CITY OF HAMILTON

BY-LAW NO. 12-031

For Responsible Animal Ownership in the City of Hamilton

WHEREAS sections 8, 9 and 10 of the Municipal Act, 2001 authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 8 and 9 of subsection 10(2) authorize by-laws respecting: the economic, social and environmental well-being of the municipality; the protection of persons and property; and animals;

AND WHEREAS subsection 8(3) of the Municipal Act, 2001 provides that a by-law under section 10 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit respecting the matter, may require a person to do things respecting the matter, or may provide for a system of licences respecting the matter;

AND WHEREAS subsection 103(1) of the Municipal Act, 2001 provides that if a by-law is passed regulating or prohibiting with respect to the being at large of animals, the by-law may provide for the seizure and impounding of animals being at large and the sale of impounded animals;

AND WHEREAS section 425 of the Municipal Act, 2001 authorizes the City of Hamilton to pass by-laws providing that a person who contravenes a by-law of the City of Hamilton passed under that Act is guilty of an offence;
AND WHEREAS the Municipal Act, 2001 further authorizes the City of Hamilton, amongst other things, to delegate its authority, to impose fees or charges, to provide for inspections, and to make orders to discontinue activity or to do work;

AND WHEREAS the City of Hamilton Act, 1999 did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor to the former Regional Municipality of Hamilton Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the by-laws of the former area municipalities and the former Regional Municipality of Hamilton Wentworth remain in force, in respect of the part of the municipal area to which they applied on December 31, 2000, until they expire or are repealed or amended to provide otherwise;

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

PART 1.0 - Definitions

1.1 In this By-law:

"animal" means any member of the animal kingdom, other than a human;

"at large" means not on a leash and under the control of some person;

"bees" means the insects known as Apis mellifera;

"bite" in all of its forms means the breaking, puncturing or bruising of the skin of a person or domestic animal caused by the tooth or teeth of a dog;

"cat" means a male or female of the species felis catus and does not include any hybrid of felis catus;

"City" means the municipality of the City of Hamilton or the geographic area of the City of Hamilton as the context requires;

"Council" means the council of the City of Hamilton;
"dog" means a male or female of the species *canis familiaris* and does not include any hybrid of *canis familiaris*;

"farm" means an agricultural operation as defined in the *Farming and Food Production Protection Act, 1998* and includes such an operation that is not carried on with the expectation of gain but otherwise meets the definition in that Act;

"keep" in all its forms, includes care, control or possession whether temporary or permanent;

"kennel" means a commercial establishment, licensed or required to be licensed under Schedule 7 of the Licensing By-law No. 07-170, for the keeping or boarding for more than 16 consecutive hours or the breeding of animals that are used or are intended to be used as pets;

"leash" means a restraint not exceeding 2.4 metres in length;

"livestock" means cattle, goats, horses, sheep, swine, poultry, fur-bearing animals, bees, cultured fish, deer, elk, game animals or birds grown, produced or raised as part or all of a farm on premises zoned under a City zoning by-law permitting such a use;

"microchip" means an approved Canadian Standard encoded identification device implanted into an animal which is programmed to store a unique and permanent identification number that permits access to owner information which is stored in a central database;

"mitigating factor" means a circumstance which excuses aggressive behaviour of a dog and, without limiting the generality of the foregoing, may include circumstances where:

(a) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a person or domestic animal;

(b) the dog was, at the time of the aggressive behaviour, acting in defence of its young or reacting to a person or a domestic animal trespassing on the property of its owner; or

(c) the dog was, at the time of the aggressive behaviour, being teased, provoked, or tormented;

"muzzle" in all of its forms means a humane fastening placed over a dog's mouth of adequate strength to prevent it from biting;

"Officer" means a person appointed by the City of Hamilton or assigned by the Poundkeeper to enforce this By-law;
“owner” in all of its forms, when used in relation to an animal, includes a person who keeps an animal and, where the person is under the age of 18, the person responsible for the custody of the person under the age of 18;

“pet shop” means a commercial establishment, licensed or required to be licensed under Schedule 7 of the Licensing By-law No. 07-170, for the selling or offering for sale of animals that are used or are intended to be used as pets;

“pit bull” has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners’ Liability Act;

“police animal” means an animal trained to aid police officers and used by police officers when carrying out their duties;

“pound” means premises that are operated by the City used for the detention, maintenance or disposal of animals, namely the premises located at 247 Dartnall Road, Hamilton and any additional premises used for the detention, maintenance or disposal of animals that may be operated by the City or its contractors from time to time;

“Poundkeeper” means the City’s Senior Director of Parking and By-law Services and his or her designate or successor;

“premises” means a building or a part of a building and any land appurtenant to the building or part of the building and includes a vacant lot;

“prohibited pit bull” has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners’ Liability Act;

“redemption period” means that period of time within which the owner of an animal that has been impounded in the pound has the right to redeem it;

“restricted pit bull” has the same meaning for the purposes of this By-law as it has for the purposes of the Dog Owners’ Liability Act;

“rural or agricultural premises” means:

(a) premises located in a rural or an agricultural zone permitted under the City’s zoning by-laws;

(b) premises located in a Rural Settlement Area as shown on Map A to Map S attached as Appendix 1 that are 0.2 hectare (.5 acre) or more in area; or

(c) a farm;

“service animal” means an animal that:
(a) has successfully completed training by a recognized school for service as a guide animal for the visually or hearing impaired or a special skills animal for other disabled persons; and
(b) is performing the service for which it was trained;

"sterilized" means spayed or neutered;

"under the control of some person" includes capable of immediate custody or restraint; and

"Vietnamese pot-bellied pig" means a Vietnamese pot-bellied pig lawfully kept on February 8, 2012.

PART 2.0 - Interpretation

2.1 For the purpose of this By-law, a use permitted under a City zoning by-law is deemed to include a use excepted from a City zoning by-law under paragraph 34(9)(a) of the Planning Act.

2.2 The requirements of this By-law are in addition to requirements contained in any other applicable by-laws of the City or applicable provincial or federal statutes or regulations.

2.3 If there is a conflict between a provision of this By-law and any other by-law of the City or a provincial or federal statute or regulation, the most restrictive in relation to the regulation of animals prevails.

PART 3.0 - Scope

3.1 The provisions of this By-law apply to the entire geographic area of the City.

3.2 Despite section 3.1, the provisions of this By-law do not apply to:
   (a) the premises of a pound;
   (b) premises used by the Ontario Society for the Prevention of Cruelty to Animals or an affiliated society;
   (c) a supply facility licensed in accordance with the Animals for Research Act;
   (d) a research facility registered in accordance with the Animals for Research Act;
   (e) an animal hospital or clinic operated and supervised by a veterinarian who has a licence to practise veterinary medicine issued under the Veterinarians Act;
(f) a university or college;
(g) livestock, except where livestock is at large as set out in sections 7.1 and 7.3;
(h) a horse boarded or trained as part or all of an agricultural use on premises zoned under a City zoning by-law permitting such a use, except where a horse is at large as set out in sections 7.1 and 7.3;
(i) bees;
(j) any display held by an agricultural or horticultural organization incorporated under the Agricultural and Horticultural Organizations Act including but not limited to a fair, exhibition or competition held by the Binbrook Agricultural Society, Rockton Agricultural Society or Ancaster Agricultural Society;
(k) a temporary public display of animals including a circus, carnival or classroom display;
(l) the aviary located at 85 Oak Knoll Drive in Churchill Park or as it may be re-located to other City premises;
(m) the African Lion Safari located at 1386 Cooper Road;
(n) Flamboro Downs located at 967 Highway #5 West; or
(o) the Mountsberg Wildlife Centre located at 2259 Milborough Line.

PART 4.0 – Licensing of Dogs and Vietnamese Pot-Bellied Pigs

4.1 No person shall own a dog or a Vietnamese pot-bellied pig without a current, valid licence for the dog or the Vietnamese pot-bellied pig.

4.2 The owner of a dog or a Vietnamese pot-bellied pig applying for a licence shall submit to the Poundkeeper a properly completed application together with the applicable licence fee. The application shall include the following:

(a) the name, address and telephone number of the dog or the Vietnamese pot-bellied pig owner;
(b) the name, colour and sex of the dog or the Vietnamese pot-bellied pig;
(c) if the animal is a dog, its breed;
(d) the address of the premises where the dog or the Vietnamese pot-bellied pig is to be kept in the City;
4.3 Every owner of a dog or a Vietnamese pot-bellied pig shall notify the Poundkeeper immediately of any change in:
(a) the name, address or telephone number of the dog or the Vietnamese pot-bellied pig owner;
(b) the address of the premises where the dog or the Vietnamese pot-bellied pig is to be kept in the City;
(c) the ownership of the dog or the Vietnamese pot-bellied pig.

4.4 A licence issued under this By-law shall expire one year from the date of issuance as shown on the licence.

4.5 No licence issued under this By-law shall be valid unless the applicable licence fee has been paid in full.

4.6 Every person who owns a licensed dog or a licensed Vietnamese pot-bellied pig shall ensure that they renew the licence before it expires.

4.7 In the event the owner of a licensed dog or a licensed Vietnamese pot-bellied pig fails to renew the licence before it expires, they shall pay, in addition to the applicable licence fee, the applicable late payment fee.

4.8 Where a licence is renewed, before or after its date of expiry, the date of issuance as shown on the renewed licence shall be one year from the date of issuance as shown on the expired licence.
4.9 Despite any other provision under this By-law, no owner, upon providing proof satisfactory to the Poundkeeper, shall pay a fee for a licence issued for a dog that is a police animal or a service animal.

4.10 An application for a licence for:
(a) a Vietnamese pot-bellied pig, except for a Vietnamese pot-bellied pig lawfully kept on February 8, 2012; or
(b) a prohibited pit bull,
shall not be processed and shall be returned to the applicant.

4.11 Despite section 4.1, no licence shall be required under this By-law for:
(a) a dog which has not been weaned and which is under the age of 12 weeks; or
(b) a dog which is temporarily kept at a kennel, if the dog, when not being kept at the kennel, is kept at premises located outside of the City.

4.12 Where a licence is issued under this By-law, the owner of the dog or the Vietnamese pot-bellied pig shall be given a licence number and an identification tag.

4.13 Every owner shall ensure that the identification tag corresponding to the licence issued for their dog or their Vietnamese pot-bellied pig is attached to the dog or the Vietnamese pot-bellied pig at all times.

4.14 Despite section 4.13, the identification tag is not required to be attached to a dog that is being lawfully used for hunting.

4.15 No person shall attach an identification tag to a dog or a Vietnamese pot-bellied pig for which the corresponding licence was not issued.

4.16 Every owner of a dog or a Vietnamese pot-bellied pig shall ensure that a lost identification tag is replaced immediately.

4.17 The owner of a dog or a Vietnamese pot-bellied pig applying for a replacement identification tag shall submit to the Poundkeeper a properly completed application together with the applicable fee. The application shall include proof satisfactory to the Poundkeeper that a current, valid licence has been issued for the dog or the Vietnamese pot-bellied pig.

4.18 Part 4, with all necessary modifications, applies to any owner with a current, valid multiple dog licence, referred to as a “Flat rate licence” in the User Fees and Charges
By-law, on February 8, 2012 until the dogs licensed under the multiple dog licence have died or are otherwise disposed of.

4.19 The Poundkeeper may revoke any licence issued in error.

PART 5.0 – Number of Animals

5.1 For the purposes of Part 5.0, “animal” does not include a pigeon.

5.2 For the purposes of section 5.3, “premises” does not include rural or agricultural premises.

5.3 No person shall keep or permit to be kept on any one premises owned or occupied by them more than any combination of four animals.

5.4(1) Despite section 5.3, a person:

(a) who is lawfully keeping more than the maximum number of animals may continue to keep the animals until the animals have died or are otherwise disposed of if the person otherwise complies with this By-law;

(b) may keep an animal:

(i) following the birth of the animal until the age of 12 weeks;

(ii) on premises licensed as a kennel or a pet shop under the City’s Licensing By-law No. 07-170;

(iii) if the premises where they keep the animal has been approved by the Poundkeeper in advance as an animal foster home.

(2)(a) Approval of an animal foster home under subparagraph 5.4(1)(b)(iii) may be given by the Poundkeeper after submission of a properly completed certification, accompanied by the applicable fee.

(b) The person submitting the certification under paragraph 5.4(2)(a) shall certify that:

- he or she will at all times operate and be responsible for the animal foster home

- he or she will comply with this By-law and all other applicable statutes, regulations and by-laws when operating the animal foster home

- the animal foster home will operate on a not-for-profit basis

- the animal foster home will provide temporary care for the animals
The animals will be adopted out to appropriately screened owners
- the Poundkeeper will be informed immediately of any change in the operation of the animal foster home
- such additional information as may be required by the Poundkeeper

PART 6.0 – Keeping Pigeons

6.1 Despite the repeal of a by-law under section 14.1, the by-law shall continue to apply in respect of pigeons except, if there is conflict between section 6.2 to 6.8 and a provision of the by-law, the provision that is more restrictive prevails.

6.2 Every owner of a pigeon shall ensure that the pigeon is banded with an identifying leg band issued by the Canadian Racing Pigeon Union Inc. or the Canadian Pigeon Fanciers’ Association.

6.3 Every owner of a pigeon shall keep it in a pigeon enclosure located in a rear yard that, in addition to complying with sections 7.10 and 7.11:
(a) is adequate for the size and breed of pigeon;
(b) has an unobstructed space between the ground and the underside of the floor of not less than 30 centimetres;
(c) is located not less than:
   (i) 3 metres from the boundary line of; or
   (ii) 10 metres from,
   any premises containing a school, church, public hall, store, dwelling or premises used for human habitation, other than premises used exclusively by the owner of the pigeon; and
(d) has its inside walls and ceilings, except walls and ceilings constructed of wire, lime-washed, painted or disinfected at least twice yearly.

6.4 Every owner of a pigeon shall ensure that all food for the pigeon is kept in air-tight, rodent-proof containers.

6.5 No owner of a pigeon shall feed or shall permit a person to feed their pigeon when the pigeon is outside a pigeon enclosure.
6.6  Every owner of a pigeon shall ensure that all pigeon droppings, refuse and dropped or scattered feed on the owner's premises are removed and disposed of at least twice each week.

6.7  Despite section 7.3, every owner of a pigeon shall ensure that the pigeon is kept in the pigeon enclosure at all times except during:

(a)  a maximum of two flights daily:
   (i)  before 9:00 a.m. or after 5:00 p.m. from April 1 to September 30 in any one year;
   (ii) before 10:00 a.m. or after 3:00 p.m. from October 1 in any one year to March 31 in the following year; or

(b)  a flight conducted by the Canadian Racing Pigeon Union Inc. or the Canadian Pigeon Fanciers' Association.

6.8  Each flight under subsection 6.7(a) shall:

(a)  include no more than one half of the total number of pigeons being kept by the owner; and

(b)  be supervised by the owner or by a competent person on the owner's behalf.

PART 7.0 – Prohibiting Animals at Large, etc.

7.1  For the purposes of section 7.3, “animal” includes livestock or a horse.

7.2  For the purposes of subsection 7.3(b), “premises” does not include any part of:

(a)  non-residential or residential premises that serve as common areas for occupiers or owners; or

(b)  non-residential premises that are open to the public.

7.3  No owner of a dog, cat or other animal shall permit that the dog, cat or other animal to be at large, except when the dog, cat or other animal is:

(a)  on premises owned or occupied by the owner; or

(b)  on premises owned or occupied by a person who has given prior consent.

7.4  Despite section 7.3, a dog, except a restricted pit bull or a dog designated as potentially dangerous or dangerous, may be unleashed if:

(a)  the dog is under the control of the owner or a competent person on the owner's behalf and both the dog and the person are within:
Birch Avenue Dog Park (Ward 3 - South East Corner of 330 Wentworth Street), as shown in the attached Appendix 2 on Map A, from 5 p.m. to 11 p.m. Monday to Friday and from 6 a.m. to 11 p.m. Saturday and Sunday;

Chegwin Park (Ward 13 - 27 Chegwin Street), as shown in the attached Appendix 2 on Map B, from 6 a.m. to 11 p.m. every day;

Hannon South Open Space (Ward 6 - Part of 1450 Rymal Road East, South Portion), as shown in the attached Appendix 2 on the Map C, from 6 a.m. to 11 p.m. every day;

Hill Street Park (Ward 1 - 13 Hill Street), as shown in the attached Appendix 2 on Map D, from 6 a.m. to 11 p.m. every day; or

Little John Park (Ward 13 - 110 Little John Road), as shown in the attached Appendix 2 on Map E, from 6 a.m. to 11 p.m. every day; and

(b) the owner or the competent person on the owner’s behalf complies with the Rules and Regulations for Leash Free Parks set out in section 7 of the City’s Leash Free Parks Policy, as amended or replaced from time to time and posted in the Leash Free Parks.

7.5 Despite section 7.3,

(a) a dog, except a restricted pit bull or a dog designated as potentially dangerous or dangerous, is deemed not to be at large if it is lawfully being used for hunting;

(b) a pigeon is deemed not to be at large if it is participating in a flight permitted under section 6.7;

(c) a raptor is deemed not to be at large if it is lawfully being used for hunting or bird control.

7.6 No owner of a dog shall permit the dog to be outdoors on premises as described under subsections 7.3(a) and 7.3(b) except where the dog is:

(a) contained in an enclosure or fenced area, including an area enclosed by electronic fencing known as invisible fencing;

(b) restrained by a chain or other restraint no less than 3 metres in length; or

(c) under the control of some person,
sufficient to prevent the dog from leaving the premises.

7.7 Despite section 7.6, a dog may be outdoors on rural or agricultural premises or on premises 0.5 hectare (1.2 acre) or more in area if the dog is sufficiently trained so as to remain on the premises.

7.8 No owner of a dog shall permit the dog to:
(a) behave in a manner that poses a menace to the safety of a person or domestic animal; or
(b) to bite or attack a person or domestic animal.

7.9 No owner of a dog shall keep the dog from dusk to dawn on premises that are not used primarily for residential purposes unless clearly visible signs are posted sufficient to give notice of the dog to persons entering the premises.

7.10 Every owner of an animal shall ensure that the place where the animal is kept is such that:
(a) the animal may extend its legs, wings or body to their full natural extent;
(b) the animal may stand, sit or perch, or the place is otherwise adequate for the needs of the animal;
(c) the animal may be readily observed, unless the natural habits of the animal require otherwise; and
(d) the place is in a clean and sanitary condition.

7.11 In addition to complying with section 7.10, every owner of an animal shall ensure that any structure located in a yard where the animal is kept is:
(a) in the rear yard;
(b) located not less than 1 metre from the boundary line between the owner's premises and any abutting premises;
(c) soundly constructed of hard, durable materials;
(d) impervious to water;
(e) constructed of materials that may be readily sanitized;
(f) maintained in a good state of repair free from cracks, holes, rust and other damage;
(g) kept in a way that minimizes as nearly as practicable the transfer of pathogenic agents; and
(h) adequately ventilated for the health and comfort of the animal enclosed.

PART 8.0 – Poop and Scoop for Animals

8.1 Every owner of an animal, except the owner of a service animal or a police animal, shall immediately remove and dispose of any feces left by the animal on any premises except premises owned or occupied by the owner.

8.2 Every owner of an animal shall, in a timely manner, remove and dispose of any feces left by the animal on premises owned or occupied by the owner.

PART 9.0 – Designating Dogs as Potentially Dangerous or Dangerous

9.1 Where an Officer is satisfied that, in the absence of any mitigating factor, a dog has approached a person or domestic animal in a menacing fashion or apparent attitude of attack, including, but not limited to, behaviour such as growling or snarling, the Officer may issue a designation in writing to the owner designating the dog as potentially dangerous.

9.2 Where an Officer is satisfied that a dog:

(a) has, in the absence of any mitigating factor, attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
(b) has, in the absence of a mitigating factor, significantly injured a domestic animal; or
(c) having been previously designated as potentially dangerous, is kept or permitted to be kept in violation of the requirements for a potentially dangerous dog,

the Officer may issue a designation in writing to the owner designating the dog as dangerous.

9.3 No owner of a dog designated as potentially dangerous or dangerous shall transfer ownership of the dog without first having obtained the written consent of the Poundkeeper. In granting or refusing consent, the Poundkeeper shall consider the likelihood that all the applicable provisions of this By-law and the Dog Owners' Liability Act, including any orders under that Act, will be met.
9.4 In addition to complying with all of the applicable provisions of this By-law, every owner of a dog designated as potentially dangerous or dangerous shall ensure that:

(a) the dog is implanted with a microchip; and

(b) the dog is sterilized before reaching the age of six months or within 30 days of being designated.

(c) when not on premises owned or occupied by the owner, the dog is equipped with a muzzle and secured with a leash in accordance with the following:
   (i) a muzzle shall be securely placed over the mouth of the dog at all times so that the dog cannot bite any person or domestic animal;
   (ii) a collar or harness shall be securely placed on the dog at all times so that the dog cannot detach the collar or harness;
   (iii) a leash shall be securely attached to a collar or harness at all times so that the dog cannot detach the leash from the collar or harness; and
   (iv) the dog shall be under the control of some person by means of the leash at all times; and

(d) when the dog is on premises owned or occupied by the owner, the dog is:
   (i) securely contained indoors; or
   (ii) 1. where a dog designated as potentially dangerous is outdoors, contained in an enclosure or fenced area or restrained by a chain or other restraint sufficient to prevent the dog from leaving the premises; and
   2. where a dog designated as dangerous is outdoors, contained in a six-sided pen which includes a top and bottom and which is located at least 2 metres from any property line or in a yard enclosed by a fence that is at least 2 metres in height, is securely locked and is constructed so as to prevent the dog from leaving the yard.

9.5 Every owner of a dog designated as potentially dangerous or dangerous shall:

(a) provide proof, on demand, satisfactory to an Officer, that the dog has been implanted with a microchip or sterilized or both; and
(b) post in a conspicuous place at the entrance to the owner's premises a clearly visible sign warning of the presence of a potentially dangerous or dangerous dog.

9.6 The owner of a dog which has been designated as potentially dangerous or dangerous may request a hearing by the Poundkeeper.

9.7 A request by the owner of a dog for a hearing under section 9.6 shall be made in writing, accompanied by the applicable fee and delivered to the Poundkeeper within 15 days of issuance of the designation.

9.8 Notice of a hearing date to the owner of a dog who has made a request under section 9.7 shall include:
(a) a statement of the time, date and purpose of the hearing; and
(b) a statement that if the owner of the dog does not attend the hearing, the Poundkeeper may proceed in their absence without notice to them.

9.9 The notice of hearing under section 9.8 may be given by delivering it personally or by sending it by prepaid registered mail to the last known address of the owner of the dog on file with the City. When notice is given by registered mail, it shall be deemed to have been given on the 5th day after the day of mailing.

9.10 The Poundkeeper shall hold a hearing pursuant to the Statutory Powers Procedure Act at the time, date and place set out in the notice of hearing and the Poundkeeper may:
(a) confirm or rescind the designation;
(b) substitute his or her own designation of the dog as potentially dangerous or dangerous;
(c) confirm, rescind or vary the requirements of the owner imposed by the designation including substituting the Poundkeeper's own requirements that may be tailored to the specific circumstances before the Poundkeeper.

9.11 The decision of the Poundkeeper is final and binding and the designation of a dog as potentially dangerous or dangerous, including all of the requirements of the owner imposed by the designation, remains in effect until that decision is made.

9.12 Despite subsections 9.4(a) and 9.4(b) and section 9.11, the owner of a dog who has requested a hearing in compliance with sections 9.6 and 9.7 shall not be required to
have their dog implanted with a microchip or sterilized until 30 days after a decision
of the Poundkeeper confirming these requirements.

9.13 Sections 9.1 to 9.12 shall not apply to a dog while it is used as a police animal.

PART 10.0 – Prohibited Animals
10.1 No person shall keep animals belonging to the following orders:

Anseriformes (e.g. ducks, geese, swans and screamers), except located on rural or
agricultural premises zoned under a City zoning by-law permitting such a use;

Artiodactyla (e.g. cattle, goats, sheep, pigs, deer, elk, alpacas and llamas), except:
(a) a Vietnamese pot-bellied pig with a current, valid licence on February 8, 2012; or
(b) located on rural or agricultural premises zoned under a City zoning by-law permitting such a use;

Carnivora (e.g. otters, wolves, bears, coyotes, foxes, tigers, leopards, cougars, lions,
lynx, mink, skunks, weasels, badgers, mongooses and raccoons), except dogs,
cats and ferrets;

Chiroptera (e.g. bats, myotis and flying foxes);

Crocodilia (e.g. alligators, crocodiles, gavials and caimans);

Edentata (e.g. anteaters, sloths and armadillos);

Galliformes (e.g. pheasants, grouse, guinea fowls, turkeys, chickens and peafowls),
except located on rural or agricultural premises zoned under a City zoning by-law permitting such a use;

Lagomorpha (e.g. hares and pikas), except domestic rabbits;

Marsupialia (e.g. koalas, kangaroos, opossums and wallabies), except sugar gliders
derived from self-sustaining captive populations;

Perissodactyla (e.g. horses, donkeys, jackasses, mules, zebras and ponies), except
located on rural or agricultural premises zoned under a City zoning by-law permitting such a use;

Primates (e.g. chimpanzees, gorillas, monkeys and lemurs);

Proboscidea (e.g. elephants, rhinoceros, hippopotamuses);
Raptors (e.g. eagles, hawks, falcons and owls), except as permitted under a provincial falconry licence;

Rodentia (e.g. porcupines, prairie dogs, nutria and chinchillas) except Rodentia:
   (a) where neither the female nor the male of the species exceeds or will exceed 1,500 grams in weight before or at maturity; and
   (b) that are derived from a self sustaining captive population;

Squamata (e.g. lizards and snakes) except:
   (a) non-venomous snakes where neither the female nor the male of species exceeds or will exceed 3 metres in length from nose to tip of tail before or at maturity; and
   (b) non-venomous lizards (not including Iguana iguana) where neither the female nor the male of the species exceeds or will exceed 2 metres in length from nose to tip of tail before or at maturity; or

Struthioniformes (e.g. ostriches, rheas, cassowaries, emus and kiwis), except ostriches, emus or kiwis located on rural or agricultural premises zoned under a City zoning by-law permitting such a use.

10.2 No person shall keep or permit to be kept an animal that produces any poison, venom or toxin, except Grammostola rosea (Chilean Rose), Brachypelma smithi (Mexican Red-Knee) and Avicularia avicularia (Pink-Toe) Tarantulas.

10.3 Despite sections 10.1 and 10.2, a provincially authorized wildlife custodian may keep an animal prohibited under this By-law in accordance with the authorization.

10.4 No person shall keep or permit to be kept any insect, spider or squamata permitted under this By-law except in an escape-proof enclosure.

10.5 No person shall keep or permit to be kept any lagomorph, marsupial or rodent permitted under this By-law except in a suitable enclosure.

PART 11.0 – Impounding Animals

11.1 The Poundkeeper, an Officer or a police officer may seize any animal found at large and deliver it to the pound.

11.2 An animal seized under section 11.1 shall be considered impounded at the time and place it is seized by the Poundkeeper, an Officer or a police officer.
11.3 The **Poundkeeper** may impound, at the **pound**, any **dog** or **cat** delivered to the **pound** by the **Poundkeeper**, an **Officer**, a police officer or its **owner**.

11.4 The **Poundkeeper** may impound, at any enclosed place in the **City**, any **animal** other than a **dog** or **cat** delivered to the **pound** by the **Poundkeeper**, an **Officer**, a police officer or its **owner**.

**Dogs and Cats**

11.5 The **Poundkeeper** shall **keep** any impounded **dog** or **cat** for a **redemption period** of three days, excluding:

- (a) the day on which the **dog** or **cat** is impounded;
- (b) statutory holidays; and
- (c) days on which the **pound** is not open.

11.6 During the **redemption period**, the **Poundkeeper**:

(a) may inoculate the impounded **dog** or **cat** to provide immunization against distemper or any other contagious or infectious disease;

(b) shall provide such veterinary care of an injured or ill impounded **dog** or **cat** as may be necessary to sustain its life.

11.7 Despite section 11.6, during the **redemption period**, the **Poundkeeper** may **euthanize** a **dog** or **cat** without delay where, in the opinion of the **Poundkeeper**, this is warranted for humane reasons.

11.8 The **Poundkeeper** shall be entitled to recover from the **owner** of the **dog** or **cat** the cost of inoculating or providing veterinary care during the **redemption period** in addition to any other applicable fees for the redemption of the **dog** or **cat**.

11.9 During the **redemption period**, the **owner** of an impounded **dog** or **cat** may redeem it if the **owner**:

- (a) pays the applicable fees for redemption of the **dog** or **cat**;
- (b) provides evidence satisfactory to the **Poundkeeper** that they **own** the **dog** or **cat**;
- (c) provides evidence satisfactory to the **Poundkeeper** that the **dog** is licensed under this By-law or, if not, licenses the **dog** in accordance with this By-law; and
(d) if an impounded dog is designated as potentially dangerous or dangerous, satisfies the Poundkeeper that they are aware of and in compliance with requirements for keeping the dog.

11.10 After the expiration of the redemption period, the Poundkeeper may:
(a) release the impounded dog or cat to its owner in accordance with section 11.9; or
(b) keep, sell or dispose of, including euthanize, the dog or cat, subject to applicable provisions of the Animals for Research Act.

Animals other than Dogs and Cats

11.11 For the purposes of sections 11.12 to 11.16 “animal” means an animal other than a dog, a cat or an animal that is prohibited under section 10.1 or 10.2.

11.12 Where an animal is impounded, the Poundkeeper shall keep the impounded animal for a redemption period of three days, excluding:
(a) the day on which the animal is impounded;
(b) statutory holidays; and
(c) days on which the pound is not open.

11.13 Despite section 11.12, during the redemption period, the Poundkeeper may euthanize an animal without delay where, in the opinion of the Poundkeeper, this is warranted for humane reasons.

11.14 During the redemption period, the Poundkeeper may:
(a) inoculate the impounded animal to provide immunization against any contagious or infectious disease;
(b) provide veterinary care for an injured or ill impounded animal;
(c) release the impounded animal to its owner, if the owner:
   (i) provides evidence satisfactory to the Poundkeeper that they own the animal; and
   (ii) pays the applicable fees.

11.15 The Poundkeeper shall be entitled to recover from the owner of the animal the cost of inoculating or providing veterinary care during the redemption period in addition to any other applicable fees for the redemption of the animal.
11.16 After the expiration of the redemption period, the Poundkeeper may keep, sell or dispose of, including euthanize, the impounded animal.

Prohibited Animals
11.17 Where an animal that is prohibited under sections 10.1 or 10.2 is impounded, the Poundkeeper may, at any time, keep, sell or dispose of, including euthanize, the impounded animal.
11.18 The owner of an animal is liable to pay the applicable fees for impounding an animal regardless of whether or not they claim the animal from the pound.
11.19 Where an animal cannot be seized and where the safety of persons or animals is endangered, the Poundkeeper, an Officer or a police officer may euthanize the animal immediately.
11.20 No compensation, damages, fees or any other amount of money on account of or by reason of the seizure, impounding, euthanizing, sale or disposal of an animal shall be recovered by the owner or paid by the Poundkeeper or the City.

PART 12.0 – Administration and Enforcement
12.1 The Poundkeeper is authorized to administer and enforce this By-law including but not limited to:
(a) arranging for:
   (i) the assistance or work of City staff, City agents or the assistance of police officers;
   (ii) the making of designations, orders or other requirements and the imposition of conditions as authorized under this By-law;
   (iii) the obtaining of court orders or warrants as may be required; or
   (iv) the commencement of such actions on behalf of the City to recover costs or restrain contravention of this By-law as deemed necessary; or
(b) prescribing the format and content of any forms or other documents required under this By-law.
12.2 The Poundkeeper may assign Officers to enforce this By-law and Officers so assigned or appointed by Council to enforce this By-law shall have the authority to:
(a) carry out inspections;
(b) make designations, orders or other requirements and impose conditions as authorized under this By-law;

(c) give immediate effect to any order or other requirement made under sections 12.6, 12.9 or 12.11.

12.3 The **Poundkeeper** may assign duties or delegate tasks under this By-law to be carried out in the **Poundkeeper**'s absence or otherwise.

12.4 Licence fees and other fees under this By-law, including fees for services provided by the **Poundkeeper**, shall be as set and approved by **Council** from time to time.

12.5 The **Poundkeeper** or an **Officer** may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the **Municipal Act, 2001** for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(a) this By-law;

(b) a designation, order or other requirement made under this By-law, including a designation of a **dog** as potentially dangerous or dangerous;

(c) a condition of a licence issued under this By-law; or

(d) an order made under section 431 of the **Municipal Act, 2001**.

12.6 The **Poundkeeper** or an **Officer**, for the purposes of the inspection under section 12.5 and in accordance with the conditions set out in section 436 of the **Municipal Act, 2001**, 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 in writing or otherwise as required by the **Poundkeeper** or an **Officer** from any person concerning a matter related to the inspection; or

(d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

12.7 The **Poundkeeper** may require an **owner** to pay any costs incurred by the **City** in exercising its authority to inspect under section 12.6, including but not limited to the
cost of any examination, test, sample or photograph necessary for the purposes of the inspection.

12.8 The Poundkeeper or an Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, 2001 where he or she has been prevented or is likely to be prevented from carrying out an inspection under sections 12.5 and 12.6, if, in the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier is given notice concerning the inspection in accordance with subsection 438(5) of the Municipal Act, 2001.

12.9 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the premises on which the contravention occurred to discontinue the contravening activity.

12.10 An order under section 12.9 shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred; and

(b) the date or dates by which there must be compliance with the order.

12.11 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the premises on which the contravention occurred to do work to correct the contravention.

12.12 An order under section 12.11 shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred;

(b) the work to be completed; and

(c) the date or dates by which the work must be complete.

12.13 An order to discontinue contravening activity made under section 12.9 or an order to do work made under section 12.11 may be served personally or by registered mail to the last known address of:
(a) the owner of the animal; and
(b) such other persons affected by it, including the owner or occupier of the premises where the contravention occurred, as the Officer making the order determines.

Service by registered mail shall be deemed to have taken place five business days after the date of mailing.

12.14 In addition to service given in accordance with section 12.13, an order to discontinue contravening activity made under section 12.9 or an order to do work made under section 12.11 may be served by an Officer placing a placard containing the order in a conspicuous place on the premises of the owner responsible for the contravention.

12.15 Where service cannot be given in accordance with section 12.13, sufficient service is deemed to have taken place when given in accordance with section 12.14.

12.16(1) Where a person does not comply with a designation, order or other requirement made under this By-law to do a matter or thing, the Poundkeeper, with such assistance by others as may be required, may carry out such designation, order or other requirement at the person's expense.

(2) Where the costs of doing a matter or thing under subsection 12.16(1) are estimated to be:

(a) $20,000 or less, the Poundkeeper may proceed without further approval; or
(b) more than $20,000, the Poundkeeper may proceed with approval of an authorized person or of Council.

12.17 The City may recover the costs of doing a matter or thing under section 12.16 by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.

12.18 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 By-law.

12.19(1) Every person who fails to comply with any provision of this By-law or a designation, order or other requirement made under this By-law, or an officer or director of a
corporation who knowingly concurs in such a failure to comply by the corporation, is guilty of an offence and is liable:

(a) on a first conviction, to a maximum fine of not more than $10,000; and
(b) on any subsequent conviction, to a maximum fine of not more than $25,000.

(2) Despite subsection 12.19(1), where the person convicted is a corporation:

(a) the maximum fine in paragraph 12.19(1)(a) is $50,000; and
(b) the maximum fine in paragraph 12.19(1)(b) is $100,000.

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

13.0 – General Provisions

13.1 The Appendices attached to this By-law form part of it.

13.2 This By-law may be referred to as the Hamilton Responsible Animal Ownership By-law or the Responsible Animal Ownership By-law.

13.3 If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of Council that the remainder of the By-law shall continue to be in force.

14.0 – Repeals, Amendments, Transition and Enactment

14.1 The following By-Laws, all as amended, are repealed;

(a) City of Hamilton By-law No. 01-169 Respecting the Control and Licensing of Dogs and Kennels;
(b) City of Hamilton By-law No. 04-298 Respecting Animal Control Services;
(c) The Corporation of the City of Hamilton By-Law No. 84-191 Respecting the Keeping of Animals;
(d) The Corporation of the City of Hamilton By-Law No. 86-343 To Regulate and Control Cats;
14.2 Despite the repeal of a by-law under section 14.1:

(a) the by-law shall continue to apply to proceedings in respect of offences that occurred before its repeal; and

(b) all licences issued under the by-law that are in effect at the time of the repeal shall be deemed to be licences as issued under this By-law, with all necessary modifications, and all the rules, requirements and regulations of this By-law shall apply.

14.3 This By-Law shall come into force on the date of its passing.

PASSED this 8th day of February, 2012.

R. Bratina
Mayor

R. Cateanni
City Clerk
Alberton Rural Settlement Area

Legend

- Rural Settlement Area

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PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: July 11, 2011

Jerseyville Rural Settlement Area

Legend

Rural Settlement Area

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Appendix 1, Map M

Rockton Rural Settlement Area

Legend

- Rural Settlement Area
Leash Free Park

LEGEND

CHEGWINE PARK

APPENDIX 2, MAP B
HILL STREET PARK

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

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THIS IS NOT A PLAN OF SURVEY.

June 29, 2011

HILL STREET PARK

RICHMOND ST

POULETTE ST

HUNTER ST W

HILL ST

DUNDURN ST S

MELBOURNE ST

LEGEND

Leash Free Park

HILL STREET PARK

APPENDIX 2, MAP D