

The Corporation of The Township of Tyendinaga
By-law 10-2022

Being a by-law to prohibit or otherwise regulate the keeping of certain animals within the Township of Tyendinaga

Whereas pursuant to the Municipal Act, S.O. 2001, c.25 as amended, empowers councils of a local municipality to pass by-laws to regulate or prohibit the keeping of animals or any class thereof within the municipality or defined area thereof; and

Whereas pursuant to Section 11 (3) of the Municipal Act, 2001, S.O. 2001, c.25, a lower tier municipality may pass By-laws respecting the health, safety and well-being of persons, protection of persons and property, consumer protection and animals; and

Whereas Section 436 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that the municipality has the power to pass By-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a By-law, direction, order, or condition of license; and

Whereas it has been deemed necessary to prevent a nuisance by restricting or prohibiting certain animals in certain areas and further to protect the health and safety of the public from certain endangered or dangerous animals;

Now therefore be it resolved that the Council of the Corporation of Township of Tyendinaga enacts as follows:

1. Short Title

This By-law shall be known and cited as the "Exotic Animal By-law".

2. Interpretation

For the purposes of this By-law the following terms shall have the corresponding meanings:

"Attack" shall mean physical contact that results in scratches, lacerations, punctures, bleeding, bone breakage or other physical damage to a person or animal, or punctures, rips, tears or other damage to clothing worn by a person.

"Council" means the Council of the Corporation of the Township of Tyendinaga.

"Dangerous animal" shall mean any animal that is, or is deemed to be, potentially harmful to humans due to their nature, aggressiveness, size, strength, speed, physical attributes, such as sharp teeth and claws, venom or toxins and that require specifically designed enclosures to ensure safekeeping, including animals listed in Schedule A of this By-law.

"Domesticated animal" is an animal that has been selectively bred and genetically adapted over many generations for particular physical and behavioural traits that make them amenable to living alongside humans and which make them genetically distinct from their wild ancestors or cousins.

"Enclosure" shall mean any cage, pen, container, or structure that prevents animals from leaving a premises as defined herein and prevents contact between those animals and persons and other animals.

"Grandfathered" means the lawful keeping of any animal, currently prohibited under the provisions of this By-law, provided such animal was lawfully kept prior to the prohibition.

"Municipality" means the Corporation of the Township of Tyendinaga or employee thereof.

"Officer" means a Municipal By-law Enforcement Officer, Police Officer, or Animal Control Officer.

"Pet business" shall mean any establishment, business or person engaged in the retail sale of animals.

"Professional standards" mean professional standards for animal housing, husbandry, care, safety, handling, transport and other areas that have been established by reputable professional zoo and sanctuary bodies and which are generally considered to be authoritative statements in their industry.

"Prohibited animal" or "Exotic animal" shall mean any animal listed in Schedule A of this By-law.

"Proof" means documentation signed by a qualified veterinarian attesting to the age of the animal together with purchase documents, such purchase documents being in an original form and identifying the animal, the name and address of the pet store or person from whom the animal was purchased, the date the animal was purchased, the purchase price, and the name and address of the purchaser, or medical records identifying the animal, the name and address of the qualified veterinarian administering such medical services and the dates such services were administered, including the date of commencement of such care of the animal. Such records must clearly establish that the applicant owned the animal in

question prior to the date of passage of a by-law to otherwise prohibit the keeping of such animal and further that the owner and animal resided in the Municipality at such time.

"Safekeeping" shall mean the provision of enclosures, security and other measures that prevent an animal from attacking or injuring a person, domesticated animals or other animals or exposing same to infection or disease.

"Wildlife exhibit" means a place where live native wildlife is kept in captivity, for regular or occasional display, to persons, for any purpose, and where the animals and such persons are physically segregated from each other by fixed barriers, whether or not an admission fee is charged.

3. General Provisions

- 3.1. No person shall own, possess, harbour or in any other manner keep any animal listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 3.2. No person shall sell, offer for sale or display for sale any Animals listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 3.3. No person shall import or export any Animal listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 3.4. Sections 3.1, 3.2 and 3.3 shall not apply to:
 - a) an Officer or Provincial Offences Officer in the performance of their duties;
 - b) a qualified Veterinarian treating any such Animal that is not his or her property at a recognized animal care facility;
 - c) mobile zoos or reptile displays for educational purposes.

4. Grandfathered Animals

- 4.1. Any person who possesses, harbours or keeps a prohibited exotic animal shall remove the exotic animal, or make application and provide to the Municipality proof that the animal was lawfully owned prior to the prohibition, within 90 days of a prohibition of the keeping of an animal. Upon being satisfied that the animal was lawfully owned prior to the prohibition, the Clerk or designate may deem the animal to be "grandfathered" and enter such information pertaining to the animal and its owner into a registry of grandfathered animals. A grandfathered animal may be kept until it has died

or has otherwise been disposed of.

- 4.2. All grandfathered animals must be identifiable by photographs and a description of the particular animal that allow it to be positively identified and/or permanent markings, such as tattoos, microchips or other identification methods that allow positive identification.
- 4.3. The keeping of grandfathered animals is subject to compliance with all other relevant By-laws and provincial laws, regulations, rules and agreements, including zoning and licensing By-laws.
- 4.4. The Municipality may, at the discretion of the Clerk or designate impose special terms or conditions on the keeping of any grandfathered animal (e.g. housing). Any person who possesses, harbours or keeps a grandfathered animal shall comply with any special term or condition imposed by the Clerk or designate.
- 4.5. Any person owning or in possession or regular control of a grandfathered animal must provide an Undertaking in writing that they will take all measures at all times that are reasonably required to ensure that the animal does not constitute a danger to the any member of the public and that dangerous animals are housed according to recognized professional zoo or sanctuary industry standards.
- 4.6. Where grandfathered animals can be viewed or visited, by invitation or otherwise, by members of the public, there shall be no contact between members of the public and the animals.
- 4.7. Where any grandfathered animal is deemed to be dangerous and/or potentially jeopardizes the health or safety of any individual and/or is deemed to be improperly or unsafely housed, enclosed or cared for, the grandfathered status of that animal may be revoked by the Clerk or designate.
- 4.8. Grandfathered animals that upon inspection by the Clerk or designate are deemed to be improperly or unsafely housed, enclosed or cared for, may be seized and impounded.
- 4.9. Any owner of an animal impounded pursuant to this By-law shall be liable to pay all costs of impounding the animal, its care and upkeep and all other reasonable costs related thereto.
- 4.10. Any person who moves a grandfathered animal to a location other than the one on file with the Municipality, shall notify the Clerk or designate of the

new location within forty-eight (48) hours after the animal is moved.

5. Exemptions

- 5.1. This By-law shall not apply to a veterinary hospital as permitted under the Township of Tyendinaga Zoning By-law, which is under the care of a licensed veterinarian.
- 5.2. This By-law shall not apply to a shelter or branch of the Ontario Society for Prevention of Cruelty to Animals or to a municipally operated pound or shelter.
- 5.3. This By-law shall not apply to animals maintained in a public park or wildlife exhibit owned or operated by the Township of Tyendinaga.
- 5.4. This By-law shall not apply to native wildlife species licensed in accordance with the Ontario Fish and Wildlife Conservation Act, 1997 and exempts only those animals described and listed on individual licenses.
- 5.5. This By-law shall not apply to domesticated livestock or other domesticated animals in agricultural fairs, shows or exhibitions or domesticated animals on lands zoned for agricultural purposes.
- 5.6. This By-law shall not apply to premises registered as Research Facilities under the Animals for Research Act, R.S.O. 1990, c. A. 22, as amended.
- 5.7. Notwithstanding anything contained in this By-law, any person may make application to the Municipality to be granted an exemption from any of the provisions of this By-law with respect to the keeping of any class of animal where a written request is received for such authorization. The Municipality may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as the Municipality sees fit:
 - a) In deciding whether to grant the exemption, the Municipality shall consider the application and any written submission made by the applicant and may consider such other matters as it sees fit.
 - b) Breach by the applicant of any of the terms or conditions of any exemption granted by the Municipality shall render the exemption null and void.

6. Impounding and Release

- 6.1. An Officer, or Provincial Offences Officer, may take into their custody and

impound any Animal listed in Schedule "A" found to be At Large, at the discretion of the officer, and such Animal may be released to a bona fide zoo or other facility authorized to keep and care for such Animals and that facility may include a facility named under the Research Animals Act.

- 6.2. An Officer, or Provincial Offences Officer, may take into their custody and impound any Animal listed in Schedule "A" found to be a danger to the public, at the discretion of the officer, and such Animal may be released to a bona fide zoo or other facility authorized to keep and care for such Animals and that facility may include a facility names under the Research Animals Act.
- 6.3. An Animal may be released to its owner provided proof that the Animal shall be removed from the Municipality forthwith is provided and the applicable fee for impounding and keeping the Animal has been received by the Municipality.
- 6.4. The owner shall be liable for the impoundment and maintenance fees, any damages caused by such Animal and for the expenses, if any, incurred by the Municipality or third party acting on behalf of the Municipality, plus any penalties that may be outstanding.
- 6.5. After the expiry of five (5) consecutive days where an Animal has not been restored to its Owner after a reasonable effort has been made to locate such Owner, the Officer may destroy the Animal in a manner that the Officer considers reasonable, desirable and humane, and is in keeping with the limits allowed by any Provincial or Federal Statute or relocate the animal to a bona fide zoo or other facility authorized to keep and care for such Animals.
- 6.6. This By-law shall not apply to domesticated livestock or other domesticated animals in agricultural fairs, shows or exhibitions or domesticated animals on lands zoned for agricultural purposes.

7. Administration and Enforcement

- 7.1. This by-law shall be administered by the Municipal By-law Enforcement Officer(s) of the Municipality or such person or persons as Council may, by By-law, appoint.
- 7.2. This by-law shall be enforced by the Municipal By-law Enforcement Officer(s) of the Municipality or such person or persons as Council may, by By-law, appoint.
- 7.3. The Municipal By-law Enforcement Officer(s), or person designated by Council, who enters land or premises to enforce this By-law may take with

him or her such other person as he or she considers advisable to assist.

8. Right of Entry

- 8.1. An Officer or person designated by Council shall be permitted to enter onto land at any time for the purpose of enforcing this By-law and any orders or conditions imposed under the authority of this By-law.
- 8.2. A person exercising a power of entry on behalf of the Municipality under this By-law must, upon request, display or produce proper identification.

9. Penalties

- 9.1. Any person who contravenes any provisions of this By-law is guilty of an offence and, upon conviction is liable to a fine as provided for the in Provincial Offences Act.
- 9.2. Every person who is convicted of an offence under this By-law may be subject to a fine of not more than five thousand dollars (\$5,000) for each offence and every Corporation may be subject to a fine of not more than ten thousand dollars (\$10,000) for each offence. Such fines shall be recoverable under the Provincial Offences Act.

10. Contraventions of By-law

- 10.1. Each day that a situation as described in Section 3 of this bylaw is allowed to continue shall constitute a separate offence under this by-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

11. Obstruction

- 11.1. In accordance with the provisions of the Municipal Act S.O. 2001, c. 25, as amended, no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an Officer, employee of the Municipality and/or agent in the lawful exercise of a power or duty under this by-law.
- 11.2. Any person who has been alleged to have contravened any of the provisions of this by-law, who fails to identify himself/herself shall be deemed to have obstructed or hindered the person exercising a power or performing a duty under this by-law.

12. Municipality Not Liable

- 12.1. The Municipality assumes no liability for property damage, damage to animal or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person, animal or property that

is subject of this by-law.

13. Rebuttable presumption – identification

13.1. In a prosecution for a contravention of this By-law, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

14. Conflict with other laws

14.1. Where the provisions of this By-law conflict with the provisions of any other By-law or Act, the more restrictive provisions shall apply.

15. Validity and Severability

15.1. If, for any reason, any section, clause or provision of this By-law is deemed by a Court or competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the part which was declared to be invalid.

16. Enactment

16.1. That this By-law shall come into full force and effect on the date of its passing.

16.2. This By-law may be cited as the "Exotic Animal By-law".

Read a first and second time this 7th day February, 2022.

Read a third and final time and finally passed this 7th day February, 2022.

Rick Phillips, Reeve

Carla Preston, CAO/Deputy Clerk

Schedule "A" to By-law 10-2022

Animals Prohibited or Dangerous

Class of animal and common names

(Common names are provided for illustration purposes only and are not intended to limit the extent of the classes of animals referred to in this schedule)

Mammals

Canidae (such as coyotes, wolves, foxes, hybrid wolf dogs) except domestic dogs

Chiroptera (bats such as fruit bats, myotis, flying foxes)

Edentates (such as anteaters, sloths, armadillos)

Felidae (such as tigers, leopards, lions, cougars) except domestic cats

Hyaenidae (such as hyenas)

Lagomorpha (such as hares, pikas) except rabbits

Marsupials (such as kangaroos, opossums, wallabies)

Mustelidae (such as mink, skunks, weasels, otters, badgers) except ferrets

Non-human primates (such as chimpanzees, gorillas, monkeys, lemurs)

Proboscidae (elephants)

Procyonidae (such as coatimundi, cacomistles)

Rodentia (such as porcupines and prairie dogs) except rodents which do not exceed 1,500 grams and are derived from self-sustaining captive populations

Ursidae (bears)

Viverridae (such as mongooses, civets, genets)

Reptiles

Crocodylia (such as alligators, crocodiles, gavials)

All snakes which reach an adult length larger than 3 metres

All lizards which reach an adult length larger than 2 metres

Other

All venomous and poisonous animals and arachnids

**Township of Tyendinaga
Part I Provincial Offences Act
By-law 10-2022:Exotic Animal**

Item	Column 1 Short Form Wording	Column2 Provision Creating/Defining Offence	Column 3 Set Fine
1.	Own, possess, harbour or keep any prohibited animal	Section 3.1	\$400.00
2.	Sell, offer for sale or display for sale any prohibited animal	Section 3.2	\$400.00
3.	Import or export any prohibited animal	Section 3.3	\$400.00
4.	Obstructing an Officer or Agent	Section 11.1	\$100.00

NOTE: the general penalty provision for the offences listed above is section 9 of By-law 10-2022, a certified copy of which has been filed.