

The Corporation of the Town of Penetanguishene



By-law 2012-56 as amended Town of Penetanguishene Cat By-law

OFFICE CONSOLIDATION – WORKING COPY

By-law 2012-56, as amended by By-laws:
2013-54

Revised September 29, 2013

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THE CORPORATION OF THE TOWN OF PENETANGUISHENE

BY-LAW NUMBER 2012-56

Being a By-law to Provide for the Control of Domestic Cats and to Repeal By-law No. 1997-23

WHEREAS pursuant to Section 9 of the Municipal Act, 2001 S.O., Chapter 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to Section 8. (1) of the Municipal Act, 2001 S.O. 2001, Chapter 25, as amended, the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to Section 11. (3) of the Municipal Act, 2001, S.O. 2001, Chapter 23, 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 pursuant to Section 103 (1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, if a municipality passes a By-law regulating or prohibiting with respect to the being at large or trespassing of animals, it may provide for, (a) the seizure and impounding of animals being at large or trespassing contrary to the by-law; and (b) the sale of impounded animals, (i) if they are not claimed within a reasonable time, (ii) if the expenses of the municipality respecting the impounding of the animals are not paid, or (iii) at such time and in such manner as is provided in the By-law;

AND WHEREAS pursuant to Section 391. (1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, the Municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS sections 425, 426 and 429 of the **Municipal Act, 2001** S.O. 2001, Chapter 25, states a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a By-law passed under

this Act and a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act;

AND WHEREAS section 436 of the **Municipal Act, 2001** S.O. 2001, Chapter 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 section 435, 437 and 438 of the **Municipal Act, 2001** S.O. 2001, Chapter 25, set out additional powers and restrictions in regard to the power of entry;

AND WHEREAS section 446 of the **Municipal Act, 2001** S.O. 2001, Chapter 25 authorizes the municipality that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, the municipality may enter upon land at any reasonable time, the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the Council of The Corporation of the Town of Penetanguishene deems it necessary for the safety and welfare of its citizens to regulate and control domestic cats the running at large and trespass of domestic cats;

NOW THEREFORE the Council of the Town of Penetanguishene hereby enacts as follows:

1. DEFINITIONS

In this By-law:

- 1.1 **"Animal Control Officer"** means an Animal Control Officer appointed by By-law of the Town for the purposes of carrying out an Animal Control Function.
- 1.2 **"Appeal Committee"** means the Finance & Corporate Services Section of the Council of the Town of Penetanguishene or such other committee as Council may designate from time to time for this purpose.
- 1.3 **"Cat"** means a feline which is harbored by a human and which may be dependent on humans for food and shelter but shall not include a feline which is wild or indigenous to a species which would normally considered to be wild.
- 1.4 **"Council"** means the Council of The Corporation of the Town of Penetanguishene.

- 1.5 **“Dwelling unit”** means a room or suite of two (2) or more rooms designed or intended for use by any person or persons in which sanitary conveniences are provided and in which facilities are provided for cooking or the installation of cooking equipment, which shall include any real property associated with such a dwelling unit.
- 1.6 **“Harbour”** shall mean to provide food, shelter or care to cat by direct act or active omission.
- 1.7 **“Kennel”** shall mean:
- a) A place where more than six (6) cats are kept and cared for on behalf of the owner of the cats;
 - b) A place where more than six (6) cats are kept by the owner of the cats
- 1.8 **“Owner of a cat”** includes:
- a) A person who possesses or harbours a cat;
 - b) Where the person who possesses a cat is a minor, the person responsible for the custody of the minor.
- 1.9 **“Officer”** means a Municipal Law Enforcement Officer or such other officer as may be appointed by Council from time to time for the enforcement of this By-law.
- 1.10 **“Person”** means all transients, owners, tenants and occupiers of lands within the Town and shall include any individual, association, firm partnership, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to who the context can apply according to law.
- 1.11 **“Property”** means real property and shall include grounds, yards and vacant land.
- 1.12 **“Shall”** means imperative or must.
- 1.13 **“Town”** means The Corporation of the Town of Penetanguishene and includes, where the context permits, its duly authorized officers, contractors, employees and agents.

2. **WORD USAGE**

- 2.1 As used in this By-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.
- 2.2 The headings and subheadings used in this By-law shall not form a part of the By-law, but shall be deemed to be inserted for convenience of reference only.

3. LIMIT OF TWO (2) CATS

- 3.1 No more than two (2) cats shall be harboured, at any one time, in a dwelling unit or on property associated with such dwelling unit within the Town.
- 3.2 Notwithstanding Section 3.1, no more than two (2) cats shall be harboured, at any one time, in any structure used for commercial, industrial or institutional purposes within the Town.
- 3.3 Section 3.1 and 3.2 do not apply to:
- (i) The operation of a kennel licensed under the provisions of this By-law and operated for the purposes of breeding or boarding cats;
 - (ii) An animal hospital owned and operated by a veterinarian licensed by the Ontario Veterinarian Association;
 - (iii) A pet store licensed in accordance with the provisions of the municipal By-laws;
 - (iv) A shelter or pound of the Ontario Society for the Prevention of Cruelty to Animals;
 - (v) Cats under the age of twelve (12) weeks;
 - (vi) Persons possessing more than the limit prior to September 1, 2012, but as each cat dies or is disposed of, the provisions of this By-law shall apply.

4. KENNEL LICENSING

- 4.1 No person or persons shall keep more than two (2) cats over twelve (12) weeks of age at one location unless a kennel license is obtained.

- 4.2 Prior to the issuance of a kennel license, the Animal Control Officer shall conduct an inspection and be satisfied that the premises are suitable for the purpose of a kennel and in compliance with the requirements set out herein.
- 4.3 Every person who holds a kennel license or applies for a kennel license shall comply with the following requirements:
- (i) The kennel shall be in a separate building.
 - (ii) The kennel building and its location must conform to the Zoning By-law and the Ontario Building Code.
 - (iii) The kennel building shall have a floor of concrete or other impermeable material and such floor shall be thoroughly cleaned daily, or more often if necessary.
 - (iv) The kennel building shall have electric lighting, windows that may be opened for proper ventilation, a heating system sufficient to adequately heat the building, hot and cold running water and a food preparation area.
 - (v) Cats being housed at the kennel shall not be permitted outside of a fully confined area which shall include a barrier over top of the area, in order to prevent escape from the confines of the kennel.
 - (vi) Where clipping and grooming service is performed, such clipping and grooming shall be carried out in the kennel building only.
 - (vii) While the license is in force the kennel operator shall keep the license continuously exposed in a conspicuous place in the interior of the premises for which the license is obtained.
 - (viii) At all times, the kennel operator shall maintain the premises in a sanitary, well ventilated clean condition, and free from offensive odours.
 - (ix) The operator shall keep cats in sanitary, well bedded, well ventilated, naturally lighted, clean quarters at a healthful temperature at all times.
 - (x) The operator shall feed and give water to the cats periodically each day and keep same in a clean, healthy condition free from vermin and disease.

- (xi) On receipt of an application for any renewal of a kennel license or at any time during the period when the kennel is in operation, an Officer may at any reasonable time enter upon the premises of the license holder to inspect any place where cats are kept, pursuant to this By-law.
- (xii) If a kennel is found not to conform under the requirements set out herein, an officer may direct that the cats be seized and impounded by the Animal Control Officer appointed by the Town and may revoke the license issued to the kennel.
- (xiii) The annual kennel license fee shall be as provided for in Schedule "A" to this By-law.

5. CATS RUNNING AT LARGE

- 5.1 No owner of a cat shall permit his cat to run at large within the boundaries of the Town.
- 5.2 For the purpose of this By-law, a cat shall be deemed to be running at large when found trespassing at a place other than the premises of the owner and not under the control of a capable and responsible person.
- 5.3 A cat shall be deemed to be under the control of a capable and responsible person if it is on a leash attached to harness, which the leash is in the hands of an individual able to restrain the cat and/or maintain control over the cat.
- 5.4 A cat running at large may be seized and contained by any person who shall forthwith deliver the cat to an Animal Control Officer. For the purpose of this section "Contain" shall be limited to being held within a container such as a cat carrier with adequate ventilation in order to prevent suffocation.
- 5.5 Any cat running at large may be seized and impounded, and may be sold or destroyed by the Town.
- 5.6 No owner of a cat, whether or not the cat is on a leash, shall allow the cat to enter into or upon any building or structure which is owned or controlled by the Town.
- 5.7 Where any cat is running at large and:
 - (i) Represents a threat to the safety of any person or animal, or

- (ii) Is severely injured,

An Animal Control Officer or Police Officer may destroy such cat and no damages or compensation shall be recoverable by the owner as a result of any such action.

6. FEES PAYABLE AFTER IMPOUNDING

- 6.1 The Animal Control Officer, on satisfactory identification, may release an impounded cat to the owner on payment of the fees as set out in Schedule "B", plus the cost of any damages, fines, expenses, veterinary care and the cost of any vaccination or immunization.
- 6.2 Any cat impounded may at the discretion of the Town, be given an inoculation to provide temporary immunization against distemper or any other contagious or infectious disease.
- 6.3 The Animal Control Officer is hereby authorized to charge the fees for services as set out in Schedule "B".
- 6.4 Where a cat has been impounded and has not been destroyed, the Animal Control Officer shall release possession of the cat to its owner where:
 - (i) The owner attends at the pound and claims possession of the cat within three (3) days, excluding the day in which the cat was impounded, statutory holidays and Sundays and;
 - (ii) Pursuant to the fees provided in Schedule "B" to this By-law, the owner pays the Animal Control a seizure/pound fee, in addition to the daily maintenance fee for each day the cat has been in the pound commencing the day on which the cat is seized and including the date on which the cat is removed from the pound.
- 6.5 Notwithstanding Section 6.4, if the Animal Control Officer seizes and impounds a female cat found to be running at large while in heat, said cat shall be held at the pound at the discretion of the Animal Control Officer, until no longer in heat, but in any case no longer than twenty-one (21) days.

7. DISPOSAL OF CATS

- 7.1 Where a cat has been seized while found running at large and impounded and the owner has not claimed the cat within three (3) days, excluding the day on which the cat was seized, statutory holidays and Sundays, or having attended at the pound to claim the cat but not paid the prescribed

seizure/pound and maintenance fees, the Animal Control officer may sell the cat for such price as he deems fit, destroy the cat in a humane manner, or otherwise dispose of the cat as the Officer in his discretion deems fit and no damages or compensation shall be recoverable by the owner as a result of any such action.

8. SEVERABILITY

- 8.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.
- 8.2 Where the provisions of this By-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

9. SCHEDULES

- 9.1 Schedules A and B attached hereto shall form part of this By-law.

10. POWERS OF ENTRY

- 10.1 An Officer as defined in this By-law is hereby vested with the authority to enforce the By-law
- 10.2 An Officer may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) The provisions of this By-law;
 - b) A direction or notice issued under this By-law.
- 10.3 Where an inspection is conducted by the Town, an Officer may:
- a) Require the production for inspection of documents or things relevant to the inspection;
 - b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

- c) Require information from any person concerning a matter related to the inspection including their name, address, phone number and identification;
- 10.4 Every Owner or Person occupying the property shall permit an Officer to inspect any land for the purposes as set out in this By-law. An Officer may be accompanied by a person under the Officer's direction.
- 10.5 Power of entry may be exercised by an Officer as defined in this By-law.
- 10.6 Where the owner, lessee or occupant is in default of doing the necessary work as outlined within the notice provided pursuant to this By-law, the Officer may enter upon land at any reasonable time and cause the work to be completed by a qualified contractor as contracted by the Town.

11. PENALTY PROVISIONS

- 11.1 Every person who contravenes the provisions of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty that shall not exceed \$100, 000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 11.2 For the purpose of continuous offences, every person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a By-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10, 000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 11.3 Despite the Section 11.2 and the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended, the total of all daily fines for the offence is not limited to \$100, 000.
- 11.4 For the purpose of multiple offences, every person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a By-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 11.5 Despite Section 11.4 and the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended, the total of all daily fines for the offence is not limited to \$100, 000.

- 11.6 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 11.7 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 11.8 Any Person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended, shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 11.9 Every person who contravenes any section of this by-law under a part I or part II ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act R.S.O 1990, Chapter P.33 as amended.
- 11.10 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

12. REPEAL

- 12.1 That By-law 1997-23 is hereby repealed in its entirety.
- 12.2 That any By-law or By-laws, or parts of any By-law or By-laws that are inconsistent with this By-law are hereby deemed repealed.

13. SHORT FORM TITLE

- 13.1 That this By-law shall be referred to as the "Cat By-law".

14. EFFECTIVE DATE

- 14.1 This By-law shall come into full force and effect upon receipt of the approval of the set fine schedules as issued by the Regional Senior Judge of the Ontario Court of Justice, Central East Region.

BY-LAW read a first, second and third time and finally passed by Council on the 29th day of August, 2012.

MAYOR Gerry Marshall

CLERK Holly Bryce

signed

SCHEDULE “A”

BY-LAW NUMBER 2012-56

**Being a By-law to Provide for the Control of Domestic Cats
and to Repeal By-law No. 1997-23**

Annual Fees for Kennel Licensing

	January 1st to February 28th of any given year	March 1st to December 31st of any given year
Kennel Fee	\$100.00	\$135.00