

The Corporation of the City of Burlington

City of Burlington By-law 72-2022

A by-law to amend By-Law 60-2005 being a by-law to regulate the licensing and keeping of dogs and the keeping of all other animals

File: 715-01 CM-26-22 and BB-14-22

WHEREAS sections 8, 9, and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the "*Municipal Act, 2001*") authorize The Corporation of the City of Burlington (the "City") to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, and 8 of subsection 11 (2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and the protection of persons and property; and

WHEREAS Section 11(3)9 of the *Municipal Act*, S.O. 2001, Chapter 25, authorizes the City to pass by-laws respecting animals; and

WHEREAS section 425 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence; and

WHEREAS section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under a by-law of the municipality passed under this Act.

WHEREAS section 441.1 of the *Municipal Act, 2001* authorizes a municipality to add any part of a fine for a commission of a provincial offence that is in default under section 69 of the POA, to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

WHEREAS section 446 of the *Municipal Act, 2001* permits a municipality that has authority to pass by-laws directing or requiring that a matter or thing be done to also provide that in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and that a municipality may enter upon land and into structures at any reasonable time for the above purpose and further that a municipality may recover the cost of doing a thing or matter required above and may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes; and

WHEREAS Council deems it appropriate to amend the Animal Control By-law to, among other things, update definitions, update the fines for contravening the by-law, provide powers of entry, and confirm defaulted fines may be added to the tax roll for any property for which all of the owners are responsible for paying the fine and collected in the same manner as municipal taxes; and

Now therefore the Council of The Corporation of the City of Burlington hereby enacts as follows:

1. By-law 60-2005, "Definitions" section is amended by adding the following definitions in alphabetical order, with the other subsections renamed/renumbered accordingly:

"feed", in all of its forms, includes the regular or intermittent supply of food, but does not include baiting during lawful activities;

"food" means anything that can be consumed by an animal for sustenance, but does not include:

- (i) vegetation or animals that are part of natural environment such as grasses or insects; or
- (ii) compost kept in accordance with all applicable by-laws, statutes or regulations;

"person" means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency; and,

"premises" means a building or a part of a building and any land appurtenant to the building or part of the building and does not include a vacant lot or any premises owned or occupied by the governments of Canada, Ontario, a municipality or by an agency, board or commission of these governments;

"Wildlife" means an animal that belongs to a species that is wild by nature, but does not include an animal:

- (i) being kept in accordance with this By-law;
- (ii) being fed in accordance with any by-law, statute or regulation;
- (iii) being fed by the licensed members of the Trumpeter Swan Coalition for the purpose of banding and tagging trumpeter swans for research; or,
- (ii) being fed in accordance with research undertaken by a university, college or similar provincially or federally recognized research institution.

- 2 By-law No. 60-2005 is amended to add the following section 19(1):

19.(1) No person shall feed or permit the feeding of wildlife.

(2) Despite subsection 19(1), a person may feed or permit the feeding of a bird if:

(a) the bird is fed on premises owned or occupied by the person;

- (b) there is no accumulation of bird feces; and,
 - (c) there is no interference with the normal use or enjoyment of any other premises.
3. By-law No. 60-2005 is amended with section 35 "Penalty" deleted in its entirety including the heading and replaced with the following new sections 35-40, with the sections that follow renumbered accordingly:

Offences and Penalties

35. 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.
36. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine and such other penalties as provided in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.
37. 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 this By-law by the corporation, is guilty of an offence under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
38. Every person who contravenes any provision of this By-law or who obstructs a By-law Enforcement Officer in carrying out their duties under this By-law is guilty of an offence under Part III of the *Provincial Offences Act*, is liable to a fine pursuant to the *Municipal Act, 2001*, as follows:
- (a) a minimum fine of \$500 and a maximum fine of \$100,000.00;
 - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum of \$500 and a maximum fine of \$100,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00; and
 - (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine of \$10,000.00, and the total of all fines for each included offence is not limited to \$100,000.00.
39. 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:
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and,
 - (b) requiring the person convicted to correct the contravention in

the manner and within the period that the court considers appropriate.

40. Where any person contravenes any provision of this By-law, such person shall be responsible for all costs incurred by the City related to the contravention.

4. By-law No. 60-2005 is amended by adding the following new sections 41-43 "Entry and Inspections" immediately following section 40, with the balance of the sections renumbered:

Entry and Inspections

41. 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 direction or order issued under this By-law;
- (c) a condition of a licence issued under this By-law; or
- (d) an order made under section 431 of the *Municipal Act, 2001*.

42. An Officer, for the purposes of the inspection under section 41 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 an Officer from any person concerning a matter related to the inspection; and
- (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.

43. An Officer may require a person to pay any costs incurred by the City in exercising its authority to inspect under section 42, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection.

44. 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, in accordance with the conditions set out in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under section 42 of this By-law.

5. By-law No. 60-2005 is amended by adding the following new sections 45-46 "Collection of Fines" immediately following section 44, with the balance of the sections renumbered:

Collection of Fines

45. The City may recover the costs of doing a matter or thing under this by-law by means that may include, but are not limited to, any one or more of:
 - (a) bringing an action;
 - (b) 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; or
 - (c) charging a fee as set out in the City's By-law to Impose Rates and Fees or as otherwise set and approved by Council from time to time.
46. (1) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (2) If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under this section, the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001* and can be collected in the same manner as taxes in accordance with section 444.1 of the *Municipal Act, 2001*.
6. Despite amendments being made to By-law No. 60-2005, By-law No. 60-2005 as it read before the amendments in sections 1-5 above, shall continue to apply to proceedings in respect of offences that occurred before its amendment.
7. Subject to the amendments made in this By-law, in all other respects, in all other respects By-Law No. 60-2005 be and is hereby confirmed.
8. This By-law comes into force on the date of its passing.

PASSED this 20th day of September, 2022.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____