

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 3436-94

REPEALED

By By-Law No. 3669-95
Section 41(1)

BEING A BY-LAW TO, PROHIBIT THE RUNNING AT LARGE OF ANIMALS AND THE KEEPING OF CERTAIN ANIMALS; AND, REGULATE THE KEEPING OF CERTAIN ANIMALS

WHEREAS, Subsections 210(1), 210(4), 210(6) and 210(7) of the Municipal Act, R.S.O. 1990, c. M.45, provide that by-laws may be passed by the Councils of local municipalities for,

- (a) prohibiting or regulating the keeping of animals or any class thereof within the municipality or defined areas thereof;
- (b) prohibiting or regulating within any part of the municipality or within any defined area thereof, or upon any defined highways therein, the being at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time or if the damages, fines and expenses are not paid according to law;
- (c) appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to law or the by-laws of the municipality; and,
- (d) determining the compensation to be allowed for services rendered in respect to animals impounded.

WHEREAS, Section 320 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, provides that by-laws may be passed by the councils of all municipalities for providing that any person who contravenes any by-law of the council passed under the authority of the Municipal Act is guilty of an offence;

AND WHEREAS, Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, provides that except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$5,000.00;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it appropriate to pass a by-law to, prohibit the running at large of animals and the keeping of certain animals; and, to regulate the keeping of certain animals;

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

DEFINITIONS

1. In this by-law,
 - (a) "animal" includes birds and reptiles, but for the purposes of Sections 5, 6, 7 and 8 of the by-law excludes dogs and pigeons;
 - (b) "highway" means any common and public highway in the Corporation of the Town of Whitby and includes a street and a bridge forming part of any highway or on, over or across which a highway passes;
 - (c) "keep" or "own" means own, harbour or have the temporary or permanent possession of an animal and "keeper" or "owner" has a corresponding meaning;
 - (d) "poundkeeper" means a person or persons employed by, under contract to, or employed by a contractor under contract to the Corporation of the Town of Whitby to operate an animal pound for the said Corporation;
 - (e) "services rendered to the impounded animal" includes, without limiting the generality thereof, reasonable shelter and food for the animal so long as it is impounded; and,
 - (f) "Town" means the Corporation of the Town of Whitby.

KEEPING OF CERTAIN ANIMALS

2. (1) No person shall keep in the Town an animal of a class set out in Schedule "A", attached to and forming part of this by-law.
- (2) No person shall keep an animal of a class set out in Schedule "B", attached to and forming part of this by-law, in those defined areas of the Town as are shown on Schedules "C" and "D", attached to and forming part of this by-law, and as are more specifically described in Schedule "E", attached to and forming part of this by-law.

KEEPING OF PIGEONS

3. Every person keeping pigeons in those defined areas of the Town as are shown on Schedules "C" and "D", attached to and forming part of this by-law, and as are more specifically described in Schedule "E", attached to and forming part of this by-law, shall,

- (a) keep the pigeons in a building, structure, loft, pen, coop or run which is maintained by regular painting or permanent siding;
- (b) limewash, paint, or disinfect the inside walls and ceilings of all buildings, structures, lofts, pens, coops and runs used for the keeping of pigeons, other than outside runs enclosed solely with wire, at least twice a year;
- (c) remove and dispose in a sanitary manner, at least twice each week, all pigeon droppings and refuse within or adjacent to all buildings, structures, lofts, pens, coops and runs used for the keeping of pigeons, it being understood that this requirement shall not apply when below freezing temperatures prevent waste removal and disposal;
- (d) store all pigeon feed in rodent proof containers;
- (e) keep all equipment associated with the keeping of pigeons under cover; and,
- (f) keep the pigeons enclosed at all times except during a maximum of two daily, two hour, flight periods during which no more than 50% of the total number of pigeons being kept shall be permitted to be at large during any particular flight period, it being understood that this restriction shall not apply to members of a racing pigeon club when the members are participating in a bona fide flight conducted by the club.

KEEPING OF DOGS AND CATS

- 4. Every keeper of a dog or cat shall clean up after it when the dog or cat defecates in any place other than the premises of the keeper of the dog or cat.

ANIMALS RUNNING AT LARGE

- 5. No keeper of an animal shall, knowingly or not knowingly, allow the animal to run at large or trespass within the limits of the Town, it being understood that an animal shall be deemed to be running at large or trespassing when found in any place in the Town, other than the premises of the keeper of the animal, and not under the control of any person.
- 6. (1) Any person may take charge of an animal found running at large or trespassing but shall forthwith deliver the animal to a poundkeeper, it being understood that nothing in this subsection confers on any person a right to enter any premises.

- (2) A person taking charge of an animal found running at large or trespassing shall not be deemed to be a keeper of the animal unless the person fails to forthwith deliver the animal to a poundkeeper.

POUNDKEEPER

7. (1) A poundkeeper may impound any animal,
 - (a) delivered to him by a person finding the animal running at large or trespassing; or,
 - (b) found running at large or trespassing by him.
- (2) A poundkeeper shall, at the request of any person, examine any thing, matter or circumstance relating to the trespassing of an impounded animal and shall prepare a damage appraisal setting out the particulars of damages, if any, to be paid by the owner of the animal as a result of such trespassing.
- (3) A poundkeeper shall restore possession of an animal to a person claiming it only where,
 - (a) the person claims possession of the animal within five (5) days, exclusive of Sundays and statutory holidays, after the day of impounding;
 - (b) the person is the most recent keeper of the animal prior to its impounding;
 - (c) the person pays to the poundkeeper or provides to the poundkeeper proof of payment of,
 - (i) any damages payable as a result of the trespassing of the animal in accordance with the damage appraisal prepared by the poundkeeper;
 - (ii) any fine payable in accordance with the provisions of this by-law; and,
 - (iii) any expenses incurred by the poundkeeper for the making of a damage appraisal and services rendered to the impounded animal.

8. Where, on the sixth (6th) day, exclusive of Sundays and statutory holidays, after the day of impounding, possession of an animal has not been restored to the owner of the animal, the poundkeeper shall sell the animal and the proceeds of such sale shall be applied,
- (a) firstly, to any expenses incurred by the poundkeeper in conducting the sale;
 - (b) secondly, to any expenses incurred by the poundkeeper for services rendered to the impounded animal;
 - (c) thirdly, to any expenses incurred by the poundkeeper in the making of a damage appraisal;
 - (d) fourthly, to any damages payable in accordance with the damage appraisal prepared by the poundkeeper; and,
 - (e) fifthly, to the Town.

EXCEPTIONS

9. The provisions contained in Section 2 of this by-law shall not apply to,
- (a) a poundkeeper keeping animals on pound premises;
 - (b) a licenced veterinarian keeping animals in a veterinary hospital;
 - (c) an employee of an educational or medical institution keeping animals on the institution premises for research, study or teaching purposes;
 - (d) a person holding a licence issued by the Government of Canada or the Province of Ontario permitting the keeping of animals, subject to the terms and conditions of the licence;
 - (e) a person conducting an animal exhibition on premises approved by the Town, including, but not necessarily limited to, a person conducting a circus, rodeo or petting zoo; and,
 - (f) the vehicular transport of animals within the corporate limits of the Town.

10. The provisions contained in Subsection 2(2) of this by-law relating to the keeping of horses shall not apply to a person keeping horses within defined area nos. 1, 2, 3, 4, 5, 6, 7 8 and 9, as shown on Schedules "C" and "D" and as more specifically described in Schedule "E", provided such person owns or occupies and provides a minimum of .2 hectares (.5 acres) of land for each and every horse so kept.

PENALTIES

11. 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.

SHORT TITLE

12. This by-law may be referred to as the Animal Control By-law.

REPEAL OF EXISTING BY-LAWS

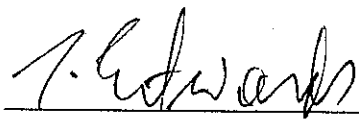
13. By-law No. 1745-84 is repealed.

EFFECTIVE DATE

14. This by-law shall come into force and take effect upon the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 14TH DAY OF FEBRUARY, A.D., 1994.


CLERK


MAYOR

SCHEDULE "A"
TO
BY-LAW NO. 3436-94

<u>Class of Animal</u>	<u>Common Names</u>
Arthropods of the classes of Arachnid Chilopoda and Diplopoda	Set out in this column are <u>some</u> of the names of animals included in the classes of animals referred to in the opposite column of this schedule. The common names are provided for illustration purposes only and are not intended to limit the extent of the classes of animals referred to. scorpion, spider
Canidae, other than canis familiaris	wolf, jackal, fox
Crocodylidae	alligator, crocodile
Edentates	anteater, armadillo, sloth
Elephants	elephant
Felids, other than felis catus	leopard, lion, lynx, panther, puma
Hyanenidae	hyena
Marsupialia	bandicoot, kangaroo, opossum, wombat
Mustelidae	marten, polecat, weasel, feret (Note: for the purposes of this schedule, mustelidae does not include mink or chinchilla)
Pinnipediae	seal, walrus
Primata, other than man	ape, lemur, monkey
Procyonidae	coati, raccoon
Raptors	eagle, hawk, owl, vulture
Ursidae	bear
Venomous Reptilia	venomous snake, venomous lizard
Serpentes of the families Pythonidae and Boidae	boa, python
Viverridae	civet, mongoose

SCHEDULE "B"
TO
BY-LAW NO. 3436-94

Class of Animal

Common Names

Set out in this column are some of the names of animals included in the classes of animals referred to in the opposite column of this schedule. The common names are provided for illustration purposes only and are not intended to limit the extent of the classes of animals referred to.

Artiodactyl Ungulates

cattle, goat, pig, sheep

Gallus Domesticus

chicken, turkey, goose,
duck

Mustelidae

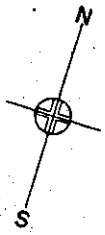
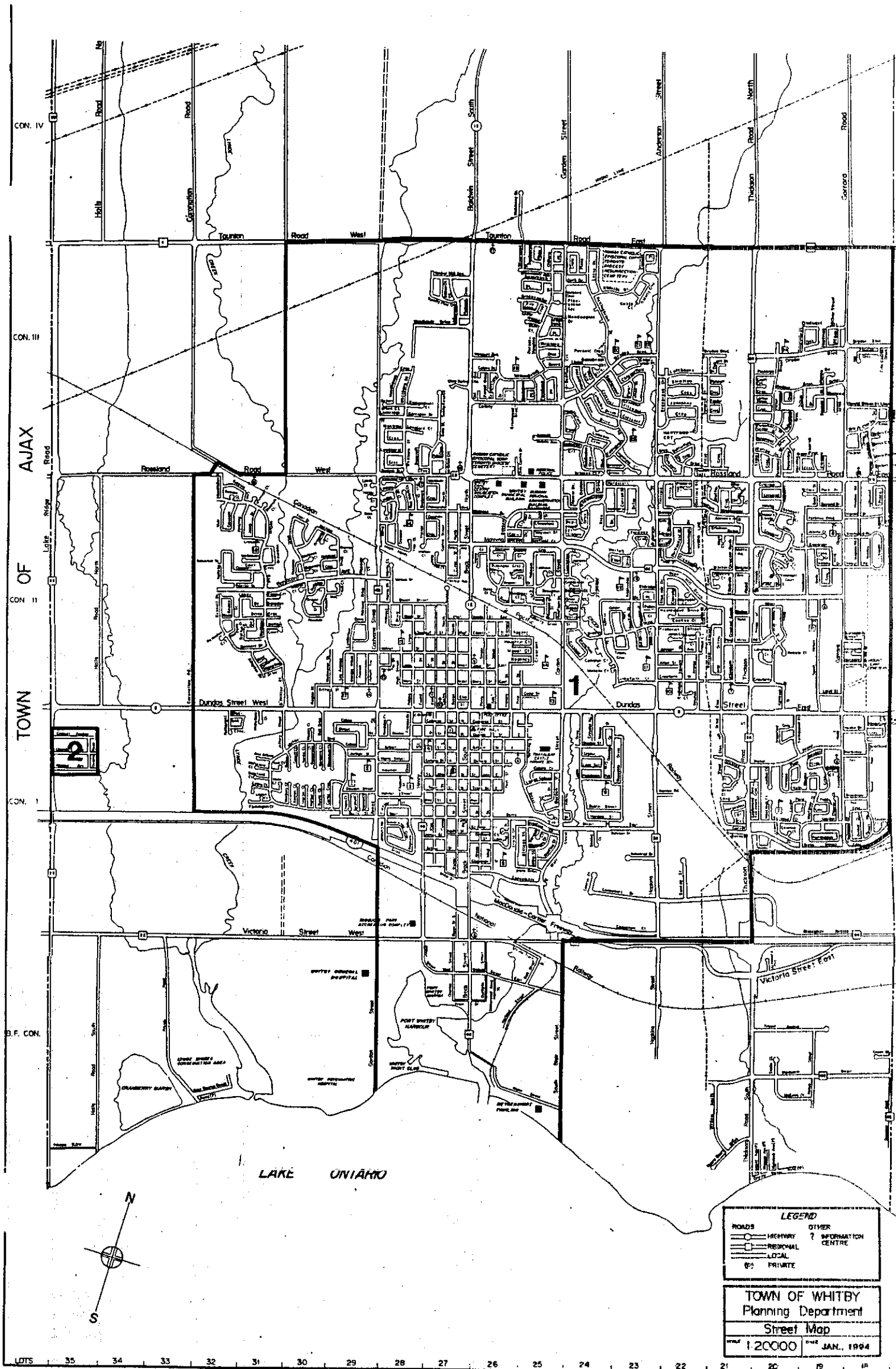
mink, chinchilla

Perissodactyl Ungulates

horse

Ratitae

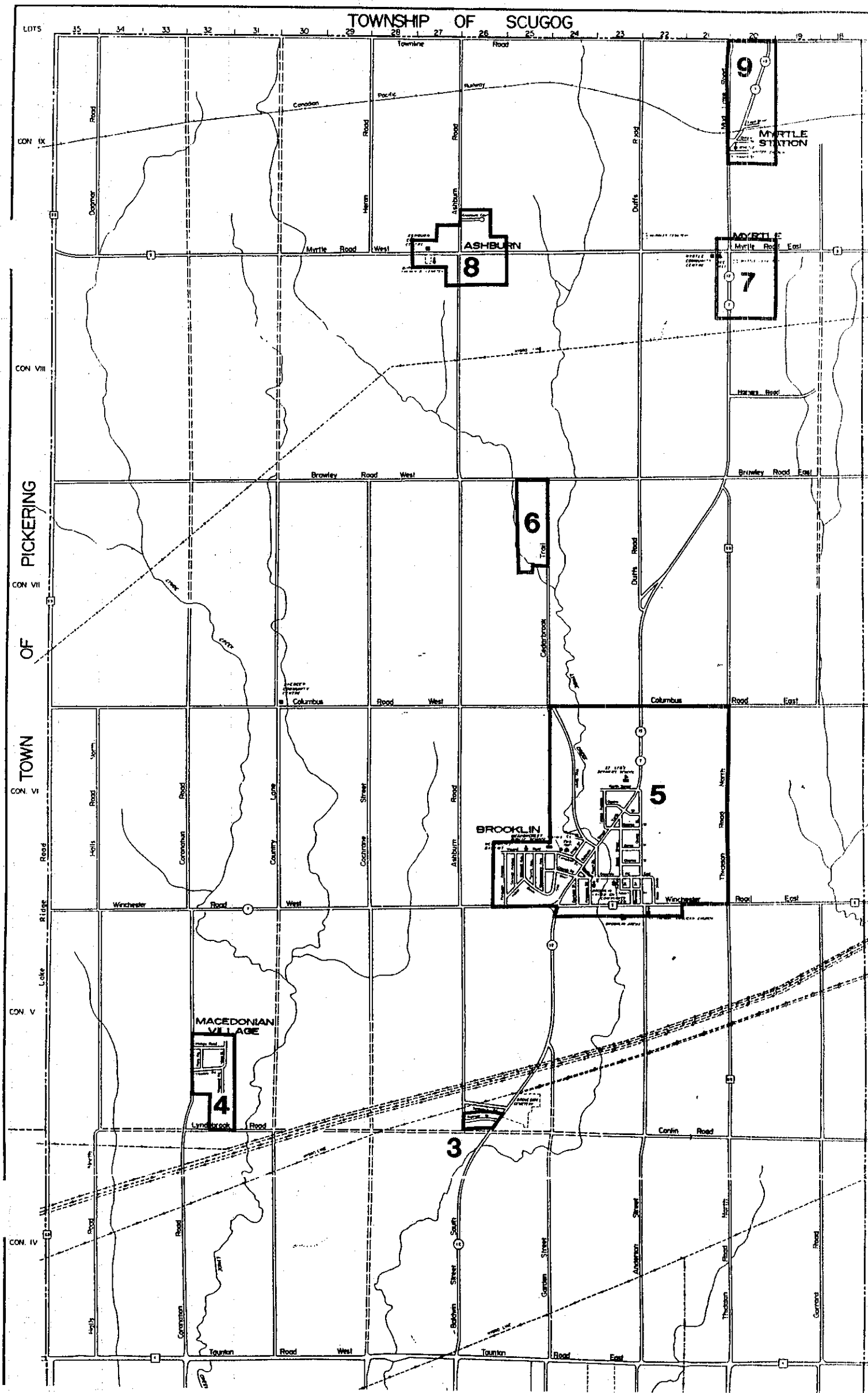
cassowary, ostrich



LEGEND	
ROADS	OTHER
— HIGHWAY	? INFORMATION CENTRE
— REGIONAL	
— LOCAL	
(P) PRIVATE	

TOWN OF WHITBY
 Planning Department
 Street Map
 SCALE 1:20000 DATE JAN., 1994

LOTS 35 34 33 32 31 30 29 28 27 26 25 24 23 22 21 20 19 18



SCHEDULE "E"
TO
BY-LAW NO. 3436-94

DEFINED AREA

1.

BOUNDARIES OF DEFINED AREA

Commencing at the southwest corner of the intersection of Burns Street and the boundary between the City of Oshawa and the Town of Whitby;

Thence northerly along the boundary between the City of Oshawa and the Town of Whitby to its intersection with the northerly limit of Taunton Road East;

Thence westerly along the northerly limit of Taunton Road East and Taunton Road West to the northwest corner of Lot 30, Concession 3;

Thence southerly along the westerly limit of Lot 30, Concession 3 to the northerly limit of Rossland Road West;

Thence westerly along the northerly limit of Rossland Road West to the northwest corner of Lot 32, Concession 2;

Thence southerly along the westerly limit of Lot 32, Concession 2 and Lot 32, Concession 1 to the northerly limit of Highway No. 401;

Thence easterly along the northerly limit of Highway No. 401 to the westerly limit of Gordon Street extended northerly to the northerly limit of Highway No. 401;

Thence southerly along the westerly limit of Gordon Street, extended northerly to the northerly limit of Highway No. 401 to the shoreline of Lake Ontario;

Thence easterly along the northerly limit of the Lake Ontario shoreline to the easterly limit of South Blair Street extended southerly to the Lake Ontario Shoreline;

DEFINED AREA

BOUNDARIES OF DEFINED AREA

1. (Continued)

Thence northerly along the easterly limits of South Blair Street extended southerly and South Blair Street to the southerly limit of Victoria Street East;

Thence easterly along the southerly limit of Victoria Street East to the easterly limit of Thickson Road South;

Thence northerly along the easterly limit of Thickson Road South to the southerly limit of Burns Street extended westerly; and,

Thence easterly along the southerly limits of Burns Street extended westerly and Burns Street to the point of commencement.

SAVE AND EXCEPT PROPERTIES LOCATED WITHIN THE FOLLOWING BOUNDARIES:

Commencing at the southwest corner of Part 1, Plan 40R-6111;

Thence easterly along the southerly limits of Parts 1 and 2, Plan 40R-6111 and block "C", Plan M-1110, to the westerly limit of Anderson Street;

Thence southerly along the westerly limit of Anderson Street a distance of 274.3 metres (900 feet);

Thence westerly and parallel to Manning Road to the easterly limit of Ribblesdale Drive; and,

Thence northerly along the easterly limit of Ribblesdale Drive to the point of commencement.

2. All lots contained in Registered Plans 496 and 562.
3. All lots contained in Registered Plans 603 and 643.
4. All lots contained in Registered Plans 582, 615 and M-42.

DEFINED AREA

BOUNDARIES OF DEFINED AREA

5.

Commencing at the southwest corner of Registered Plan 601;

Thence easterly along the northerly boundary of Highway No. 7 to the northeast corner of the intersection of Highway No. 7 and Highway No. 12;

Thence southerly along the easterly limit of Highway No. 12 to a point 91.5 metres (300 feet) south;

Thence easterly across Lots 24, 23 and 22, Concession 5 and parallel to Winchester Road East to the easterly limit of Lot 22, Concession 5;

Thence northerly along the easterly limit of Lot 22, Concession 5, to the northerly limit of Winchester Road East;

Thence easterly along the northerly limit of Winchester Road East to the northwest corner of the intersection of Winchester Road East and Thickson Road North;

Thence northerly along the westerly limit of Thickson Road North to the southwest corner of the intersection of Thickson Road North and Columbus Road East;

Thence westerly along the southerly limit of Columbus Road East and Columbus Road West to the westerly limit of Lot 24, Concession 6;

Thence southerly along the westerly limit of Lot 24, Concession 6, to a point 61 metres (200 feet) north of Vipond Road;

Thence westerly and parallel to Vipond Road to the westerly limit of Registered Plan 601 extended northerly; and,

Thence southerly to the point of commencement.

6.

All lots contained in Registered Plan 40M-1269.

DEFINED AREA

BOUNDARIES OF DEFINED AREA

7.

Commencing at the northeast corner of Lot 20, Concession 8;

Thence southerly along the easterly limit of Lot 20, Concession 8, a distance of 592 metres (1,942 feet);

Thence westerly and parallel to Myrtle Road East to the westerly limit of Highway Nos. 7 and 12;

Thence westerly again and parallel to Myrtle Road West to a point 60.9 metres (200 feet) west of Highway Nos. 7 and 12;

Thence northerly and parallel to Highway Nos. 7 and 12 to a point 100.6 metres (330 feet) north of the southerly limit of Myrtle Road West;

Thence easterly and parallel to Myrtle Road West and Myrtle Road East to the easterly limit of Lot 20, Concession 9; and,

Thence southerly and parallel to Highway Nos. 7 and 12 a distance of 100.6 metres (330 feet) to the point of commencement.

8.

Commencing at the northwest corner of Lot 27, Concession 8;

Thence southerly along the westerly limit of Lot 27, Concession 8, to a point 83.8 metres (275 feet) south of the southerly limit of Myrtle Road West;

Thence easterly and parallel to Myrtle Road West a distance of 365.8 metres (1,200 feet);

Thence southerly and parallel to Ashburn Road a distance of 236.22 metres (775 feet);

Thence easterly and parallel to Myrtle Road West to the southwest corner of Lot 6, Plan 40M-1579;

Thence easterly along the southerly limit of Plan 40M-1579 to the southeast corner of Lot 12, Plan 40M-1579;

DEFINED AREAS

8. (Con't)

BOUNDARIES OF DEFINED AREA

Thence northerly along the easterly limit of Plan 40M-1579 to the southeast corner of Part 2, Plan 40R-9136;

Thence northerly along the easterly limit of Part 2, Plan 40R-9136, extended to the northerly limit of Myrtle Road West;

Thence westerly along the northerly limit of Myrtle Road West to the easterly limit of Part 3, Plan 40R-1638;

Thence northerly along the easterly limit of Part 3, Plan 40R-1638 to the northerly limit of Part 3, Plan 40R-1638;

Thence westerly and parallel to Myrtle Road West to the easterly limit of Registered Plan M-1014 extended southerly;

Thence northerly along the easterly limit of Registered Plan M-1014, extended southerly, to the northerly limit of Registered Plan M-1014;

Thence westerly along the northerly limit of Registered Plan M-1014, extended westerly to the westerly limit of Ashburn Road;

Thence southerly along the westerly limit of Ashburn Road to the southerly limit of Part 2, Plan 40R-4022;

Thence westerly along the southerly limit of Part 2, Plan 40R-4022 to the easterly limit of Part 1, Plan 40R-4022;

Thence southerly along the easterly limit of Part 1, Plan 40R-4022, to the southerly limit of Part 1, Plan 40R-4022;

Thence westerly and parallel to Myrtle Road West to the westerly limit of Lot 27, Concession 9; and,

Thence southerly along the westerly limit of Lot 27, Concession 9, extended to the point of commencement.

DEFINED AREA

BOUNDARIES OF DEFINED AREA

9. (Con't)

Commencing at the northwest corner of Lot 20, Concession 9;

Thence southerly along the westerly limit of Lot 20, Concession 9, to the southerly limit of Richmond Street;

Thence easterly and parallel to the northerly limit of Lot 20, Concession 9, to the easterly limit of the said lot;

Thence northerly along the easterly limit of Lot 20, Concession 9, to the northerly limit of the said lot; and,

Thence westerly along the northerly limit of Lot 20, Concession 9, to the point of commencement.