

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2024-36

A By-law to prohibit or regulate the keeping of certain animals within the boundaries of the Town of Midland and to repeal By-law 2013-79

WHEREAS Section 11(3) of the Municipal Act, 2001, S.O. 2001 c.25 assigns the sphere of jurisdiction of “Animals” to lower-tier municipalities;

AND WHEREAS Section 8(3) of the Municipal Act, 2001, S.O. 2001 c.25 provides that a by-law under Section 11 respecting a matter may:

- (a) regulate or prohibit respecting the matter;
- (b) require persons to do things respecting the matter; and
- (c) provide for system of licenses respecting the matter;

AND WHEREAS the Council of the Corporation of the Town of Midland has deemed it expedient to control the keeping of certain animals within the boundaries of the Town of Midland;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

For the purpose of this by-law, the following definitions shall apply:

- (a) **“Animal Control Officer”** means an Animal Control Officer appointed by by-law of the Corporation of the Town of Midland.
- (b) **“Cat”** means any cat, male or female, over the age of twelve (12) weeks.
- (c) **“Council”** means the Council of the Corporation of the Town of Midland.
- (d) **“Dwelling unit”** means a room or suite of two 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.
- (e) **“Feed or Feeding”** means the act of furnishing or making food or other substances available which is likely to be consumed by wildlife, feral or stray domestic animals, but does not include keeping compost in accordance with this By-law or growing fruits and vegetables in gardens;

- (f) “**Harbour**” does not include the provision of shelter to a dog for a period of time of less than seven days, provided that the dog is owned by someone other than the household group normally a resident in the dwelling unit in which the dog is harboured.
- (g) “**Municipal Law Enforcement Officer**” means a person appointed by by-law as a Municipal Law Enforcement Officer by the Council of the Town of Midland or their designate.
- (h) “**Songbird**” means a bird that utters a succession of musical tones, perching bird of an advanced group distinguished by having the muscles of the syrinx attached to the bronchial semirings; an oscine passerine.
- (i) “**Town**” means the Corporation of the Town of Midland.
- (j) “**Wild Animal**” means animals that belong to a species that is wild by nature and includes, but is not limited to, coyotes, foxes, deer, wild rabbits, raccoons, opossums, squirrels, skunks, ducks, geese and pests. The definition excludes domestic animals, feral or stray cats, songbirds and hummingbirds.

2. RESTRICTIONS

- 2.1 No more than two cats shall be harboured, at any one time, in a dwelling unit located within the boundaries of the Town.
- 2.2 Except as otherwise provided herein, no person shall keep, possess, or harbour an Animal listed in Schedule “A” of this by-law, on any property within the Town.
- 2.3 Except as otherwise provided herein, no person shall keep, possess or harbour any Animal listed in Schedule “B” of this by-law on any property except upon lands assessed and zoned as farmlands.
- 2.4 No person shall keep, possess, or harbour within the boundaries of the Town, any rabbits in excess of two in number, except upon lands assessed and zoned as farmlands.
- 2.5 No person shall keep, possess or harbour within the boundaries of the municipality, any pigeons in excess of two in number, except upon lands assessed and zoned as farmlands.

3. FEEDING OF WILDLIFE

- 3.1 No person shall intentionally feed a wild animal or leave food or attractants of any type or in any form out of doors in such a manner as

to attract, or to be accessible by a wild animal, feral or stray domestic animal on private or public property.

3.2 Notwithstanding, Section 3.1 does not apply to the feeding of songbirds on a property, provided the following feeding requirements are met by the owner or occupier;

- (a) Seed is placed in a bird feeding device that is sufficiently above grade to not attract or to be accessible by wild animals; and
- (b) Bird feeding practices do not attract large flock of birds such as wild, feral or domestic pigeons; and
- (c) Spillage of seed upon the ground is removed by the property owner or occupier forthwith and disposed of in a manner that it does not attract wild animals, feral or stray domestic animals.
- (d) Feed and seed that is not placed in a bird feeding device as specified in subsection 3.2(a) shall be kept and stored within a fully enclosed building or structure and not outside.

3.3 Notwithstanding, Section 3.1 does not apply in the following situations:

- (a) The leaving of food as bait in a trap by a property owner to capture a nuisance animal inhabiting or habituating their property pursuant to the Fish and Wildlife Conservation Act, 1997, S.O. 1997, c.41.
- (b) The leaving of food as bait by a licensed trapper, an employee of a licensed wildlife or pest control agency, a Municipal Law Enforcement Officer, an Ontario Society of the Prevention of Cruelty to Animals or Animal Control Officer, in the performance of their work.
- (c) a person feeding wildlife as part of a research program undertaken by a university, college, government research body or wildlife research institution; or
- (d) a person fishing in accordance with a valid provincial licence

4. ENFORCEMENT

This by-law shall be enforced by a Police Officer, Animal Control Officer, or Municipal Law Enforcement Officer, duly appointed for the purposes of enforcing the Town's by-laws.

5. PENALTY PROVISIONS

- 5.1 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.
- 5.2 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.
- 5.3 Despite Section 5.2 of this by-law 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.
- 5.4 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.
- 5.5 Despite Section 5.4 of this by-law 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.
- 5.6 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.
- 5.7 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.
- 5.8 Every person who contravenes any section of this by-law under a Part I or Part III 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.

- 5.9 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.

6. SHORT FORM TITLE

That this by-law be referred to as the "Animal Control By-law".

7. SEVERABILITY

That every provision of this by-law is declared to be severable from the remainder of the by-law and if any provision of this by-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder thereof.

8. INTERPRETATION

8.1 References to items in the plural include the singular, as applicable.

8.2 "May" shall be construed as permissive.

8.3 "Shall" shall be construed as imperative.

9. EFFECTIVE DATE

That this By-law shall come into force and effect upon approval of the set fines appended hereto, from the Ontario Court of Justice (Provincial Division).

BY-LAW PASSED AND ENACTED THIS 12TH DAY OF JUNE, 2024.

THE CORPORATION OF THE TOWN OF MIDLAND

BILL GORDON - MAYOR

SARAH CATHCART – DEPUTY CLERK

**Schedule "A" to By-law 2024-36
Prohibited Animals**

1. All Didelphimorphia (such as Kangaroos, Opossums, Koala, Cuscus)
2. All Paucituberculata " "
3. All Microbiotheria " "
4. All Dasyuromorphia " "
5. All Peramelemorphia " "
6. All Notoryctemorphia " "
7. All Diprotodontia " "
8. All non human Primates (such as Monkeys, Apes, Chimpanzees, Lemurs)
9. All Carnivora (such as Wolf, Coyote, Fox), except Domestic Dogs permitted
(such as Lion, Tiger, Leopard, Panther, Lynx), except Domestic Cat permitted
(such as Weasels, Ferret, Wolverine, Mink, Badger), except Domestic Ferret permitted
(such as Bear, Panda) (such as Hyena)
(such as Raccoon, Panda, Coatimundi, Skunk, Otter) (such as Mongoose, Civet, Genet)
(such as Seals, Sea Lions, Walruses)
10. All Perissodactyla (such as Zebra, Tapir, Rhinoceros)
11. All Artiodactyla (such as Hippopotamus, Camel, Giraffe, Llama)
12. All Xenarthra (such as Anteaters, Sloth, Armadillos)
13. All Proboscidea (such as Elephants)
14. All Chiroptera (such as Bats)
15. All Sirenia (such as Manatees, Grey Whales)
16. All Odontoceti (such as Dolphins, Sperm Whales)
17. All Monotremata (such as Platypuses, Echidnas)
18. All Insectivora (such as Mole, Solenodon),except Hedgehog permitted
19. All Rodentia (such as Porcupine, Squirrel, Beaver, Woodchuck), except Domestic Guinea Pig, Hamsters, Gerbils, Chinchilla permitted
20. All Crocodilia (such as Crocodiles, Alligators, Caimans, Gavials)
21. All Chelydridae (such as Painted Turtle, Snapping Turtle), except Green Turtle permitted
22. All Squamata (such as Anacondas, Pythons, Boa)
(such as Kraits, Coral Snake, Cobra)
(such as Vipers, Rattlesnakes, Pit Viper, Adder)
(such as Water Mossasin, Bushmaster, Fer-De-Lance) (such as Sea Snake)
(such as File Snake)
(such as Lizards, Gila Monster, Dragons, Bearded Lizard),except Gekko Lizards permitted
23. All Arachnida (such as Tarantulas, Spiders, Scorpions)
24. All Struthioniformes (such as Rhea, Pampas, Ratite Birds)

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- 25. All Falconiformes (such as Cassowaries) (such as Kiwis)
 - 26. All Strigiformes (such as Hawks, Eagles, Kites, Harriers, Osprey)
 - 27. All Strigiformes (such as Owls, Vultures, Buzzards)
 - 27. All Charadriiformes (such as Woodcock, Snipe, Auk, Puffin, Penguin)
 - 28. All venomous insects, except bees as defined in the Bees Act, R.S.O. 1990, B.6

**Schedule “B” to By-law 2024-36
(Typical Farm Related Animals)**

1. Those Anseriformes (such as geese, swans, ducks)
2. Those Artiodactyla (such as cows, bulls, oxen, bison, sheep, goats, antelopes)
3. Those Equidae (such as horses, donkeys, mules)
4. Those Camelidae (such as llama, alpaca)
5. Those Columbiformes (such as pigeons, doves)
6. Those Galliformes (such as grouse, peacock, chickens, pheasants, turkeys)
7. Those Suidae (such as pigs, boars)
8. Those Lagomorpha (such as rabbit, hare, or domestic rabbit)
9. Those Struthioniformes (such as ostrich or emus)
10. Those Austroargiolestes (such as elk)

**Schedule “C” to By-law 2024-36
Part I *Provincial Offences Act***

By-law 2024-36 being a by-law to prohibit or regulate the keeping of certain animals within the boundaries of the Town of Midland

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Harbour more than 2 cats in a dwelling unit.	2.1	\$150.00
2.	Keep, possess or harbour prohibited animal.	2.2	\$150.00
3.	Keep, possess or harbour farm animal.	2.3	\$150.00
4.	Keep, possess or harbour more than 2 rabbits.	2.4	\$150.00
5.	Keep, possess or harbour more than 2 pigeons.	2.5	\$150.00
6.	Intentionally feed a wild animal.	3.1	\$150.00
7.	Leave food or attractants out of doors	3.2	\$150.00

Note: The penalty provision(s) for the offences indicated above is Section 4 of By-law 2024-36, a certified copy of which has been filed and S. 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.