

**THE CORPORATION OF THE TOWNSHIP OF TAY**

**BY-LAW NO. 2016-20**

**Being a By-law to repeal By-law 2015-38 and to prohibit or otherwise regulate the keeping of certain animals within the Township of Tay.**

**WHEREAS** pursuant to the Municipal Act, S.O. 2001, c.25 as amended, empowers councils of a local municipality to pass by-laws to regulate or prohibit the keeping of animals or any class thereof within the municipality or defined area thereof;

**AND WHEREAS** pursuant to Section 11 (3) of the Municipal Act, 2001, S.O. 2001, c.25, 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** Section 436 of the Municipal Act, 2001, S.O. 2001, c. 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** it has been deemed necessary to prevent a nuisance by restricting or prohibiting certain animals in certain areas and further to protect the health and safety of the public from certain endangered or dangerous animals;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP TAY ENACTS AS FOLLOWS:**

**1. DEFINITIONS**

In this by-law:

**"Animal"** means any member of the animal kingdom, other than a human, but does not include a dog or cat.

**"Council"** means the Council of the Corporation of the Township of Tay.

**"Director"** means a Township employee who oversees the operations of the by-law department, or their designate.

**"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, and includes any real property associated with such dwelling unit.

**"Exotic Animal"** includes a species as set out in Schedule A to this By-law.

**"Officer"** means a municipal law enforcement officer or other person appointed by by-law to enforce the provisions of this By-law.

**"Owner"** means the owner or person who owns, keeps or harbours an animal and where the owner is a minor, the person responsible for the custody of the minor.

**"Person"** in addition to its regular meaning, includes an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau and agency or any director, officer, manager or person in charge of such entity or the collecting of rent of any property, or any other person who is the occupier of the property.

**"At Large"** means found at a place other than the premises of the owner of the animal and not under the control of any person.

**"Township"** means The Corporation of the Township of Tay.

**"Veterinarian"** means a veterinarian and shall include caretakers and inmates of a recognized Animal Care Centre where a veterinarian normally carries on business.

## **2. OFFENCES**

- 2.1 No person shall own, possess, harbour or in any other manner keep any exotic animal listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 2.2 Notwithstanding Section 2.1, no person shall own, possess, harbour or in any other manner keep more than two (2) non-venomous snakes, which reach an adult length less than 3 metres.
- 2.3 Notwithstanding Section 2.1, no person shall own, possess, harbour or in any other manner keep more than two (2) non-venomous lizards, which reach an adult length less than 2 metres.
- 2.4 No person shall sell, offer for sale or display for sale any exotic animals listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 2.5 No person shall import or export any exotic animal listed in Schedule A of this By-law except where provided for under the provisions of this By-law or any Federal or Provincial legislation.
- 2.6 Section 2.1, 2.2, 2.3, 2.4 and 2.5 shall not apply to:
  - a) an Officer or Provincial Offences Officer in the performance of their duties;
  - b) a qualified Veterinarian treating any such animal that is not his or her property at a recognized animal care facility;
  - c) a premise identified in Schedule B; or
  - d) mobile zoos or reptile displays for educational purposes.

## **3. REGISTRY OF GRANDFATHERED EXOTIC ANIMALS**

- 3.1 Any person may seek 'grandfathered' status for such prohibited exotic animal within 6 months of a prohibition of the keeping of an exotic animal by making application and providing to the

Township documentation that the exotic animal was owned prior to the prohibition and further that the keeping of such exotic animal has not been interrupted for any period of time since the prohibition. The Director may deem the exotic animal be 'grandfathered' and enter such information pertaining to the exotic animal and its owner into a registry of grandfathered exotic animals.

- 3.2 Where any grandfathered exotic animal is deemed to be dangerous and/or potentially jeopardizes the health or safety of any individual, the grandfathered status of that exotic animal may be revoked at the discretion of the Director.
- 3.3 The Township may, at the discretion of the Director, impose special terms or conditions on the keeping of any grandfathered exotic animal (e.g. housing). Any person who possesses, harbours or keeps a grandfathered exotic animal shall comply with any special terms or conditions imposed by the Director.
- 3.4 Any person who moves a grandfathered exotic animal to a location other than the one on file with the Township shall notify the Director of the new location within forty-eight (48) hours of the exotic animal being moved or the grandfathering permission may be revoked.

#### **4. IMPOUNDING AND RELEASE**

- 4.1 An officer, may take into their custody and impound any exotic animal listed in Schedule A found to be at large, at the discretion of the officer, and such exotic animal may be released to a bona fide zoo or other facility authorized to keep and care for such exotic animals and that facility may include a facility named under the Research Animals Act.
- 4.2 An officer, may take into their custody and impound any exotic animal listed in Schedule A found to be a danger to the public, at the discretion of the officer, and such exotic animal may be released to a bona fide zoo or other facility authorized to keep and care for such exotic animals and that facility may include a facility names under the Research Animals Act.
- 4.3 An exotic animal may be released to its owner provided documentation that the exotic animal shall be removed from the Municipality forthwith is provided and the applicable fee for impounding and keeping the exotic animal has been received by the Municipality.
- 4.4 The fee for impounding and keeping of an exotic animal shall be as established in the Township's User Fees & Service Charges By-law.
- 4.5 After the expiry of five (5) consecutive days where an exotic animal has not been restored to its owner after a reasonable effort has been made to locate such owner, the officer may destroy the exotic animal in a manner that the officer considers reasonable, desirable and humane, and is in keeping with the limits allowed by any Provincial or Federal Statute or relocate the exotic animal to a bona fide zoo or other facility authorized to keep and care for such exotic animals.

## **5. ADMINISTRATION AND ENFORCEMENT**

- 5.1 This by-law shall be administered by the Municipal Law Enforcement Officer(s) of the Township or such person or persons as Council may, by By-law, appoint.
- 5.2 This by-law shall be enforced by the Municipal Law Enforcement Officer(s) of the Township or such person or persons as Council may, by By-law, appoint.

## **6. RIGHT OF ENTRY**

- 6.1 An officer or person designated by Council shall be permitted to enter onto land and into structures other than a place actually used as a dwelling house, at any reasonable time, without notice for the purpose of enforcing this by-law.
- 6.2 A person exercising a power of entry on behalf of the Township under this By-law must, upon request, display or produce proper identification.

## **7. PENALTIES**

- 7.1 Every person who contravenes any of the provision of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 7.2 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 where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 7.3 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.
- 7.4 Despite section 6.3 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.
- 7.5 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.
- 7.6 Despite section 6.5 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.
- 7.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.

- 7.8 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.
- 7.9 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.
- 7.10 Every person who contravenes any section of this by-law under a Part 1 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.
- 7.11 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.

## **8. CONTINUING OFFENCE**

- 8.1 Each day that a situation as described in Sections 2 of this by-law is allowed to continue shall constitute a separate offence under this by-law and any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

## **9. OBSTRUCTION**

- 9.1 In accordance with the provisions of the Municipal Act S.O. 2001, c. 25, as amended, no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an Officer, employee of the Township and/or agent in the lawful exercise or power or duty under this by-law.
- 9.2 Any person who has been alleged to have contravened any of the provisions of this by-law, who fails to identify himself/herself shall be deemed to have obstructed or hindered the person exercising a power or performing a duty under this by-law.

## **10. TOWNSHIP NOT LIABLE**

- 10.1 The Township assumes no liability for property damage, damage to animal or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person, animal or property that is subject of this by-law.

## **11. VALIDITY AND SEVERABILITY**

- 11.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

## **12. SHORT TITLE**

- 12.1 The short title of this by-law is the Exotic Animal By-law.

**13. DATE EFFECTIVE**

13.1 This by-law shall come into force and take effect immediately upon the final passing thereof.

**14. REPEALED**

14.1 By-law 2015-38 is repealed.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23rd DAY OF MARCH, 2016.**

**THE CORPORATION OF THE TOWNSHIP OF TAY**

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**MAYOR, Scott Warnock**

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**CLERK, Alison Thomas**

**SCHEDULE 'A' TO BY-LAW 2016-20**

<b>Class of Exotic Animal and Common Names</b> (Common names are provided illustration purposes only and are not intended to limit the extent of the classes of animals referred to in this schedule)
<b>Mammals</b>
Canidae (such as coyotes, wolves, foxes, hybrid wolf dogs) except dogs
Chiroptera (bats such as fruit bats, myotis, flying foxes)
Edentates (such as anteaters, sloths, armadillos)
Felidae (such as tigers, leopards, cougars) except cats
Hyaenidae (such as hyenas)
Lagomorpha (such as hares, pikas) except rabbits
Marsupials (such as kangaroos, opossums, wallabies) except sugar gliders derived from self-sustaining captive populations
Mustelidae (such as mink, skunks, weasels, otters, badgers) except ferrets
Non-human primates (such as chimpanzees, gorillas, monkeys, lemurs)
Proboscidae (elephants)
Procyonidae (such as coatimundi, cacomistles)
Rodentia (such as porcupines and prairie dogs) except rodents which do not exceed 1,500 grams and are derived from self-sustaining captive populations
Ursidae (bears)
Viverridae (such as mongooses, civets, genets)
<b>Reptiles</b>
Crocodylia (such as alligators, crocodiles, gavials)
All snakes which reach an adult length larger than 3 metres
All lizards which reach an adult length larger than 2 metres
<b>Other</b>
All venomous and poisonous animals and arachnids

**SCHEDULE 'B' TO BY-LAW 2016-20**

<b>Item No.</b>	<b>Premise</b>	<b>Address</b>
1.	Royal Python Ranch The exemption is for snakes only.	5544 Elliott Side Road
2.	Wye Marsh Wildlife Centre	16160 Hwy 12 East
3.	OSPCA Midland & District Branch	15979 Highway 12 East
4.	North Simcoe Veterinary Services	1831 Rumney Road



**SCHEDULE 'C' TO BY-LAW 2016-20****PART 1 Provincial Offences Act-Set Fine Schedule****THE CORPORATION OF THE TOWNSHIP OF TAY****By-law No. 2016-20, Exotic Animal By-law**

<b>ITEM</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Own, possess, harbour or keep any prohibited exotic animal.	2.1	\$400.00
2	Own, possess, harbour or keep more than 2 non-venomous snakes.	2.2	\$400.00
3	Own, possess, harbour or keep more than 2 non-venomous lizards.	2.3	\$400.00
4	Sell, offer for sale or display for sale any prohibited exotic animal.	2.4	\$400.00
5	Import or export any prohibited exotic animal.	2.5	\$400.00
6	Obstructing an Officer or Agent.	9.1	\$400.00

**Note:** The penalty provision(s) for the offences indicated above is Section 7.1 of By-law 2016-20 a certified Copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.33

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1	Own, possess, harbour or keep any prohibited exotic animal.	2.1	
2	Own, possess, harbour or keep more than 2 non-venomous snakes.	2.2	
3	Own, possess, harbour or keep more than 2 non-venomous lizards.	2.3	
4	Sell, offer for sale or display for sale any prohibited exotic animal.	2.4	
5	Import or export any prohibited exotic animal.	2.5	
6	Obstructing an Officer or Agent.	9.1	

**Note:** The penalty provision(s) for the offences indicated above is Section 7.1 of By-law 2015-38 a certified Copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.33