,
- 5.5.1. make the cat or dog available for adoption;
 - 5.5.2. transfer the cat or dog to another animal welfare or animal rescue agency;
 - 5.5.3. sell or make a gift of the cat or dog; or
 - 5.5.4. humanely euthanize the cat or dog based on the animal's disposition or health, with no damage or compensation recoverable by any person.
- 5.6. Where a cat or dog seized or impounded should be euthanized without delay for humane reasons, or for the reasons of safety to persons or animals, the animal services supervisor may euthanize the cat or dog in a humane manner as soon after seizure he or she sees fit without permitting any person to claim possession of the cat or dog with no damage or compensation recoverable by any person.
- 5.7. Where the animal services supervisor deems it necessary to euthanize a cat or dog in accordance with Section 5.6. of this by-law, he or she shall first make every reasonable effort practical in the circumstances to contact the owner of the cat or dog and to permit the owner to transfer the animal, at the owner's expense, to the office of a veterinarian.
- 5.8. The animal services supervisor shall keep a record of all animals seized and impounded in accordance with this by-law.

6. Orders to Restrain

- 6.1. Where a dog has bitten or interfered with a person or domestic animal, an animal services officer may, at his or her discretion, order the dog to wear a muzzle or be leashed on a leash not exceeding 2 metres in length, or both, for a period of time to be determined by the animal services officer.
- 6.2. In addition to Section 6.1. of this by-law, where a dog has bitten or interfered with a person or domestic animal, an animal services officer may, at his or her discretion, order the owner of the dog to:
- 6.2.1. have the dog licensed with the Town in accordance with Section 3.1. of this by-law;
 - 6.2.2. have the dog spayed/neutered within 6 months of being served with the order;
 - 6.2.3. have the dog enrolled in obedience training classes within 6 months of being served with the order;

- 6.2.4. only allow the dog to be walked by a person over 16 years of age who is physically capable of restraining the dog; and/or
- 6.2.5. immediately cease taking the dog to any leash free area in the Town.
- 6.3. Clause 6.2.2. of this by-law shall not apply in situations where a veterinarian states, in writing, that the dog cannot be spayed/neutered due to health and/or medical risks to the dog.
- 6.4. Should the owner of the dog disagree with the order issued by an animal services officer, he or she may appeal the order to the Animal Services Appeal Committee within 10 business days of the order being served.
- 6.5. Upon receipt of an appeal, the Animal Services Appeal Committee shall, as soon as is possible, conduct a hearing and shall hear evidence presented by both the animal services officer and the owner of the dog.
- 6.6. In the interim, between the date of the order issued by the animal services officer and the date of the hearing by the Animal Services Appeal Committee, the owner of the dog shall comply with the conditions of the order.
- 6.7. On appeal of an order, the Animal Services Appeal Committee has the power to confirm, modify or quash an order issued by an animal services officer.
- 6.8. The decision of the Animal Services Appeal Committee shall be final and binding and the owner of the dog shall comply with the decision of the committee and the conditions of the order.
- 6.9. If an owner fails to appear at a hearing before the Animal Services Appeal Committee, the order shall be deemed to be in full force and effect as if no appeal had been filed.
- 6.10. No person or owner shall fail to comply with an order.

7. Feral Cat Colonies

- 7.1. A colony caretaker shall register a feral cat colony with the Town.
- 7.2. A colony caretaker shall complete any training or educational programs required by the Town.
- 7.3. A colony caretaker shall only operate a feral cat colony on a property where the colony caretaker is the owner of the property or has written consent from the owner of the property to operate.
- 7.4. No colony caretaker shall allow a feral cat colony to exceed a total population of 20 feral cats.
- 7.5. A colony caretaker shall deliver and surrender any kittens born into a feral cat colony to an animal services officer once they have reached five weeks of age or once they have been weened from their mother, whichever occurs later.

7.6. Kittens delivered to an animal services officer in accordance with Section 7.5. of this by-law will be socialized and made available for adoption through the Town's adoption program, whenever possible. In cases where a kitten cannot be socialized, the animal shall be returned to the colony caretaker.

8. Exceptions

8.1. The provisions of this by-law do not apply to a police dog.

9. Penalties

9.1. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of \$100,000.00, and in the case of a continuing offence, for each day or part of a day that the offence continues, an additional maximum fine of \$10,000.00 pursuant to the Municipal Act, 2001, S.O. 2001, c. 25.

10. Short Title

10.1. This by-law may be referred to as the Responsible Pet Ownership By-law.

11. Repeal of Existing By-laws

11.1. By-law # 5443-04, By-law # 6496-11 and By-law # 6639-12 are hereby repealed on the day that the Chief Judge of the Ontario Court (Provincial Division) approves set fines for offences under this by-law.

11.2. Notwithstanding Section 11.1. of this by-law, any orders issued under By-law # 5443-04, as amended, shall remain in full force and effect.

12. Effective Date

12.1. This by-law shall come into force and take effect on the day that the Chief Judge of the Ontario Court (Provincial Division) approves set fines for offences under this by-law.

By-law read and passed this 26th day of June, 2017.



Don Mitchell, Mayor



Christopher Harris, Town Clerk