

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 5443-04

**BEING A BY-LAW TO REGULATE THE KEEPING OF CATS AND DOGS**

WHEREAS, Section 11 of the Municipal Act, S.O. 2001, c.25, as amended, provides that a lower-tier municipality may pass by-laws respecting animals;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it necessary and expedient to pass a by-law to regulate the keeping of cats and dogs in the Town of Whitby;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

**DEFINITIONS**

1. In this by-law,
  - (a) "animal services supervisor" means the animal services supervisor employed by the Corporation of the Town of Whitby or his or her designate;
  - (b) "animal services officer" means,
    - (i) a person or class of persons designated as such by a by-law of the Town and includes an animal control and pound attendant; and,
    - (ii) the animal services supervisor;
  - (c) "blind person" means a person to whom an identification card has been issued by the Attorney General or an officer of his or her Ministry, pursuant to the provisions of the Blind Persons' Rights Act, R.S.O. 1990, c. B.7;
  - (d) "cat" means a feline of the species felis catus;
  - (e) "dog" means a canine of the species canis familiaris;
  - (f) "dog guide" means a dog trained as a guide for a blind person and having the qualifications prescribed by the regulations made under the Blind Persons' Rights Act, R.S.O. 1990, c.B.7;
  - (g) "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 from a common hallway or stairway inside and which is located in a residentially zoned part of the Town;

- (h) "owner" includes a person possessing or harbouring a cat or dog within the Town and, where the owner is a minor, the person responsible for the custody of the minor;
- (i) "tag" means a disc or other shape of metal or plastic furnished by the Town as hereinafter provided and suitable to be securely fixed on a cat or dog for the purpose of identification;
- (j) "Town" means the Corporation of the Town of Whitby; and,
- (k) "veterinarian" means a person registered to practice veterinary science under the Veterinarians Act, R.S.O. 1990, c. V.13, as amended.

### **REGISTRATION OF CATS AND DOGS**

- 2.(1) Every owner of a cat or dog over the age of 12 weeks shall register the animal with the Town and shall maintain the registration in good status.
- (2) Every owner of a cat or dog shall annually renew the registration on or before the 1<sup>st</sup> day of April in every year unless such owner has obtained a lifetime tag for the animal from the Town.
- (3) Before registering any cat or dog, the Town shall require the owner of the animal to produce evidence satisfactory to the Town that the cat or dog has been inoculated with a rabies vaccine and that the vaccination is current.
- (4) Every owner of a cat or dog shall at the time of registering the animal pay a registration fee to the Town in accordance with the following schedule of fees:
  - (a) an annual registration fee in the amount of twenty dollars (\$20.00) for a spayed or neutered animal, or alternatively, a one-time registration fee in the amount of thirty-five dollars (\$35.00) valid for the life of the spayed or neutered animal; or,
  - (b) an annual registration fee in the amount of forty dollars (\$40.00) for an unaltered cat or dog;
- (5) The registration fee set out in Subsection 2(4) of this by-law shall be reduced by an amount of five dollars (\$5.00) for an animal implanted with microchip identification.
- (6) Upon payment of the registration fee, the owner shall be furnished with a tag and shall keep the tag securely fixed on the cat or dog at all times.

- (7) A tag shall bear an identification number and a record shall be kept by the Town Clerk or other person designated for that purpose showing the name and address of the owner and the identification number of the tag.
- (8) If a tag is lost or misplaced for any reason, the owner shall make application for, and upon payment of a replacement fee of five dollars (\$5.00), shall be entitled to a replacement tag.

### **CONTROL OF CATS AND DOGS**

- 3.(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 premise or the owner of the cat or dog, and not under the control of any person.
- (2) Every owner of a dog shall keep the dog leashed and under the control of a person when the dog is off the premise of the owner, unless prior consent is given by the person owning the land on which the dog is found.
- (3) No owner of a dog shall knowingly or not knowingly allow the dog to interfere with or bite a person or domestic animal.
- (4) No owner of a cat or dog shall knowingly or not knowingly allow the cat or dog to run at large within the limits of the Town.
- (5) Any person shall be entitled to take charge of any cat or dog found running at large but shall forthwith deliver the cat or dog to an animal services officer.
- (6) Nothing in this section confers on any person a right to enter any premise.
- (7) An animal services officer may seize and impound any cat or dog,
  - (a) delivered to him or her under the provisions of Section 3 of this by-law; or,
  - (b) found running at large.
- (8) An animal services officer shall restore possession of a cat or dog to the owner only where,
  - (a) the owner claims possession of the cat or dog; and,
  - (b) the owner pays to the Town an impoundment fee in the amount of fifteen dollars (\$15.00) for each day or part thereof that the cat or dog is impounded;
  - (c) the cat or dog is registered under Section 2 of this by-law or shown to be exempt from registration; and,

(d) the owner pays to the Town the cost of any veterinary care received by the cat or dog while impounded that the supervisor of animal services deemed necessary for the well-being of the animal.

(9) Where, on the sixth day, exclusive of Sundays and statutory holidays, after the date of seizure and impounding, possession of the cat or dog has not been restored to the owner under Subsection 3(8) of this by-law, the animal services supervisor may, at his or her discretion,

(a) sell or make a gift of the cat or dog; or,

(b) euthanize the cat or dog in a humane manner;

and no damage or compensation shall be recovered or recoverable on account of the animal's disposition or destruction.

(10) Where a cat or dog seized and impounded is injured or should be euthanized without delay for humane reasons, or for 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 as he or she sees fit without permitting any person to claim possession of the cat or dog and without offering it for sale and no damages or compensation shall be recovered or recoverable on account of its destruction.

(11) Where the animal services supervisor deems it necessary to euthanize a cat or dog pursuant to the provisions of Subsection 3(10) of this by-law, the supervisor shall first make every effort possible and 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.

#### **MUZZLING AND LEASHING OF DOGS**

4.(1) Where a dog has bitten or interfered with a person or domestic animal, the animal services supervisor may, at his or her discretion, order the dog to be muzzled or leashed or both, for a period of time to be determined by the animal services supervisor.

(2) Should the owner of the dog disagree with the order to muzzle and/or leash, he or she may appeal the decision to the Pickering-Ajax-Whitby Joint Animal Services Committee.

- (3) Upon receipt of notification of an appeal, the Pickering-Ajax-Whitby Joint Animal Services Committee shall, as soon as is practicable, conduct a hearing and shall hear evidence presented by both the animal services supervisor and the owner of the dog, it being understood that in the interim between the date of the order to muzzle and/or leash and the date of the hearing of the appeal by the Pickering-Ajax-Whitby Joint Animal Services Committee, the owner shall comply with the order and the dog shall remain muzzled and/or leashed.
- (4) At such time as the Pickering-Ajax-Whitby Joint Animal Services Committee makes its decision to confirm, modify or quash the order, the decision shall be considered to be final and binding and the owner of the dog shall comply therewith.

### **GENERAL REQUIREMENTS**

- 5.(1) Every owner of a cat or dog shall immediately remove excrement left by the cat or dog on property anywhere in the Town.
- (2) No owner of a dog shall, knowingly or not knowingly, allow the dog to howl or bark excessively. For the purposes of this section a dog shall be deemed to be howling or barking excessively if it does so repeatedly for a period of twenty (20) minutes or longer.
- (3) No person, being an owner, tenant or occupant of a dwelling unit, shall, knowingly or not knowingly, keep, own or harbour, or permit to be kept, owned, or harboured, more than two (2) dogs in or about the dwelling unit.

### **EXCEPTIONS**

6. Section 2 of this by-law shall not apply to owners of police work dogs and dog guides.

### **PENALTIES**

- 7.(1) Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction thereof is liable to a fine of not more than \$5,000.00, exclusive of costs, which shall be recoverable under the provisions of the Provincial Offences Act and all the provisions of the said Act shall apply to any prosecution for any offence under the provisions of this by-law.

- (2) Notwithstanding the provisions of Subsection 7(1) of this by-law, any person may, upon presentation of a violation ticket issued pursuant to this by-law alleging the commission of an offence through the contravention of one or more of the provisions of this by-law, pay out of court within five (5) days from the date of issue the violation ticket, exclusive of Saturdays, Sundays and statutory holidays, the sum indicated on the violation ticket.

#### **SEVERABILITY**

8. In the event any provision of this by-law is deemed invalid or void, in whole or in part, by any court of competent jurisdiction the remaining terms and provisions shall remain in full force and effect.

#### **SHORT TITLE**

9. This by-law may be cited as the Cat and Dog By-law.

#### **REPEAL OF EXISTING BY-LAWS**

10. By-law No. 4584-00 is repealed.

#### **EFFECTIVE DATES**

- 11.(1)The provisions of this by-law shall come into force and take effect on the day of the final passing thereof save and except Subsection 2(4).

- (2)The provisions of Subsection 2(4) of this by-law shall come into force and take effect on the 1<sup>st</sup> day of January, 2005.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 14TH DAY OF JUNE, A.D., 2004.

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Donald G. McKay, Clerk

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Marcel L. Brunelle, Mayor

PROVINCIAL OFFENCES ACT


PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law No. 5443-04, as amended in the Town of Whitby, Durham Region, attached hereto is the set fine for those offences. This Order is to take effect

Aug 9, 2004.

DATED at Newmarket

This 9 day of Aug, 2004.

  
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Justice R. P. Taillon  
Regional Senior Justice  
Central East Region  
Ontario Court of Justice

ITEM	COLUMN I Short Form Wording	COLUMN II Provision Creating or Defining Offence	COLUMN III Set Fine (including costs)
1)	Fail to register cat	2(1)	45.00
2)	Fail to register dog	2(1)	45.00
3)	Fail to keep tag fixed on cat	2(6)	25.00
4)	Fail to keep tag fixed on dog	2(6)	25.00
5)	Fail to keep dog leashed on land other than owner's	3(2)	65.00
6)	Allow dog to interfere with a domestic animal	3(3)	80.00
7)	Allow dog to bite a domestic animal	3(3)	150.00
8)	Allow dog to interfere with a person	3(3)	175.00
9)	Allow dog to bite a person	3(3)	200.00
10)	Allow cat to run at large	3(4)	65.00
11)	Allow dog to run at large	3(4)	65.00
12)	Fail to deliver cat to animal services officer	3(5)	35.00
13)	Fail to deliver dog to animal services officer	3(5)	35.00
14)	Fail to keep dog muzzled	4(3)	155.00 <i>105.00</i>
15)	Fail to keep dog leashed	4(3)	155.00 <i>105.00</i>
16)	Fail to comply with order to muzzle	4(4)	155.00
17)	Fail to comply with order to leash	4(4)	155.00
18)	Fail to remove cat excrement	5(1)	115.00 <i>105.00</i>
19)	Fail to remove dog excrement	5(1)	115.00 <i>105.00</i>
20)	Allow dog to howl or bark excessively	5(2)	115.00
21)	Keep more than two dogs in a dwelling unit	5(3)	75.00

Note: The penalty provision for the offence listed above is Section 7 of By-law No. 5443-04, a certified copy of which has been filed.