

THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN

BY-LAW NO. 2011-24 (ANIMAL CARE AND IMPOUNDMENT BY-LAW)

WHEREAS sections 9 to 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (hereinafter referred to as "Municipal Act"), confer the power to pass by-laws regulating or prohibiting animals to a lower tier municipality;

AND WHEREAS section 103 of the Municipal Act confers the power upon a municipality to pass a by-law to provide for seizure and impounding of animals being at large or trespassing and the sale of impounded animals under certain conditions;

AND WHEREAS section 391 of the Municipal Act enables a municipality to pass by-laws imposing fees or charges on any identifiable class of persons for services or activities provided to or done by or on behalf of the persons within such identifiable class;

AND WHEREAS Council for The Corporation of the West Elgin deems it expedient to ensure that animals are kept and treated in a humane manner and that the owners of animals provide good quality care and security to those animals;

NOW THEREFORE THE COUNCIL FOR THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-Law,

"animal" means any member of the animal kingdom, other than human, as defined in the Municipal Act;

"animal enclosure" means an enclosed place for the keeping of animals, but the yard of a property where fencing has been erected on or along the property lines for the purposes of enclosing, in whole or in part, the yard itself, shall not be deemed to be an animal enclosure;

"Animal Control Officer" means the person or company, or their employees, under contract with the Municipality to enforce the requirements of this By-Law, or an employee of the Municipality of West Elgin employed to administer and enforce the requirements of this By-Law;

"at large" or "trespass" means an animal being at any place other than the premises of the owner of the animal and not under the control of the owner or a person acting on behalf of the owner;

"Corporation" means The Corporation of the Municipality of West Elgin;

"Council" means the Council of The Corporation of the Municipality of West Elgin;

"impounded" shall mean seized, delivered, received, or taken into the pound or any other suitable location and facility, including any authorized vehicle operated by or under the direction of an officer for purposes of transporting of such animal pursuant to the authority provided by the provisions of this By-Law;

“keep” means to have temporary or permanent control or possession of an animal;

“Municipality” means the Municipality of West Elgin;

“officer” is the Animal Control Officer or pound keeper designated by the Council, a Municipal By-Law Enforcement Officer designated by the said Council, and/or a Police Officer providing police services to the Municipality;

“owner” means a person who keeps, harbours, or has custody of an animal, and, in the case of a minor, “owner” means the person responsible for the custody of the minor; provided that, if there is more than one owner of an animal, there are jointly and severally “owner”;

“person” means an individual, partnership, association, firm, or corporation;

“pound” means those premises permanently or temporarily designated by the Corporation for the detention, maintenance, or disposal of animals that have been impounded by an officer pursuant to the provisions of this By-Law and shall include any building or buildings and/or enclosures maintained on behalf of the Corporation by any person or organization as is duly authorized to do so for the purposes of carrying out the provisions of this By-Law and shall also include any premises privately owned by another person who has agreed to accept animals on behalf of the Corporation for purposes of temporary impoundment;

“pound keeper” means the person or organization responsible for maintaining a pound utilized by the Corporation for the purpose of enforcing and carrying out the provisions of this By-Law;

“sanitary condition” means a condition that does not result in an accumulation of fecal matter, odour, insect infestation, or rodent attractants which endanger the health, comfort, or convenience of any person or animals.

ADMINISTRATION AND ENFORCEMENT

2. The Animal Control Officer shall be responsible for the administration of this By-Law and the said Animal Control Officer, a By-Law Enforcement Officer, and/or Police Officer providing police services to the Corporation shall be responsible for the enforcement of and may enforce this By-Law.

KEEPING OF ANIMALS

3. Every owner of an animal shall treat the animal in a humane manner, including but not limited to the provision of:
 - a) A shelter for the animal that is adequate for its size and breed;
 - b) Adequate amounts of potable water for the animal; and
 - c) Food of a type and in amounts nutritionally adequate for the animal.
4. No person shall keep an animal in an unsanitary condition.
5. Sections 3 and 4 and do not apply to:

- a) An animal hospital or clinic that is lawfully operated and supervised by a veterinarian licensed by the Ontario Veterinary Association;
- b) A pound or shelter lawfully operated by the Corporation or the Ontario Society For The Prevention of Cruelty to Animals (OSPCA);
- c) Any organization permitted by law to provide protection and humane treatment for animals;
- d) Any person rendering emergency treatment to an injured or abandoned animal;
- e) The Corporation or other governmental authority while lawfully operating a public park, exhibition, zoological garden, and the maintaining animals therein;
- f) Persons operating premises registered as research facilities under the Animals for Research Act, R. S.O. 1990, c. A-22, as amended, or the persons in charge, or the employees thereof, during the course of their duties.

ANIMAL ENCLOSURES

6. Every owner of an animal shall ensure that the animal enclosure provided for the animal meets the following requirements, regardless of whether the animal enclosure is located indoors or outdoors:
 - a) The animal enclosure shall be of a size and in a condition such that the animal may:
 - i) Extend its legs, wings, and body to the full natural extent;
 - ii) Stand;
 - iii) Sit; or
 - iv) Perch.
 - b) Every reptile, fish, and amphibian shall be provided with an enclosed space adequate for the needs of the species.
 - c) The enclosure is of such a nature and condition that the animal contained therein would not be harmed and its health would not be negatively affected by reason of being placed in such an animal enclosure.
 - d) Every animal contained therein may be readily observable unless the natural habits of the animal require otherwise.
 - e) The animal enclosure is kept in a clean and sanitary condition.
 - f) The animal enclosure is kept free of offensive odours.
 - g) The animal enclosure is escape proof.
7. Compliance with the requirements under this section of this By-Law does not exempt any person from compliance with other applicable laws and by-laws, including but not limited to the Building Code Act, 1992, as amended, and the Municipal By-Law requiring the fencing of livestock.
8. Every owner shall allow any officer to carry out an inspection of the premises where an animal or animals of the owner are kept or to make inquiries deemed necessary for the purposes of ensuring compliance with this By-Law.

ANIMALS AT LARGE

9. No owner shall cause or permit an animal to be at large.

SEIZURE AND IMPOUNDMENT

10. Any animal found to be at large contrary to this By-Law may be seized by an officer.
11. An officer may take possession of an animal for the purpose of providing protective care to it at any time when the officer deems it necessary to provide protective care to the animal.
12. Any animal seized under this By-Law shall be impounded for a period of five (5) days, exclusive of the day in which the animal was impounded and any intervening statutory holidays and Sundays, unless:
 - a) The animal is redeemed by the owner during this period of impoundment in accordance with the provisions of this By-Law;
 - b) In the opinion of the officer, the animal should be euthanized or should receive veterinary care immediately.
13. The owner of an animal impounded pursuant to this By-Law may redeem the animal upon payment of the appropriate seizure and impoundment and maintenance fees and associated charges for the time of the impoundment, including original seizure, as set forth in Schedule "A" to this By-Law.
14. If an animal is not redeemed within the time period specified in this By-Law, the animal shall become the property of the Corporation and may be:
 - a) Sold, privately, by auction, or by other commercially reasonable means; or
 - b) Euthanized at the direction of the Animal Control Officer.
15. An Animal Control Officer, pound keeper, or By-Law Enforcement Officer, after consultation of and/or examination of such animal by a veterinarian, if available, may euthanize an animal without delay without permitting any person to redeem it if:
 - a) The animal seized and impounded under this By-Law is seriously injured or ill and should be euthanized without delay for humane reasons;
 - b) Euthanasia of the animal seized and impounded under this By-Law as necessary for the safety of persons.
16. Where, in the opinion of the Animal Control Officer, pound keeper, or By-Law Enforcement Officer, an animal seized and impounded under this By-Law is injured and requires the services of a veterinarian or veterinary surgeon, the said Animal Control Officer, pound keeper, or By-Law Enforcement Officer shall arrange for such services and, in addition to any amount charged under this section of the By-Law and pursuant to Schedule "A" hereto, the Corporation is entitled to charge the owner of the animal the cost of the veterinary care invoiced to the Corporation at the direction of the Animal Control Officer.
17. In the event that any animal impounded pursuant to this By-Law and for which impoundment and maintenance charges and reimbursement of any veterinary services becomes chargeable to the owner, the Corporation may deem such charges as property taxes and thereafter add same to the tax roll accruing to any property of the owner located within the

Municipality and thereafter collect those charges from the said owner in the same manner as property taxes.

QUARANTINE OF ANIMALS

18. If, in the opinion of the local Health Unit or an officer, an animal shall be put in quarantine, the owner of the animal shall:
 - a) Comply with the quarantine order of the Health Unit or officer; and
 - b) Be responsible for the costs associated with the quarantine, including the costs of any veterinary care required for the animal and any other applicable fees.
19. In the event that the owner of the animal fails or refuses to pay the costs associated with the quarantine as set forth in s. 18 b) above, then the Corporation may arrange for such quarantine and, in addition to any amount charged under this section of the By-Law and pursuant to Schedule "A" hereto, the Corporation may deem such costs and charges as property taxes and thereafter add same to the tax roll accruing to any property of the owner located within the Municipality and thereafter collect those costs from the said owner in the same manner as property taxes.

PAYMENT OF CHARGES/COSTS

20. Every person responsible for the payment of any charges, costs, and expenses incurred under this By-Law shall make such payment in full upon demand by the Corporation.
21. The payment of any fees and charges as required under this By-Law does not constitute partial or full payment of any fines imposed by a Court of competent jurisdiction for an offence committed under this By-Law or any other By-Laws.

OFFENCE

22. Every person who contravenes any provision of this By-Law is guilty of an offence and is liable to a fine and other penalties imposed pursuant to the Provincial Offences Act, 1990, c. P-33, as amended.

VALIDITY

23. If a Court of competent jurisdiction declares any provision or provisions, or part thereof, of this By-Law as invalid, it is the intention of Council that the remainder of the By-Law shall continue to be in force.

CONFLICT

24. In the event of conflict between the provisions and effect of this By-Law and any other By-Law of the Municipality, including but not limited to By-Law 2002-15 as relating to the licensing and regulating of the keeping of dogs and prohibiting the running at large of dogs within the limits of the Municipality, the provisions and effect of such other By-Law shall prevail.

EFFECTIVE DATE

25. This By-Law shall come into full force and effect on the day of its final passing thereof.

SHORT TITLE

26. This By-Law shall be referred to as the “Animal Care and Impoundment By-Law”.

READ A FIRST AND SECOND TIME this 24th day of March, 2011.

READ A THIRD TIME and FINALLY PASSED this 24th day of March, 2011.

”Bernie Wiehle”
MAYOR

”Norma I. Bryant”
CLERK

