

Bill No. 298

CITY OF HAMILTON

BY-LAW NO. 04-298

Respecting Animal Control Services

WHEREAS Section 11(1)9. of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that a single tier municipality may pass by-laws respecting animals;

AND WHEREAS Section 391(1)a of the Municipal Act, 2001 provides that a municipality may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS pursuant to the City of Hamilton Act, 1999, S.O. 1999, chapter 14 Schedule C, the City of Hamilton was incorporated as the successor to the former area municipalities of: The Corporation of the Town of Ancaster; The Corporation of the Town of Dundas; The Corporation of the Town of The Corporation of the Township of The Corporation of the City of Hamilton; and, The Corporation of the City of Stoney Creek; each municipality having established fees and charges imposed for the provision of non-emergency animal control services;

AND WHEREAS the Council of the City of Hamilton deems it expedient to regulate the provision of non-emergency animal control services and to harmonize the fees and charges imposed therefor;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

Definitions

1. For the purpose of this by-law:

- (a) “animal” means any domestic animal or animal wild by nature that is in captivity;
- (b) “altered” means spayed or neutered;

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- (c) “chipped” and “micro-chipped” means the implantation of an identifying micro-chip;
- (d) “City” means the City of Hamilton, either in the sense of the geographic area of the municipality or the identity of the municipal corporation as the context requires and includes its employees, officers, and agents and, where an authority or discretion is conferred under this By-Law, it means the appropriate official of the City as designated or appointed under its governing by-laws, resolutions or policies from time to time;
- (e) “Council” means the Council for the City of Hamilton;
- (f) “Cat” means any male or female domestic cat;
- (g) “Director” means the Director of Building and Licensing Division for the City of Hamilton and includes his or her _____ and _____
- (h) “Dog” means any male or female domestic dog;
- (i) “General Manager” means the General Manager of Planning and Development Department for the City of Hamilton and includes her or his _____ and _____
- (j) “Identified Cat” means a domestic cat which has been implanted with a micro-chip, or which is wearing a collar, or which is tattooed and by which means the owner of the cat can be identified;
- (k) “Kitten” means a domestic cat that is six months of age or less;
- (l) “Large Livestock” means a horse, a cow and all swine save and except pot bellied pigs;
- (m) “Manager” means the Manager of the Standards and Licensing Section of the Planning and Development Department for the City of Hamilton and includes his or her _____ and _____
- (n) “Officer” means a Provincial Offences Officer, a Municipal Law Enforcement Officer appointed by Council and a Police Officer;
- (o) “Other Small Domestic Animal” includes, but is not limited to, rabbits, rodents, song birds and small reptiles, but excludes fish.
- (p) “Owner” means a person who owns an animal or a person who possesses, keeps or harbours an animal for any period of time and, where the Owner is a minor, includes the person responsible for the custody of the minor;

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“Pound Keeper” means the persons appointed by Council to carry out the operation of the City’s pounds, whether by employment or under contract, and includes the Director, the Manager and such private sector contractors as may be, from time to time, appointed as animal control service providers.

“Puppy” means a domestic dog that is six months of age or less;

“Reduced Rate” means the fee or charge that applies in cases where the recipient of the service is sixty five (65) years of age or older, or receives a disability pension;

“Small Livestock” means livestock that is not a horse, a cow or swine but includes pot bellied pigs;

“veterinarian” means a person licensed under the Veterinarians Act, R.S.O. 1990, Chapter V.3;

“vet checked” means examined by a veterinarian;

“vicious dog” means a dog that has made an unprovoked attack or bite that causes physical injury to a person or to an animal under restraint or confined to the property of the owner of the injured animal;

Interpretation

2. For the purpose of this by-law:

- (a) a reference to any Act, by-law, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, by-law, rule or regulation or provision enacted in substitution therefor or amendment thereof;
- (b) any term, when describing gender, is deemed to include the feminine, masculine, and neutral genders and may be read in either the masculine, feminine or neutral form as may be appropriate;
- (c) any term, when indicating the singular or plural form, is deemed to include both forms, and may be read in either the singular or plural form as the context may require;
- (d) any term, when indicating tense, is deemed to include past, present and future tense, and may be read in such tense as may be appropriate or as context may require;

- (e) 20 kilograms (kg.) shall be deemed equal to **44** pounds (lbs.), 40 kilograms shall be deemed equal to 88 pounds and 60 kilograms shall be deemed equal to 132 pounds;
- (f) Schedule "A", being the schedule of Fees and Charges, is attached to and forms a part of this by-law.

Enforcement

- 3. This By-Law may be enforced by an Officer or Officers and/or a Pound Keeper or Pound Keepers.

Custody of Animals

- 4. Subject to the lawful exercise of a right to take possession, control or dispose of an animal pursuant to the Criminal Code, Chapter C-46, as amended, or the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, Chapter O.36, as amended, with respect to any animal being at large or trespassing, the City shall have the absolute right to:
 - (a) seize and impound the animal; and,
 - (b) sell or otherwise dispose of the impounded animal,
 - (i) if said animal is not claimed from the City, within three (3) calendar days of the seizure or impounding of such animal, excluding the day on which the animal was seized and impounded and further excluding holidays or days during which the pound is not open to the public; and/or,
 - (ii) if the expenses of the City with respect to the seizure, impounding and custody of the animal, including all fees and charges applicable therefor, are not paid to the City within three (3) calendar days of the seizure or impounding of such animal, excluding the day on which the animal was seized and impounded and further excluding holidays or days during which the pound is not open to the public.

In the event the City seizes, impounds or takes into custody an animal (collectively referred herein as a "seizure") and the animal bears up-to-date identification of its Owner, including the Owner's telephone number or address or, in the case of a micro-chip identification, an animal registration service tattoo or other identification markings or a license tag, a readily accessible method of obtaining same, the Pound Keeper shall make a reasonable effort to notify the said Owner at the address noted on such identification within a reasonable time after such seizure.

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- (d) For the purpose of sections 4 and 6, an animal “being at large” means an animal found in any place other than the premises of the Owner of the animal and not under the control of any person, and for greater certainty, includes where an animal has strayed from its permanent or temporary Owner or their premises onto a public place or onto private property without the consent of the property owner thereof, and “run at large” and “running at large” has the same meaning.
 - (e) For the purpose of this section an animal is “trespassing” when the said animal is on the property of any person other than its Owner, without the consent of the person owning, having control of, or authority over, the property which the animal is on, regardless of whether or not the animal is under the control of any person and save and except a Police canine unit dog in the performance of its duties.
5. Where an animal is surrendered to the City by its Owner, the City shall have the unfettered right to sell or otherwise dispose of the animal in any manner it deems appropriate, including but not limited to releasing the animal to a person other than the original owner or destroying the animal.
6. Where it is determined in accordance with the Ontario Society for Prevention of Cruelty to Animals Act, R.S.O. 1990, Chapter O.36 as amended or the Livestock, Poultry and Honey Bee Protection Act, **R.S.O.**1990, Chapter L.24 as amended, or in the opinion of an Officer or Pound Keeper that:
- (a) it would be inhumane not to destroy the animal without delay given the condition of the animal; or
 - (b) the animal poses a reasonable apprehension or risk of imminent harm to a person or domestic animal; or
 - (c) reasons of safety of a person or persons or of an animal or animals necessitate such action; or
 - (d) the animal is found running at large in an area where livestock are normally kept,
- such animal may be destroyed and disposed of by the City without offering it for sale or for return to the Owner.
7. Where an animal is captured, seized and/or taken into custody by the City and the condition of the animal requires the services of a veterinarian, as determined by the Pound Keeper or an Officer, whether or not the animal eventually dies or is destroyed without being returned to the Owner, the Owner shall pay to the Pound Keeper all fees and charges of the veterinary surgeon in addition to all other expenses, fees and charges payable under this By-Law.

8. A decision by an Officer and/or a Pound Keeper or other employee, agent or contractor of the City, made in good faith in the enforcement or administration of this By-Law, to capture, seize, take into custody, impound, sell, release, destroy or otherwise dispose of an animal, shall not entitle the Owner to any compensation whatsoever from any such person, the City or a local board including the Police Board. Notwithstanding the foregoing, in the event that a sale of the said animal is conducted by the City and such sale results in surplus funds remaining after:
- (i) payment of all of the City's expenses under this By-Law or incurred in the sale of the animal; and,
 - (ii) deduction of any fees and costs owing by the animal's Owner to the City pursuant to this By-Law,

such surplus funds shall be paid over to the Owner, save and except where the animal has been surrendered to the City, provided that the Owner has delivered a written request for such surplus to the Pound Keeper conducting such sale within seven (7) calendar days of the date of the sale. Where the Owner has failed to make a written request as required hereunder, such surplus shall be forfeited to the City.

For greater clarity, disposal of the animal by the City, where no money is paid to the City for the animal, shall not constitute the sale of said animal, and such disposal may include, but may not be limited to, the release of the animal to the Hamilton \ Burlington Society for the Prevention of Cruelty to Animals, to any animal rescue organisation, or to any private person, in each case at no charge.

Fees and Charges

No person shall recover, redeem or repossess an animal which has been seized or impounded or which is otherwise in the custody of or under the care of the City without having first paid to the City the applicable fees and charges set out in Schedule A of this By-Law and any other expenses payable pursuant to this By-Law.

No person shall surrender an animal to the City without having first paid to the City the applicable fees and charges as set out in Schedule A of this By-Law and any other expenses payable pursuant to this By-Law.

Notwithstanding the provisions of any other by-law of the City, a person purporting to pay an amount under this by-law by cheque, but whose cheque is not honoured by reason of insufficient funds, shall be liable to pay, in addition to any fees and charges owing, the "Not Sufficient Funds" service charge set out in Schedule A of this By-law.

The Manager may, at his/her absolute discretion, reduce or waive a fee or

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charge set out in Schedule A of this By-Law when, in the Manager's opinion, imposing such fees or charges, in part or in whole, is likely to cause undue hardship to an Owner or when, in his opinion, imposing such fees or charges would not serve the interests of the City.

13. The Manager may, at his/her absolute discretion, accept payment of a fee or charge for a service provided under this By-Law in instalments when, in the opinion of the Manager to demand immediate payment in full would likely cause undue hardship to an Owner, and the amount of each instalment payment and the time period over which the said payments are to be made shall be to the satisfaction of the Manager.
14. The exercise or non-exercise of any discretion by the Manager under this By-Law shall in no way constrain any future exercise or non-exercise of discretion by the Manager nor establish any precedent or obligation on the part of the Manager or the City. Sections 12 or 13 of this by-law shall not be construed as creating any right or entitlement to any person, notwithstanding any circumstances, material or otherwise, that may exist or arise.
15. In addition to, and without limiting, any remedy or other action that may be taken by the City, any costs or expenses incurred by the City and any fees or charges owed by an Owner to the City that are associated with the provision of any service under this By-Law may be recovered by the City by action or may be added by the City Clerk to the collector's roll against any lands of the Owner within the corporate boundaries of the City of Hamilton and collected in a like manner as municipal taxes.

Offences and Penalties

16. Every person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to the penalties specified in Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

Obstruct Officer

17. No person shall hinder or obstruct, or attempt to hinder or obstruct, a Pound Keeper or an Officer exercising a power or performing a duty under this By-Law pursuant to section 426 of the Municipal Act, 2001.

Severability

18. If a Court of competent jurisdiction declares a part or the whole of any provision of this By-law to be invalid, of no force and effect or beyond the power of the Council to enact, such provision or parts thereof shall be deemed to be severable and all other provisions or parts of this By-law shall be deemed to be separate and independent therefrom and continue in full force and effect and it is the intention of Council that the remainder of this By-Law survive and be applied

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and enforced in accordance with its terms to the extent possible under the law.

Short Title

19. The short title of this By-law shall be the “Animal Control Services By-law”

Repeal

20. Section 3 of Schedule “A” of City of Hamilton By-law No. 01-169, is hereby repealed.

Force and Effect

21. This By-Law shall come into force and take effect on the date of its passing and enactment.

PASSED AND ENACTED this 24th day of November, 2004.

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Schedule A to By-law No. 04-298 - Fees and Charges

Column 1 (Services)		Column 2 (Fees)
Impound Fees (Standard Rate)		
Licensed Dog	(1 st Offence)	\$30.00
	(Subsequent Offence)	\$120.00
Unlicensed Dog	(1 st Offence)	\$60.00
	(Subsequent Offence)	\$120.00
Vicious Dog		\$210.00
Identified Cat	(1 st Offence)	\$15.00
	(Subsequent Offence)	\$20.00
Unidentified Cat	(1 st Offence)	\$30.00
	(Subsequent Offence)	\$50.00
Other Small Domestic Animal		\$10.00
Livestock	Small	\$40.00
Impound Fees (Reduced Rate)		
(1 st Offence)		\$25.00
Unlicensed Dog	(1 st Offence)	\$50.00
	(Subsequent Offence)	\$100.00
Vicious Dog		\$210.00
Identified Cat	(1 st Offence)	\$10.00
	(Subsequent Offence)	\$20.00
Unidentified Cat	(1 st Offence)	\$20.00
	(Subsequent Offence)	\$30.00
Other Small Domestic Animal		\$5.00
Livestock	Small	\$30.00
	Large	\$75.00

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Column 1 (Services)		Column 2 (Fees)
Live Surrender Fees (Standard Rate)		
Dog	Under 20 kg.	\$45.00
	20 kg. - 40 kg.	\$65.00
	40 kg. - 60 kg.	\$85.00
	Over 60 kg.	\$105.00
Cat		\$45.00
Puppy (one)		\$35.00
Kitten (one)		\$25.00
Litter (up to 5)	Canine	\$45.00
	Feline	\$35.00
Other Small Domestic Animal		\$20.00
Multiple Small Domestic Animals (up to 6)		\$30.00
Small Livestock		\$60.00
Live Surrender Fees (Reduced Rate)		
Dog	Under 20 kg.	\$40.00
	20 kg. - 40 kg.	\$60.00
	40 kg. - 60 kg.	\$80.00
	Over 60 kg.	\$100.00
Puppy (one)		\$30.00
Kitten (one)		\$20.00
Litter (up to 5)	Canine	\$40.00
	Feline	\$30.00
Other Small Domestic Animal		\$15.00
Multiple Small Domestic Animals (up to 6)		\$25.00
Small Livestock		\$50.00

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Column 1 (Services)		Column 2 (Fees)
Cadaver Surrender Fees (Standard Rate)		
Dog	Under 20 kg.	\$40.00
	20 kg. - 40 kg.	\$60.00
	40 kg. - 60 kg.	\$80.00
	Over 60 kg	\$100.00
Cat		\$40.00
Puppy		\$30.00
Kitten		\$20.00
Litter (up to 5)	Canine	\$40.00
	Feline	\$30.00
Other Small Domestic Animal		\$15.00
Multiple Small Domestic Animals (up to 6)		\$25.00
Small Livestock		\$50.00
Cadaver Surrender Fees (Reduced Rate)		
Dog	Under 20 kg.	\$25.00
	20 kg. - 40 kg.	\$45.00
	40 kg. - 60 kg.	\$60.00
	Over 60 kg	\$85.00
Cat		\$25.00
Puppy		\$20.00
Kitten		\$15.00
Litter (up to 5)	Canine	\$25.00
	Feline	\$20.00
Other Small Domestic Animal		\$5.00
Multiple Small Domestic Animals (up to 6)		\$10.00
Small Livestock		\$30.00

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Column 1 (Services)		Column 2 (Fees)
Boarding Fees (Standard Rate - Per Day)		
Dog		\$15.00
Vicious Dog		\$25.00
Cat		\$10.00
Other Small Domestic Animal		\$5.00
Small Livestock		\$10.00
Large Livestock		\$25.00
Boarding Fee (Reduced Rate - Per Day)		
Dog		\$10.00
Vicious Dog		\$25.00
Cat		\$5.00
Other Small Domestic Animal		\$5.00
Small Livestock		\$5.00
Large Livestock		\$20.00
Trap Rentals		
Small Trap	Deposit	\$40.00
	Rental (Per Day)	\$2.50
	Trap delivery / set up	\$20.00
	Trap / animal removal	N/C
Large Trap	Deposit	\$65.00
	Rental (Per Day)	\$5.00
	Trap delivery / set Up	\$20.00
	Trap / animal removal	N/C

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Column 1 (Services)		Column 2 (Fees)
Adoption (Standard Rate)		
Dog	Altered, Vet checked, chipped	\$220.00
	Vet checked	\$100.00
	As impounded	\$60.00
Cat	Altered, Vet checked, chipped	\$160.00
	Vet checked	\$70.00
	As impounded	\$25.00
Other Domestic Animal		\$20.00
Adoption (Reduced Rate)		
Dog	Altered, Vet checked, chipped	\$200.00
	Vet checked	\$90.00
	As impounded	\$50.00
Cat	Altered, Vet checked, chipped	\$140.00
		\$15.00
Other Domestic Animal		\$10.00
Miscellaneous		
Pet cadaver removal		See Surrender
Wildlife removal from private trap	Release on site	N/C
	Euthanasia ¹	\$40.00
Wildlife removal from dwellina		\$40.00
Pet Transport (Ambulance)		\$40.00
Micro-chip implant		\$20.00
Quarantine	Dog	\$15.00
	Cat	\$10.00
Injured/sick wildlife removal from property		N/C
Not Sufficient Funds Service Charge		\$25.00
Veterinary Costs		At the cost invoiced to the City for treatment

¹ No Charge shall be applied for animals that are fatally injured prior to capture or that pose a bona fide threat