

TOWN OF MARKHAM
Ontario



BY-LAW 2005-254

ANIMAL CONTROL BY-LAW

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

(Consolidated for convenience only to June 12, 2012)
(Schedule/Attachment Included)

Amended by:

By-law 2006-121 – June 13, 2006

By-law 2012-136 – June 12, 2012



BY-LAW 2005-254

Animal Control 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 Town;

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;

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

SECTION 1- DEFINITIONS

1. 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 Town of Markham to enforce the Town of Markham Animal Care and Control By-law;

“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;

"Companion animal" - means an animal specifically trained and used as a companion animal for residents of a Health Care Facility or an Assisted Living Centre;

”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 Town;

“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 used or kept for agricultural purposes;

“Manager” - means the Manager of By-law Enforcement and Licensing for the Town, 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” - means a humane fastening or covering device of adequate strength placed over the mouth of an animal to prevent it from biting and the words “muzzled” and “muzzling” have a similar meaning;

“OSPCA” - means the Ontario Society for the Prevention of Cruelty to Animals;

“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 Town 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;

"Personal Assistance Dog" - means a dog certified by the Canadian National Institute of the Blind, or Hearing Dogs of Canada, or a dog trained as a helper for a physically challenged person, or a dog that is regularly used as a therapy dog in institutional settings for which written confirmation required;

“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;

“Pound” - means such premises and facilities designated as the Town’s Animal Shelter and Pound which are 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;

“*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 Town 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;

“Running 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 Town to be an off-leash park;

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

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

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

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

“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;

“Wildlife Rehabilitator” - means a place where wildlife which are injured or in distress are rehabilitated by a person or persons authorized by the Ontario Ministry of Natural Resources or Canadian Wildlife Services;

“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.

SECTION 2- CARE OF ANIMAL PROVISIONS

RESPONSIBILITY TO CARE FOR ANIMALS

- 2.1 Every person who keeps an animal within the Town'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.

KEEPING ANIMALS UNDER SANITARY CONDITIONS

- 2.2 (1) No person shall keep an animal within the Town in an unsanitary condition.
- (2) For the purposes of subsection 2.2(1), 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,

TETHERS

- 2.3 (1) 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) Notwithstanding subsection 2.3(1)(a), 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.

PROTECTIVE CARE

- 2.4 (1) The Town 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) Animals which are received into protective care by the Town shall only be kept on a temporary basis for up to a maximum of five days.
- (3) When the Town receives an animal into protective care, the owner of the animal shall pay to the Town the per diem sheltering fees as outlined in *By-law 2002-276 (Fee By-law)*, as amended and all costs incurred on behalf of such animal by the

Town for all required veterinary medical care prior to redeeming the animal.

- (4) 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 Town 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 Town in accordance with subsection 3.1(2) and pay an annual tag and licence fee as specified in *By-law 2002-276 (Fee By-law, 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 Town 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 2002-276 (Fee 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 Town 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 Town 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.

RUNNING AT LARGE

- 3.2
- (1) No owner of a dog shall cause or permit the dog to run at large in the Town.
 - (2) For the purpose of this section, a dog shall be deemed to be running at large if found in any place other than the premises of the owner of the animal and is off-leash.
 - (3) 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.
 - (4) 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 running at large or is off-leash in contravention of section 3.2 of this by-law and may cause such dog to be delivered to the Pound.
 - (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:
 - (a) When a dog is identified with a current dog tag, provide such dog with a "free ride home"; or
 - (b) When a dog is not identified, deliver the dog to the facility designated as the Town's Pound and shall place the dog under the control of the Pound Keeper.
 - (4) The Pound Keeper shall keep any impounded dog at the Pound for a minimum of five days, exclusive of the day of impoundment, statutory holidays, or days when

the Pound 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 Town a per diem impoundment fee in the amount specified in *By-law 2002-276 (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 Town the costs incurred for veterinary care provided while the dog was impounded; and
 - (d) take such other action as the Pound Keeper 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 Town and the Town may:
 - (a) keep, transfer, sell or euthanize the dog in accordance with the provisions of the *Animals for Research Act* and the *Dog Owners' Liability Act*;
 - (b) put the dog up for adoption upon the payment of an adoption fee; or
 - (c) 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 Pound Keeper a seized and impounded dog is injured or ill and should be euthanized without delay for humane reasons, the Pound keeper may euthanize the dog without permitting any person to reclaim the dog in accordance with the *Animals for Research Act*.

- (8) Notwithstanding subsection 3.3(4), where a pit bull or restricted pit bull is impounded pursuant to the provisions of this by-law or is delivered or transferred to the Pound pursuant to the provisions of the *Dog Owners' Liability Act*, the Pound Keeper shall comply with the provisions of the *Dog Owners' Liability Act* and the *Animals for Research Act* for the purposes of the redemption of the dog by the owner and for transferring or destroying the dog.

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) 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 bite occurred on private property, the Town shall 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 first bite has occurred on public property, or where the bite is a second or subsequent bite on either public or private property in the Town, the Town shall 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 Town 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 registered mail to the last known address of the owner of the dog.
- (4) Service of a Written Warning or Notice to Muzzle by registered 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 Animal Services Officer by making such a request in writing and mailing or delivering it to the Manager of By-law Enforcement and Licensing 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 Animal Services Officer has been fixed and the owner who has been given notice of the hearing does not attend at the appointed time and place, the Animal Services Officer may proceed in the absence of the owner and the owner will not be entitled to any further notice in the proceedings.

- (8) The Animal Services Officer 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 Tribunal considers appropriate; and
 - (c) confirm the requirements of the Notice to Muzzle.
- (9) The Animal Services Officer shall hold the hearing pursuant to the provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended.

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 Town, 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 Town 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 Town 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 Town 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 Town: to be kept in or about a dwelling unit in the Town shall not exceed two (2), unless such premises are licensed by the Town as a Kennel.

- (2) 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 Town in accordance with the provisions of this by-law within ninety (90) days of the date that the By-law comes into force.

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 Town in accordance with subsection 4.1(2) and pay an annual tag and licence fee as specified in *By-law 2002-276 (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 Town is securely affixed on the collar of the cat at all times, irregardless whether the cat has received a microchip identification implant; and
 - (d) obtain a replacement tag at a fee specified by the Town 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 Town 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 subsection 4.1(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 Town 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 Town shall permit his/her cat to run 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) For the purpose of this section, a cat shall be deemed to be running 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 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 4.3 (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 provided with a "free ride home"; or
 - (b) where such cat is not identified, such cat shall be impounded in the Pound, under the control of the Town's Pound keeper.
- (4) The Pound Keeper shall keep any impounded cat at the pound for a minimum of five days, exclusive of the day of impoundment, statutory holidays, or days when the pound 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 Town a per diem impoundment fee in the amount specified in *By-law 2002-276 (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 Town the costs incurred for veterinary care provided while the cat was impounded; and
 - (d) take such other action as the Pound Keeper or the Town 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 Town and the Town may:
- (a) keep, transfer, sell or euthanize the cat in accordance with the provisions of the *Animals for Research Act*;
 - (b) put the cat up for adoption upon the payment of a adoption fee; or
 - (c) 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 Pound Keeper a seized and impounded cat is injured or ill and should be euthanized without delay for humane reasons, the Pound Keeper 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 Town 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 Town 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), 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 Town within 90 days of date that this by-law comes into force

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 Town to be held by the Town 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 Town unless the area is zoned for that purpose.
 - (2) The Pound Keeper, or any person acting under the authority of the *Pounds Act* may impound or restrain any livestock which is running at large and impound it at a place designated as the pound for that purpose.
 - (3) In the event that 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 Pound Keeper may authorize the tranquilizing or euthanize the livestock.

SECTION 7- KEEPING OF DOMESTIC PIGEONS

- 7.1
- (1) No person shall keep domestic pigeons or doves, or both, in the Town unless:
 - (a) the owner of the pigeons is a member of a recognized pigeon club which is affiliated with a national pigeon association;
 - (b) the pigeons or doves are not kept in, upon, or under any building used for human habitation;
 - (c) all pigeons and doves are kept 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) the bird loft shall be located 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;
 - (e) the maximum number of pigeons and doves permitted to be kept by any person on any property in the Town shall be thirty (30);
 - (f) each pigeon and dove shall wear a metal or plastic leg band that shall identify the owner of the bird;
 - (g) the pigeons or doves shall not be permitted to stray, perch, roost, nest or

- (h) rest upon any premises other than on the premises of the owner; and the owner of the pigeons 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 Town 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 Town.
- (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 Town designated for agricultural land use.

SECTION 10- TRAPPING OF WILDLIFE

- 10.1 (1) No person shall use the following traps within the Town 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 Town unless authorized to do so by the Manager or Poundkeeper and provided the removal is done in a humane way.

SECTION 12- KEEPING OF CERTAIN ANIMALS PROHIBITED

- 12.1 (1) No person shall keep, either on a temporary or permanent basis any “prohibited animal” as listed in *Schedule “A”- Prohibited Animals* in the Town.
- (2) Notwithstanding subsection 12.1(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 Town within 30 days of the date that the by-law comes into effect.
 - (3) The provisions of this section not apply to:
 - (a) any of the Town’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 Town;
 - (e) the premises or facilities accredited by the Canadian Association of Zoos and Aquaria (CAZA);
 - (f) the areas of the Town in which professionally produced films are made using such animals, provided that there is supervision by Inspectors of the Ontario Humane Society or one of its affiliates or branches and complies with subsection 26 of this By-law;
 - (g) the areas of the Town in which educational programs are being conducted with animals, provided that the animals are owned by institutions accredited by CAZA or the American Zoo and Aquarium Association, and only while the educational programs are actually conducted, provided that such programs are limited to three days at any one location;
 - (h) premises registered as research facilities pursuant to the *Animals for*

Research Act, R.S.O. 1990.c.A.22;

- (i) any such further or other premises as deemed appropriate and identified by the Manager; and
- (j) the premises of an exhibit, public show, circus, carnival or other display or act of entertainment that meets the requirements of subsection 13.1(1) of this By-law.

- (4) Notwithstanding Clause 12.1(1), a person may keep a Prohibited Animal listed in *Schedule "A" - Prohibited Animals* in the Town subject to obtaining a license for a Prohibited Animal from the Town in accordance with the provisions of this by-law.

(Amended by By-law No. 2006-121)

- (5) (a) An application for the initial license to keep a Prohibited Animal shall be referred to Council for a determination as to whether a license should be issued.

(Amended by By-law No. 2006-121)

- (b) Council may have regard to the following criteria when determining whether to grant a license to keep a Prohibited Animal:

- (i) whether keeping the Prohibited Animal could pose risk to the health and safety of residents within the Town;
- (ii) whether keeping the Prohibited Animal could pose a risk to the health and safety of other non-prohibited animals and wildlife within the Town;
- (iii) whether keeping the Prohibited Animal could be a nuisance for other residents within the Town;
- (iv) whether the applicant has demonstrated the ability to provide and maintain species appropriate housing and environment for the Prohibited Animal;
- (v) whether the applicant has demonstrated the ability to provide the proper nutritional foods required by the Prohibited Animal;
- (vi) if the animal requires "live" food, whether the use of the "live" food source could create a nuisance;
- (vii) whether the applicant has demonstrated an ability to meet the social and behavioral needs of the Prohibited Animal;
- (viii) whether the applicant has alternate housing available for the Prohibited Animal in the event the license is not renewed or

should the owner no longer wish to keep the Prohibited Animal;

- (ix) whether the applicant has alternative housing available for any potential offspring of the Prohibited Animal;
- (x) whether the Prohibited Animal would be incompatible with other animals within animal shelters or with other animals in residential settings; or
- (xi) any such other circumstances that Council deems appropriate.

(Amended by By-law No. 2006-121)

(6) Upon considering an application pursuant to subsection 12.1(5), Council may:

- (a) deny the issuance of a license;
- (b) issue a license; or
- (c) issue a license subject to any conditions that Council deems appropriate.

(Amended by By-law No. 2006-121)

(7) (a) An application for a renewal of a license to keep a Prohibited Animal issued by Council shall be referred to the Licencing Officer for determination as to whether a renewal license should be granted.

(b) When determining whether a license to keep a Prohibited Animal should be renewed, the Licensing Officer shall give regard to:

- (i) the criteria set out in subsection 12.1(5);
- (ii) whether the applicant has complied with any conditions imposed on the license issued by Council or as part of a prior license renewal; and
- (iii) whether the applicant has complied with all applicable by-laws and all other applicable laws and regulations.

(Amended by By-law No. 2006-121)

(8) Upon considering an application to renew a license pursuant to subsection 12.1(7), the Licensing Officer may:

- (a) deny the issuance of a renewal license;
- (b) issue a renewal license; or

- (c) issue a renewal license subject to any conditions that the Licensing Officer deems appropriate.

(Amended by By-law No. 2006-121)

- (9) Every applicant for a Prohibited Animal license or renewal thereof shall complete such license application forms or license renewal forms as may be provided from time to time by the Town, which shall include the following information:

- (a) name, address, telephone numbers of the animal owner;
- (b) name, age, gender, class; type of animal;
- (c) copies of provincial/ federal registrations or licences of the animal;
- (d) copies of medical history and records of the animal, including vaccinations;
- (e) any owner membership/ affiliation with international, national, or provincial associations associated with the animal;
- (f) details of the animal's proposed housing, including the location and construction material;
- (g) details of the animal's feeding habits and how the animal is to regularly fed; and
- (h) details of the proposed use or outdoor activities of the animal, including methods of controlling and securing the animal.

(Amended by By-law No. 2006-121)

- (10) At the time of submission of an application for a Prohibited Animal license or renewal thereof, every applicant shall pay to the Town the fee prescribed pursuant to By-law 2002-276.

(Amended by By-law No. 2006-121)

- (11) Receipt of an application and/or the license fee by the Town shall not represent approval of the application for the issuance or renewal of a license nor shall it obligate the Town to issue or renew such license.

(Amended by By-law No. 2006-121)

- (12) A license to keep a Prohibited Animal or renewal thereof is non-assignable and non-transferable and shall only be valid for the location endorsed thereon.

(Amended by By-law No. 2006-121)

- (13) Every licence issued in accordance with subsections 12.1(6) or (8) shall expire on December 31 each year it is issued or renewed or sooner if the license holder ceases to be the owner or keeper of the licensed Prohibited Animal.

(Amended by By-law No. 2006-121)

- (14) An application for a renewal of a license to keep a Prohibited Animal shall be submitted to the Town by December 1st each year.

(Amended by By-law No. 2006-121)

- (15) The Licensing Officer may revoke a license or not renew a licence issued under subsection 12.1 (6) or 12.1(8) where there are reasonable grounds for the belief that:

- (a) the keeping of the Prohibited Animal by the applicant or licensee has or will breach this by-law or any other applicable law or regulations;
- (b) the keeping of the Prohibited Animal by the applicant or licensee has or will result in a breach of a condition imposed on the issuance of the license;
- (c) the Prohibited Animal has not or will not be kept in accordance with the criteria listed in subsection 12.1 (5) (b) or 12.1(7)(b);
- (d) the applicant or licensee has failed to provide or will not provide adequate or proper food, health care, or for the social well-being of the Prohibited Animal;
- (e) the issuance or renewal of the license has or will be contrary to the public interest;
- (f) the keeping of the Prohibited Animal has or will create a public nuisance;
or
- (g) the keeping of the Prohibited Animal has or will infringe the rights or endanger the health or safety of other members of the public.

(Amended by By-law No. 2006-121)

- (16) (a) Where the Licensing Officer revokes or refuses to renew a licence pursuant to subsection 12.1(15), the Licensing Officer shall provide written notice of his/her decision to the applicant.

- (b) An applicant who has been served with a written notice made pursuant to section 12.1(16)(a) may appeal the decision of the Licensing Officer by submitting a letter of appeal to the Town Clerk within fourteen (14) days from the date the written notice is sent by the Licensing Officer.

- (c) Where no appeal is received by the Town Clerk from a notice to revoke or refuse to issue a licence, then the decision of the Licensing Officer shall be final and binding and a license shall be deemed to be revoked on the fifteenth (15th) day after it has been sent by the Licensing Officer.

- (d) Appeals of the decision to revoke or not renew a licence will be heard by the Licensing Committee of Council. Where an appeal is received, the licence shall continue in effect until a decision is made on the appeal. If the decision is to affirm the revocation of the licence, the date of revocation shall be on the fifteenth (15th) day following the decision.
(Amended by By-law No. 2006-121)
- (17) Where an applicant has appealed the refusal or revocation of a license by the Licencing Officer, then the Licensing Officer shall prepare a report setting out the grounds upon which the Licensing Officer has refused or revoked the license and shall seek the Licensing Committee's direction with respect to the renewal or revocation of the license.
(Amended by By-law No. 2006-121)
- (18) At any meeting of the Licensing Committee called in relation to the refusal or revocation of a license by the Licensing Officer, the Licensing Committee shall review the report of the Licencing Officer advising of the grounds for the decision to revoke or not review a licence and may:
- (a) uphold the decision to revoke or not renew a licence;
 - (b) impose special conditions as a requirement to obtain, continue to hold or renew a licence; or
 - (c) direct the renewal or continuation of the licence.
(Amended by By-law No. 2006-121)
- (19) Notwithstanding subsection 12.1(13), the Licensing Officer may extend a license where an application for a renewal of the license has been made, a hearing by the Licensing Committee has been requested by the applicant and the final disposition of the application remains outstanding by December 31st of the year in which the renewal application was made.
(Amended by By-law No. 2006-121)
- (20) At any meeting of the Licensing Committee called in relation to a report to determine the renewal or revocation of a license:
- (a) the applicant will be accorded its rights pursuant to the *Statutory Powers and Procedure Act* including the right to appear and speak to the matter; and
 - (b) when an applicant has been provided with a notice of the meeting of the Licensing Committee and does not attend, the Licensing Committee may proceed with the meeting in the absence of the applicant.
(Amended by By-law No. 2006-121)

SECTION 13 - ANIMALS USED IN EXHIBITS, ENTERTAINMENT AND PERFORMANCES

- (1) No person shall operate or carry on any exhibit, public show, circus, carnival or other display or act of entertainment in the Town 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:
 - (a) the exhibitor or the owner of such animals is a member of, and accredited by either the Canadian Association of Zoos and Aquaria (CAZA) or the American Zoo and Aquarium Association, or is otherwise licensed by an appropriate authority;
 - (b) 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;
 - (c) 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
 - (d) the animals are provided with a species-appropriate living environment while in the Town.

- (2) A person may operate a:
 - (a) a petting-zoo;
 - (b) agricultural show or exhibit; or
 - (c) pet show and other animal show;

in the Town provided that the animals used or kept are not exotic animals or prohibited animals as identified on *Schedule "A"- Prohibited Animals*, and the use complies with all applicable zoning by-laws of the Town.

SECTION 14 - NOISE FROM ANIMALS

- 14.1 (1) No person shall keep, own, or harbour any animal in the Town which makes or causes noises that disturbs or is likely to disturb the quiet, rest, enjoyment, or comfort of:
- (a) any person in any dwelling, apartment, store or place of business;
 - (b) any person in the vicinity or neighbourhood.

SECTION 15- KENNELS

- 15.1 (1) No person shall operate a kennel within the Town 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 2002-276 (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 Town;
 - (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 Town to inspect the premises for the purpose of determining compliance with the By-law.

SECTION 16- OFFENCES

- 16.1 Every person who contravenes any of the provisions of this By-law, or who obstructs or attempts to obstruct a Municipal Law Enforcement Officer or an employee or agent of the Corporation in carrying out his or her duties under this by-law is guilty of an offence and is liable, upon conviction, to a maximum fine as established pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

SECTION 17- REPEAL

- 17.1 By-law 2001-23, as amended, A By-law to regulate the keeping of animals in the Town of Markham including provision for animal identification, and By-law 182-96, as amended, A By-law to prohibit the keeping of certain classes of animals and to regulate the keeping of certain other classes of animals in the Town of Markham are repealed by the passing of this by-law.

SECTION 18- SEVERABILITY

18.1 Where a Court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the Court makes an order to the contrary.

SECTION 19- SHORT TITLE

19.1 This By-law may be referred to as the “Animal Control By-law”

SECTION 20- EFFECT

20.1 This By-law shall come into force on the date when a set fine Order is obtained from the Chief Judge of the Ontario Court Division for offences created by this By-law for the purpose of proceedings commenced under Part I of the *Provincial Offences Act*, R.S.O. 1990, c.P. 33, as amended.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
28TH AND 29TH DAY OF JUNE, 2005.

“Sheila Birrell”

SHEILA BIRRELL
TOWN CLERK

“Frank Scarpitti”

FRANK SCARPITTI
DEPUTY 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 read an adult length larger than three meters;

All other lizards that read an adult length larger than two meters.

13. **Birds** (Alves) All predatory or large birds, including but not limited to, Eagle, Hawk, Flacon, 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** (Proboscides)
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*) (Amended by By-law 2012-136)