

THE CORPORATION OF THE

TOWN OF PELHAM

BY-LAW #3448 (2013)

Being a by-law to regulate or prohibit the keeping and running at large of animals.

WHEREAS the Council of the Corporation of The Town of Pelham has, pursuant to the *Municipal Act, 2001*, Section 11(2) the authority to pass by-laws respecting health, safety and well-being of persons, protection of persons, property and structures;

AND WHEREAS the Council of the Corporation of the Town of Pelham has, pursuant to the *Municipal Act, 2001*, Section 11(3) the authority to pass by-laws respecting animals;

AND WHEREAS the Council of the Corporation of the Town of Pelham has, pursuant to the *Municipal Act, 2001*, Section 103 the authority to pass by-laws that provide for the seizure and impoundment of animals found at large or trespassing contrary to the by-law, and for the sale of such impounded animals;

AND WHEREAS the Council of the Corporation of the Town of Pelham has, pursuant to the *Municipal Act, 2001*, Section 128 the authority to prohibit and regulate with respect to public nuisances;

AND WHEREAS Council of the Corporation of the Town of Pelham deems it desirable and necessary to pass a by-law to prohibit the keeping and running at large of animals and to regulate the keeping of animals;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS THE FOLLOWING:

1. SHORT TITLE

- 1.1 This by-law shall be known as "The Exotic Pet By-Law"

2. DEFINITIONS

- 2.1 In this by-law, the term,
- a) "Animal" means any member of the animal kingdom, other than a human;
 - b) "Domestic" means an Animal that has been tamed and kept by humans and has through selective breeding, become notably different from its wild ancestors, and would include an Animal derived from self-sustaining captive populations, and the word "Domesticated" has a corresponding meaning;
 - c) "Dwelling Unit" means a building, structure, room, or rooms, occupied or intended for use for human habitation in which bathroom, cooking, living, or sleeping facilities exist;
 - d) "Keep" means to have temporary or permanent control or possession of an Animal, and the words "Kept", "Keeping" or "Keeper" have a corresponding meaning;
 - e) "Livestock" means any farmed Animal, including, but not limited to, poultry, cattle, swine, horses, mink, or other furbearing Animals, sheep, goats and other types of Animals listed by the Guide to Agricultural Land Use, Minimum Distance Separation I and/or Minimum Distance Separation II;

- f) "Officer" means any Person authorized by the Town to enforce the provisions of this by-law, and includes, but is not limited to a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer and/or any Person designated or employed as an Animal Services/Control Officer, agent or inspector under the employment or contract of an agency designated by the OSPCA or designated as such under the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c. O. 36, as amended, and all other enforcement officers as may be appointed by the Government of Canada, the Province of Ontario, the Region of Niagara, and the Town;
- g) "OSPCA" means the Ontario Society for the Prevention of Cruelty to Animals as constituted under the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c. O. 36, as amended;
- h) "Owner" means the registered or beneficial owner of an Animal, and any Person possessing, harbouring, or Keeping 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 is in control of the Animal and the word "Owns" has a corresponding meaning;
- i) "Person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership, association, or other form of business association or non-incorporated entity, or a receiver or mortgagee in possession;
- j) "Pet Shop" means every shop, place or premise, where Animals are sold or Kept for sale .
- k) "Pound" shall have the meaning assigned to it in the *Animals for Research Act*, R.S.O. 1990, c. A. 22, as amended. The local Pounds are operated by the Welland and District Humane Society;
- l) "Premises" includes lands, buildings or structures or any parts thereof;
- m) "Prohibited Animal" means those Animals identified in Schedule "A" of this by-law;
- n) "running at large" means when an Animal is found in any place other than the Premises of the Owner, and not under the control of any Person, unless prior consent is given by the Person owning the Land on which the Animal is found. The term "run at large" has a corresponding meaning;
- o) "Town" means The Corporation of the Town of Pelham;
- p) "Welland and District Humane Society" or "WDHS" means the local affiliated society of the Ontario Society for the Prevention of Cruelty to Animals that provides animal shelters and Pounds at 60 Provincial Street, Welland, Ontario, L3B 5W7 and at 1080 Elm Street, Port Colborne, Ontario, L3K 5V4;
- q) "Wild Animal" means an untamed or undomesticated Animal indigenous to North America, wild by nature or disposition (farea natural), but does not include the domestic ferret

3. PROHIBITED ANIMALS

- 3.1 No Person shall Keep within the Town limits, either on a temporary or permanent basis, any Prohibited Animal.
- 3.2. Despite section 3.1 of this by-law, any Person who, on the date of the passage of this by-law, was lawfully Keeping a Prohibited Animal shall be permitted to Keep that Animal until the Animal has died or has otherwise been disposed of, provided that:
 - a) the Animal is kept in an environment which is appropriate for the species as determined by the WDHS in its sole and unfettered discretion;
 - b) the Owner has registered the Animal with the Town and the WDHS by notifying the WDHS and the clerk of the Town in writing of the species of the Animal, the location of the Animal, the Owner's name, current address and telephone number; by January 31, 2014;
 - c) the Animal remains securely at the Owner's Premises, except for necessary visits to a veterinarian's office;
 - d) the Animal is not shown to, or displayed to the public, unless the Animal is Kept at a place

of business used for the display of such Animals and the Animal remains securely at that Premises, except for necessary visits to the veterinarian's office;

- e) the Animal is prohibited from breeding with other Animals; and
- f) the Animal is kept in accordance with the regulations set out in article 7 of this by-law.

3.3 The onus of proving the exemption provided for in section 3.2 is upon the Person seeking the exemption.

4. WILD ANIMALS

4.1 No Person shall remove any Wild Animal from any public land in the Town unless authorized to do so by the Town and provided that the removal is done in a humane manner.

4.2 No Person shall Keep, or cause to be Kept, any Wild Animal, unless they are authorized to do so by law.

4.3 Despite section 4.2 of this by-law, a Person who comes into the possession of a Wild Animal that is injured or unable to fend for itself shall, as soon as is reasonable, but in no case longer than 24 hours after coming into possession of the Wild Animal, shall:

- a) surrender the Wild Animal to the care of the WDHS; or
- b) surrender the Wild Animal to a Person or facility licensed by the Ministry of Natural Resources to care for Wild Animals.

5. GENERAL PROVISIONS

5.1 No Pet Shop shall sell any Prohibited Animal to a Town resident.

6. ANIMALS RUNNING AT LARGE

6.1 No Owner of an Animal shall, knowingly or not knowingly, allow the Animal to run at large or trespass within the limits of the Town of Pelham.

6.2 Any Person shall be entitled to take charge of any Animal found running at large or trespassing but shall forthwith deliver the Animal to an Officer.

6.3 Nothing in this article 6 confers the right on any Person, other than an Officer, to enter any Dwelling Unit.

7. REGULATIONS FOR KEEPING PROHIBITED ANIMALS

7.1 The following regulations shall apply to the Keeping of a Prohibited Animal:

- a) Venomous reptiles and constrictors shall be kept in an escape-proof enclosure or container, which complies with the requirements set out in Schedule "B";
- b) Any Person who owns a venomous reptile anywhere within the geographic limits of the Town shall be required to Keep appropriate antitoxins, where such antitoxins exist, at a local hospital, health center, or the WDHS, and shall provide proof of compliance to the Town Clerk and the WDHS;
- c) Where Prohibited Animals are to be shown or displayed to the public, there shall be no opportunity for physical contact between members of the public and the Animals;
- d) An Owner who shows or displays a Prohibited Animal to the public shall take all reasonable steps to ensure that members of the public are safe from harm;

- e) Prohibited Animals which are felids shall be kept in an escape-proof enclosure or container, which complies with the requirements set out in Schedule "B"; and
- f) All Prohibited Animals shall be Kept in an enclosure that is adequate and sufficient for their safekeeping.

8. SEIZING, IMPOUNDING AND/OR KILLING

- 8.1 Animals running at large within Town limits may be impounded by the Town, the WDHS, or by a designate of the Town or the WDHS.
- 8.2 Animals which are impounded shall be Kept by an agency or Person appointed or designated by the Town with facilities to maintain impounded animals.
- 8.3 All Animals that upon inspection by an Officer or Town delegate are deemed to be improperly enclosed or cared for may be impounded.
- 8.4 Any Owner of an Animal impounded pursuant to this by-law shall be liable to pay all the costs of impounding the Animal, its care and upkeep and all other reasonable costs related thereto.
- 8.5 Nothing in this by-law shall prevent an Officer or any designate of the Town from exercising the right to kill any Animal if it is deemed to be dangerous or potentially a danger to any Person, Domesticated Animal, Livestock or property within the Town or neighbouring towns, cities or villages.
- 8.6 Nothing in this by-law shall prevent an Officer or any designate of the Town from exercising the right to kill any Animal if the Animal is injured or diseased.
- 8.7 The Person or agency designated by the Town to impound Animals may euthanize any Animal impounded and Kept by them as is allowed by application of Provincial and Federal law.

9. EXCEPTIONS

- 9.1 The provisions contained in article 3 of this by-law shall not apply to Animals Kept:
 - a) by the Town;
 - b) at the Premises of an accredited veterinary facility under the supervision of a veterinarian licensed pursuant to the *Veterinarians Act*, R.S.O. 1990, c. V. 3, as amended;
 - c) by a medical or educational institution, or other accredited school where Animals are being Kept for research, study or teaching purposes, on Premises registered as a research facility under the *Animals for Research Act*, R.S.O. 1990 c.A.22;
 - d) by a Person holding a licence issued by the Government of Canada or the Province of Ontario, or by a Person required to register and registered with the Government of Canada or the Province of Ontario and who is permitted to Keep Prohibited Animals, subject to the legislation, regulations, terms, and/or conditions of the licence or registration;
 - e) in the areas of the Town in which professionally produced films are being made using such Animals, provided that there is supervision by an agent or inspector of the OSPCA or one of its affiliates or branches, and that the Town has approved the use made of such Animals;
 - f) at Premises owned or operated by a degree granting institution authorized under sections 2 and 3 of the *Post-Secondary Education Choice and Excellence Act*, 2000, S.O. 2000, c. 36, as amended, or a college established pursuant to the *Ontario Colleges of Applied Arts and Technology*, 2002, S.O. 2002, c. 8, Sch. F, as amended;
 - h) at Premises owned or operated by an Animal rescue organization registered with the WDHS or pursuant to other legislation;

- e) by an animal exhibition on Premises approved by the Town, in writing, including but not necessarily limited to, a Person conducting a circus, rodeo or petting zoo or stage show;
- f) by a Person housing or Keeping Animals on Premises approved by the Town, and using such Animals in an exhibition, circus, rodeo, petting zoo or stage show on Premises outside of the jurisdiction of the Town;
- g) at Premises designated, owned, or used by the Niagara Regional Police, the Ontario Provincial Police, or the Royal Canadian Mounted Police;
- h) at Premises or facilities with a recognized wildlife authorization from the Ministry of Natural Resources Ontario;
- i) at the Premises of a Town facility used for Keeping of impounded Animals.
- J) at the Premises of an affiliate or branch of the OSPCA; or
- k) at Premises owned or operated by any licensed zoo or exhibit, permanently located in the Town, and where such Premises or facilities are accredited by the Canadian Association of Zoos and Aquariums.

10. ENFORCEMENT AND OFFENCES

- 10.1 Every Person who contravenes any provisions of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs, as prescribed by the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 10.2 Unless otherwise provided for herein, all provisions of this by-law shall be enforced by an Officer as defined in this by-law.
- 10.3 An Officer may issue a direction or order requiring that a Person comply with the provisions of this by-law.
- 10.4 An Officer may enter upon Premises, land or structures at any reasonable time for the purpose of carrying out an inspection to determine whether or not:
 - a) the provisions of this by-law are being complied with; or
 - b) a director or order under this by-law is being complied with.
- 10.5 Every Owner shall permit an Officer, upon production of identification and for the purposes of the inspection by the Town, to enter the Premises, land or structure for the purposes of section 10.4.
- 10.6 No Person shall hinder or obstruct any Officer, or any Person lawfully acting in aid of such Officer, on the execution of their duties under this by-law.
- 10.7 No Person shall refuse to produce any documents or things required by an Officer in the exercise of a power or performance of a duty under this by-law, and every Person shall assist any entry, inspection, examination, or inquiry by an Officer.

10.8 No Person shall knowingly furnish false information to an Officer.

11. INTERPRETATION

11.1 If a court or tribunal of competent jurisdiction declares any provision or part of a provision of this by-law to be illegal or unenforceable for any reason whatsoever, then that particular provision or provisions or part of the provision shall be severed and the remainder of this by-law shall continue to remain in full force and shall be valid and enforceable to the fullest extent permitted by law.


11.2 The schedules attached hereto shall form part of this by-law.

11.3 This by-law shall come into force and take effect upon the date of passage.

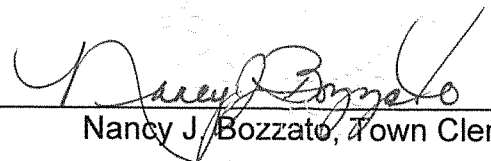
READ a first time this 4th day of November 2013

READ a second and third time and finally

Passed this 16th day of December, 2013 A.D.



D. Augustyn, Mayor



Nancy J. Bozzato, Town Clerk