

**THE CORPORATION OF THE TOWN OF GREATER NAPANEE
BY-LAW NO. 2023-0009**

**Being a Bylaw to Prohibit or Otherwise Regulate the Keeping of Certain Animals Within
the Town of Greater Napanee**

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

And Whereas pursuant to Sections 11 (2) and (3) of the *Municipal Act*, 2001, S.O. 2001, c.25, a lower tier municipality may pass bylaws respecting the health, safety and well-being of persons, protection of persons and property, consumer protection and animals;

And Whereas Section 425 of the *Municipal Act*, 2001, authorizes a municipality to pass bylaws providing that a person who contravenes a bylaw of the municipality is guilty of an offence;

And Whereas Section 436 of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that the municipality has the power to pass bylaws authorizing the power of entry for the purpose of inspecting land to determine compliance with a bylaw, direction, order, or condition of licence;

And Whereas Section 444 of the *Municipal Act*, 2001, authorizes a municipality to make orders if a municipality is satisfied that a contravention of a bylaw of the municipality passed under the *Municipal Act* has occurred, requiring the person who contravened the bylaw or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

And Whereas Section 445 of the *Municipal Act*, 2001, provides that if a municipality is satisfied that a contravention of a bylaw of the municipality passed under the *Municipal Act* has occurred, the municipality may make an order requiring the person who contravened the bylaw or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

And Whereas Section 446 of the *Municipal Act*, 2001 authorizes a municipality through bylaw to require, in default of a required matter or thing being done, that the work may be done by the municipality at the expense of the person required to do it and costs may be added to the tax rolls and collected in the same manner as taxes;

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 animals;

Now Therefore the Council of The Town of Greater Napanee Enacts As Follows:

SECTION 1 - GENERAL

- 1.1** This bylaw shall be known and cited as the “Exotic Animal Bylaw” and shall apply to the whole geographic limits of the Town of Greater Napanee. In the text of this bylaw, it is referred to as “this bylaw”.
- 1.2** Schedules attached to this bylaw form a part of the bylaw.

SECTION 2 - DEFINITIONS

2.1 Animal Control Officer

“Animal Control Officer” means an animal control officer employed by the Town of Greater Napanee.

2.2 Attack

“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.

2.3 Council

“Council” means the Council of the Corporation of the Town of Greater Napanee.

2.4 Dangerous animal

“Dangerous animal” shall mean any animal that is, or is be 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 but not limited to animals listed in Schedule A of this bylaw.

2.5 Domesticated animal

“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 amendable to living alongside humans and which make them genetically distinct from their wild ancestors or cousins.

2.6 Enclosure or Enclosures

“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. The Enclosure or Enclosures require compliance with Provincial Animal Welfare Services (PAWS) standards and Provincial standards.

2.7 Grandfathered

“Grandfathered” means the lawful keeping of any animal currently prohibited under the provisions of this bylaw provided such animal was lawfully kept prior to the prohibition.

2.8 Municipality

“Municipality” shall mean the Town of Greater Napanee.

2.9 Officer

“Officer” means a Municipal Bylaw Enforcement Officer, Police Officer, or Animal Control Officer.

2.10 Pet business

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

2.11 Professional standards

“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.

2.12 Prohibited or Exotic animal

“Prohibited animal” or “Exotic animal” shall mean any animal listed in Schedule A of this bylaw.

2.13 Proof

“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 bylaw to otherwise prohibit the keeping of such animal and further that the owner and animal resided in the Municipality at such time.

2.14 Safekeeping

“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.

2.15 Wildlife exhibit

“Wildlife exhibit” means a place where animals are 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 or donations are accepted.

SECTION 3 - GENERAL PROVISIONS

3.1 Exotic animals prohibited or dangerous

Except as provided in Article 4, no person shall possess, harbour or keep any dangerous animal or animal set out in Schedule “A” attached to and forming part of this bylaw.

3.2 Pet businesses

Pet Businesses shall not keep, offer, give, sell, breed or trade animals listed in Schedule A of this bylaw.

SECTION 4 - GRANDFATHERED ANIMALS

4.1 Remove or register exotic animals

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 Municipality 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 Identification of grandfathered animals

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 Compliance with other laws

The keeping of grandfathered animals is subject to compliance with all other bylaws and provincial laws, regulations, rules and agreements, including but not limited to zoning and licensing bylaws.

4.4 Special conditions for grandfathered animals

The Municipality may, at their discretion, impose special terms or conditions on the keeping of any grandfathered animal (e.g. housing). Any person who owns, possesses, harbours, keeps a grandfathered animal shall comply with any special term or condition imposed by the Municipality or designate.

4.5 Undertaking for grandfathered animals

Any person owning or in possession or regular control of a grandfathered animal must provide an Undertaking in writing that they will always take all measures that are reasonably required to ensure that the animal does not constitute a danger to any member of the public and that dangerous animals are housed according to recognized professional zoo or sanctuary industry standards.

4.6 Revocation of grandfathered status

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 Municipality or designate.

4.7 Seizure of grandfathered animals

Grandfathered animals that upon inspection by the Municipality or designate are deemed to be improperly or unsafely housed, enclosed or cared for may be seized and impounded.

4.8 Impoundment of grandfathered animals

An owner of an animal impounded pursuant to this bylaw shall be liable to pay all costs of impounding the animal, its care and upkeep and all other reasonable costs related thereto.

4.9 Grandfathered animal re-located

Any person who moves a grandfathered animal to a location other than the one on file with the Municipality, shall notify the Municipality or designate of the new location within forty-eight (48) hours after the animal is moved.

Section 5 - EXEMPTIONS

5.1 Veterinary hospital

This bylaw shall not apply to a veterinary hospital as permitted under the Town of Greater Napanee Zoning Bylaw, which is under the care of a licensed veterinarian.

5.2 Shelters

This bylaw 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 Public park or wildlife exhibit

This bylaw shall not apply to animals maintained in a public park or wildlife exhibit owned or operated by the Town of Greater Napanee.

5.4 Licensed by Provincial Government

This bylaw 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 licences.

5.5 Agricultural fairs, shows, exhibitions, land

This bylaw 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 Research institutions

This bylaw 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 Application for exemption

Notwithstanding anything contained in this bylaw, any person may make application to the Municipality to be granted an exemption from any of the provisions of this bylaw 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) Decision

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) Terms - conditions - breach – void

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.

SECTION 6 - ENFORCEMENT

6.1 Enforcement

A Municipal Bylaw Enforcement Officer, Police Officer or Animal Control Officer is hereby vested with the authority of enforcing the provisions of this bylaw.

6.2 Order or Direction

An Officer may issue a direction or order requiring that a person comply with the provisions of this bylaw.

6.3 Entry and inspection

An Officer may, at all reasonable times, enter on land including buildings and structures other than a dwelling unit, for the purpose of carrying out an inspection to determine compliance with this bylaw and/or compliance with any direction or order under this bylaw.

6.4 Compliance

Where a violation is found, an Officer may make an order detailing the non-compliance and state the required compliance date and conditions to be met.

6.5 Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this bylaw, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of “hinder” or “obstruct”, a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- a) provides false information to an Officer; or
- b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this bylaw, and fails to identify themselves to an Officer upon request.

6.6 Penalties

- a) Any person who contravenes any of the provisions of this bylaw is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.
- b) Where a section of this bylaw has been contravened, a director or officer of a corporation who knowingly concurs in the contravention is guilty of an offence.

- c) Upon conviction, in addition to any other remedy and to any penalty imposed by this bylaw, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

6.7 Validity and severability

Every provision of this bylaw is declared severable from the remainder and if any provision of this bylaw shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder.

6.8 Rebuttable presumption – identification

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

6.9 Contraventions of bylaw

Where any contravention of this bylaw is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

6.10 Conflict with other laws

Where the provisions of this bylaw conflict with the provisions of any other bylaw or *Act*, the more restrictive provisions shall apply.

SECTION 7 – EFFECTIVE DATE

7.1 Effective

This bylaw shall come into force and take effect immediately upon the passing thereof.

Read a first and second time and finally passed, this 31st day of January, 2023

Terry Richardson, Mayor

Jessica Walters, Clerk

Schedule "A" To Bylaw 2023-0009 Exotic Animal Bylaw

Animals Prohibited or Dangerous

- All endangered or protected animals, whether native or non-native to Canada, whose possession, sale or trade is prohibited because they are designated as protected, endangered, threatened, vulnerable or of special concern pursuant to an international, federal, provincial law, regulation, rule or agreement.
- Any animal that is, or is be 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.
- Non-human Primate (lemur, monkey, ape)
- Canidae (wolf, coyote, fox), except domesticated dog (*Canis familiaris*)
- Felidae (lion, tiger, leopard, lynx, ocelot, serval), except domesticated cat (*Felis catus*)
- Ursidae (bear)
- Hyaenidae (hyena)
- Marsupials (kangaroo, wallaby), except sugar gliders
- Rhinocerotidae (tapir, rhinoceros)
- Artiodactyla (hippopotamus, giraffe, peccary), except domesticated livestock
- Proboscidea (elephants)
- Pinnipedia (seal, sea lion, walrus)

Reptiles, Amphibians, Fish & Invertebrates

- Crocodilia (crocodile, alligator, caiman, gavial)
- Chelydridae (Common snapping turtle, Alligator snapping turtle)
- Boidae (yellow anaconda, green anaconda)
- Venomous snakes and lizards
- Snakes reaching an adult length in excess of three meters, and lizards reaching an adult length in excess of two meters

Examples of animals of a particular prohibited group are in parentheses. They are examples only and shall not be construed as limiting the generality of the group.