



Town of Whitby

By-law # 7392-18

Prohibited and Regulated Animals By-law

Being a By-law to prohibit or regulate the keeping of animals within the Town of Whitby.

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

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

1. Definitions

- 1.1. "accredited facility" means a facility or operation that is certified and approved to operate by the Canadian Association of Zoos and Aquariums;
- 1.2. "agricultural property" means a property identified as an agricultural zone in the Town's Zoning By-laws;
- 1.3. "animal" includes any member of the animal kingdom, other than a human;
- 1.4. "animal services officer" means an employee of the Town whose duties include the enforcement of this by-law and related animal legislation and includes the animal services supervisor;
- 1.5. "animal services supervisor" means the animal services supervisor for the Town or his or her designate;
- 1.6. "at large" shall mean when an animal is found in any place other than on lands owned or lawfully occupied by its owner and when not under restraint of any person;
- 1.7. "domestic" describes an animal that has been tamed by humans and has, through selective breeding, become notably different from its wild ancestors, and includes animals derived from self-sustaining captive populations;
- 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. "livestock" means any domestic fowl, including but not limited to chickens, ducks, geese, turkeys, guinea fowl, swans and ostrich, domestic rabbits (when more than 3 rabbits are kept), horses, donkeys, mules, bulls, oxen,

- cows or other cattle, sheep, lamb, goats, pigs, llamas, mink, emus, alpacas, wild boar, bison, deer, elk, ponies, or rhea;
- 1.10. "owner" means the owner of an animal and includes a person possessing or harbouring an animal and, where the owner is a minor, the person responsible for the custody of the minor;
 - 1.11. "person" shall include an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a corporate body and a natural person;
 - 1.12. "pigeon" means a member of the widely distributed family of birds derived from self sustaining captive populations of Columbidae;
 - 1.13. "prohibited animal" means any animal identified as prohibited in Schedule A, which is attached to and forms part of this by-law;
 - 1.14. "rural area" means that portion of the Town identified as a rural area in Schedule B, which is attached to and forms part of this by-law;
 - 1.15. "Town" means The Corporation of the Town of Whitby or the geographic boundaries of the Town of Whitby, as the context requires;
 - 1.16. "urban area" means that portion of the Town identified as an urban area in Schedule B, which is attached to and forms part of this by-law;
 - 1.17. "wildlife" means an animal indigenous to North America that is wild by nature as includes game wildlife and protected wildlife identified in the Schedules of the Fish and Wildlife Conservation Act, 1997, as amended;
 - 1.18. "wildlife rehabilitator" means a person who is authorized by the Ministry of Natural Resources to care for wildlife in distress until they can be released back into the wild;

2. Interpretation

- 2.1. When reading and interpreting this by-law,
 - 2.1.1. 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;
 - 2.1.2. 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;
 - 2.1.3. references in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable;

- 2.1.4. the words "include", "includes" or "including" are not to be read or interpreted as limiting the words, phrases or descriptions that precede them; and
- 2.1.5. the words or references in this by-law that are not defined herein shall be interpreted in accordance with their plain, ordinary, and common dictionary meaning.
- 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. Regulation

- 3.1. No person shall keep, own, harbour, or possess any prohibited animal.
- 3.2. No person shall keep, own, harbour, or possess any wildlife.
- 3.3. No person shall keep, own, harbour, or possess livestock other than on an agricultural property in the rural area which is at least five (5) acres in size.
- 3.4. No person shall keep, own, harbour, or possess honeybees unless the keeping of the bees complies with the Bees Act, R.S.O. 1990, c. B.6., as amended.
- 3.5. No owner of an animal shall allow their animal to be at large.

Exemptions

- 3.6. Section 3.1., 3.2., and 3.3. of this by-law shall not apply to:
 - 3.6.1. an animal services officer, while in the course of their duties;
 - 3.6.2. an animal sheltering facility owned or operated by the Town, including its employees and agents, while in the course of their duties;
 - 3.6.3. an agent of the Ontario Society for the Prevention of Cruelty to Animals or a police officer while in the course of their duties;
 - 3.6.4. the premises of an accredited veterinary hospital, including its employees and agents, under the care and supervision of a veterinarian licensed to practice in the Province of Ontario;
 - 3.6.5. a permanent accredited facility, including but not limited to a zoo or aquarium, provided that the use and location of the facility complies with the Town's Zoning By-laws and all other applicable legislation;
 - 3.6.6. with the exception of venomous animals, a temporary or mobile accredited facility, provided that the temporary or mobile accredited

facility is limited to no more than five (5) days in any one location and animals are safely contained when not on exhibit, provided that the temporary or mobile facility complies with all other applicable legislation;

- 3.6.7. a medical or educational institution where animals are being kept for research, study, or teaching purposes, provided such institution is registered as a research facility in accordance with the Animals for Research Act, R.S.O. 1990, c. A. 22, as amended;
 - 3.6.8. a person holding a licence issued by the Federal or Provincial government permitting the keeping of animals, subject to the terms and conditions of the licence;
 - 3.6.9. a person conducting an animal exhibition on premises approved by the Town, including but not limited to a circus or petting zoo; or
 - 3.6.10. a person transporting an animal for immediate surrender to an animal services officer, agent of the Ontario Society for the Prevention of Cruelty to Animals, a police officer, veterinarian, or accredited facility.
- 3.7. Section 3.2. of this by-law shall not apply to a wildlife rehabilitator or the premises of a wildlife rehabilitator provided the premises is an agricultural property in the rural area which is at least five (5) acres in size.

Keeping of Pigeons

- 3.8. Every owner of domestic pigeons shall,
- 3.8.1. keep a maximum of eighty (80) pigeons at any time;
 - 3.8.2. be a member of a recognized pigeon club which is affiliated with a national organization;
 - 3.8.3. ensure each pigeon in their possession wears a metal or plastic leg band that identifies the owner of the bird, and shall register leg bands with a recognized pigeon club which is affiliated with a national organization;
 - 3.8.4. ensure that pigeons are not kept in, upon or under any building used for human habitation;
 - 3.8.5. keep all pigeons in suitable bird enclosures of a size to house the birds, which shall provide a minimum size of 0.25 cubic meters (9 cubic feet) of air space per pigeon;
 - 3.8.6. ensure that all bird enclosures are constructed in a manner to prevent the accidental escape of pigeons;

- 3.8.7. ensure that all bird enclosures are located a minimum distance of one (1) metre from any dwelling, shop or apartment building, and from any adjoining property line;
- 3.8.8. ensure that pigeons do not stray, perch, roost, nest or rest upon any premise other than the premise of the owner of the pigeons;
- 3.8.9. maintain all bird enclosures through regular painting or the installation of permanent siding which shall be maintained in good condition;
- 3.8.10. lime wash, paint or disinfect the inside walls and ceilings of all bird enclosures, a minimum of two times per calendar year, save and except those outdoor runs which are enclosed solely with wire;
- 3.8.11. remove and dispose of, in a sanitary manner, a minimum of two times per week, all pigeon droppings and refuse within or adjacent to all bird enclosures;
- 3.8.12. store all pigeon feed in rodent-proof containers;
- 3.8.13. keep all equipment associated with the keeping of pigeons under suitable cover, which does not create an unsightly condition;
- 3.8.14. keep all pigeons enclosed within bird enclosures at all times, except to allow a maximum of two daily, two hour flight periods during which time no more than fifty (50) percent plus one bird, of the total number of pigeons being kept shall be permitted to be at large, it being understood that this provision shall not apply to members of a racing pigeon club when the members are participating in a bona fide flight conducted by the club; and
- 3.8.15. feed pigeons only while they are inside of a bird enclosure.

Keeping of Ferrets, Chinchillas, and Domestic Rabbits

- 3.9. No person shall, keep, own, harbour, or possess more than two (2) domestic ferrets or chinchillas in or about a dwelling unit.
- 3.10. No person shall, keep, own, harbour, possess more than three (3) domestic rabbits in or about a dwelling unit.

Feeding of Waterfowl

- 3.11. No person shall feed waterfowl on Town property unless he or she has been authorized in writing to do so by the Town.

Control of Animals at Large

- 3.12. Any person shall be permitted to take charge of any animal found at large and shall forthwith deliver the animal to an animal services officer.

- 3.13. Nothing in Section 3.12. of this by-law confers upon any person the right to enter any dwelling unit or premises;
- 3.14. An animal services officer may seize and impound any animal delivered to him or her pursuant to Section 3.12. of this by-law or found at large in the Town, or at the request of Whitby Fire and Emergency Services or the Durham Regional Police Service.
- 3.15. An animal services officer shall restore possession of an animal to the owner where,
 - 3.15.1. the owner claims possession of the animal;
 - 3.15.2. 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;
 - 3.15.3. 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;
 - 3.15.4. the owner pays the full cost of any veterinary care received by the animal while impounded; and
 - 3.15.5. the owner demonstrates that the place at which they intend to keep the animal is not within an area of the Town where the keeping of such an animal is prohibited by this by-law.
- 3.16. Where on the sixth day after the date of seizure and impounding, exclusive of Sundays and Statutory Holidays, possession of the animal has not been restored to the owner in accordance with Section 3.15. of this by-law, the animal services supervisor may, at his or her discretion,
 - 3.16.1. sell or make a gift of the animal;
 - 3.16.2. otherwise dispose of the animal;
 - 3.16.3. transfer the animal to another animal welfare or animal rescue agency; or
 - 3.16.4. humanely euthanize the animal, with no damage or compensation recoverable by any person.
- 3.17. Where an animal seized or impounded should be euthanized without delay for humane reasons, or for reasons of safety to persons or animals, the animal services supervisor may euthanize the animal in a humane manner as soon after seizure he or she sees fit without permitting any person to claim possession of the animal with no damage or compensation recoverable by any person.

3.18. Where the animal services supervisor deems it necessary to euthanize an animal in accordance with Section 3.17. of this by-law, he or she shall first make every reasonable effort practical in the circumstances to contact the owner of the animal.

3.19. The animal services supervisor shall keep a record of all animals seized and impounded in accordance with this by-law.

4. Schedule(s)

4.1. Schedule A – Prohibited Animals.

4.2. Schedule B – Maps of Urban and Rural Areas.

5. Enforcement and Penalties

5.1. An animal services officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been complied with.

5.2. No person shall prevent, hinder, or interfere, or attempt to prevent, hinder, or interfere with an inspection by an animal services officer.

5.3. 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, as amended.

6. Short Title

6.1. This by-law may be referred to as the Prohibited and Regulated Animals By-law.

7. Repeal of Existing By-law

7.1. By-law # 3436-94, By-law # 3669-95, By-law # 4816-01, and By-law # 6888-14 are repealed.

8. Effective Date

8.1. This by-law shall come into force and effect on the day it is passed.

By-law read and passed this 16th day of April, 2018.

Original Approved and Signed.

Don Mitchell, Mayor

Original Approved and Signed.

Christopher Harris, Town Clerk

Schedule A – Prohibited Animals

In the following tables are the prohibited classes or categories of animals with specific exemptions provided for each class or category. A class represents the ordering of organisms into groups, based on their relationships.

Class	Prohibited	Exceptions
Mammalia (Mammals)	All	Domestic dogs, cats, chinchillas, degus, ferrets, hamsters, mice, rabbits, rats, and sugar gliders in accordance with the provisions of this by-law and the Town's Responsible Pet Ownership By-law. Livestock kept on an agricultural property in the rural area which is at least five (5) acres in size.

Class	Prohibited	Exceptions
Reptilia (Reptiles)	All	Constricting and non-venomous serpents (snakes) that are less than two (2) metres in length. Non-venomous lizards that are less than two (2) metres in length. Testudines (tortoises and turtles) that are not of the snapping variety.

Class	Prohibited	Exceptions
Amphibia (Amphibians)	All	Non-venomous Anura (frogs and toads) and Caudate (salamanders and newts)

Schedule A – Prohibited Animals (continued)

In the following tables are the prohibited classes or categories of animals with specific exemptions provided for each class or category. A class represents the ordering of organisms into groups, based on their relationships.

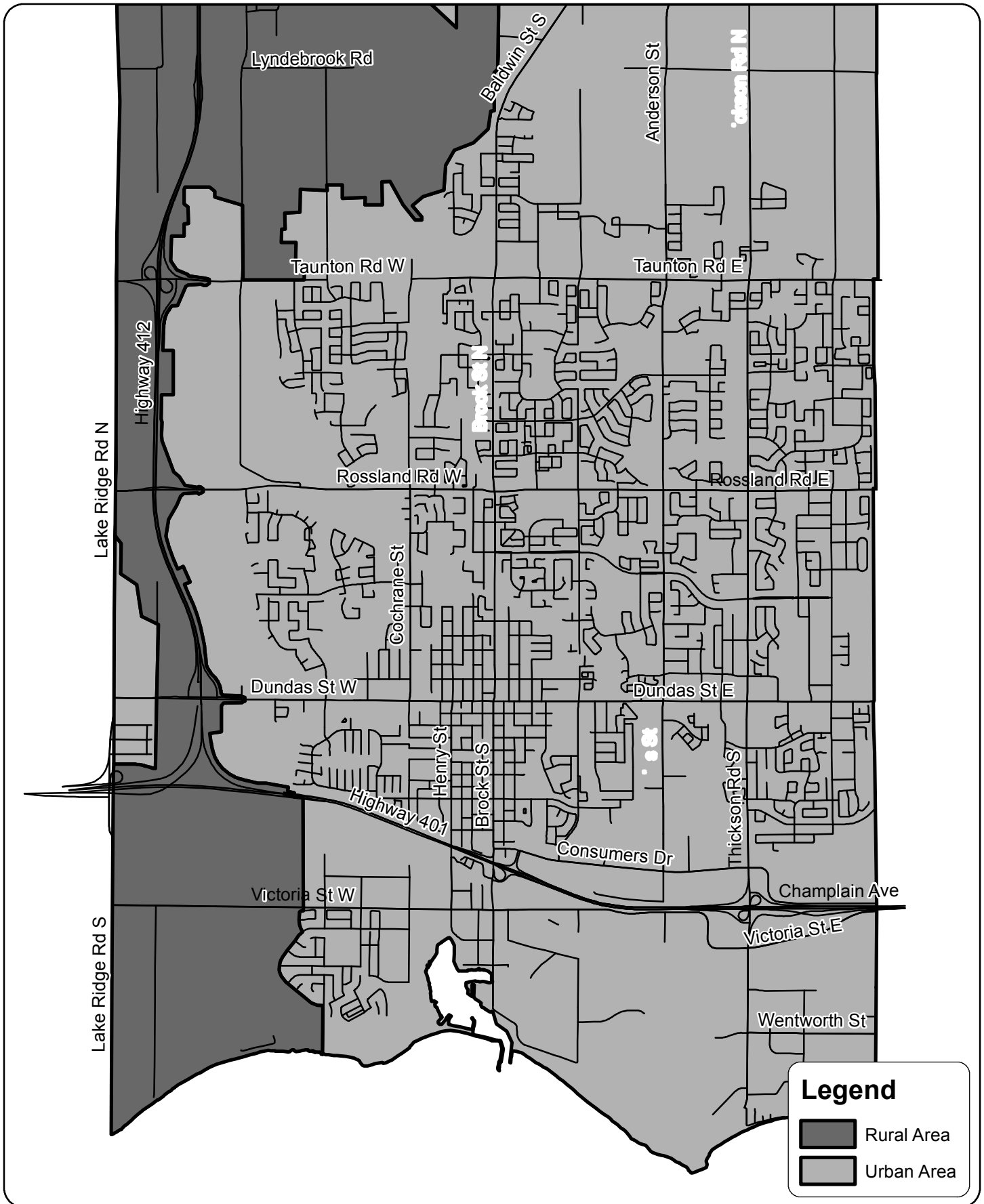
Class	Prohibited	Exceptions
Aves (Birds)	All	Orders of birds kept as livestock on an agricultural property in the rural area which is at least five (5) acres in size. Orders of birds kept as household pets including Columbidae (pigeons and doves), Passeriformes (perching birds and song birds), and Psittaciformes (parrots).

Class	Prohibited	Exceptions
Insecta (Insects)	All	All non-venomous insect include non-venomous Arachnida (spiders) and Chilopoda (centipedes). Apoidea of the honeybee variety provided the keeping of the bees complies with the Bees Act, R.S.O. 1990, c. B.6., as amended

Class	Prohibited	Exceptions
Salt and fresh water organisms	All venomous vertebrates and invertebrates	None

Schedule B - Urban and Rural Area

To By-law # 7392-18



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