

# **GENERAL**

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**Article 1  
INTERPRETATION**

**408.1.1 Animal - defined**

“animal” means any member of the animal kingdom, other than a human, but does not include a dog over the age of twelve weeks except when otherwise indicated. By-law 99-169, 4 October, 1999.

**408.1.2 Animal Designation Appeal Committee - defined**

“Animal Designation Appeal Committee” means the Committee appointed by Council to perform functions and conduct appeal hearings as set out in this Chapter.

**408.1.3 Cat - defined**

“cat” means any registered purebred or common domestic cat, male or female, over the age of twelve weeks unless otherwise specified by this Chapter and shall include a domestic breed of cat that is or appears to be feral.

**408.1.4 City - defined**

“City” means The Corporation of the City of Kitchener unless the context requires otherwise. By-law 2008-96, 20 May, 2008.

**408.1.5 Council - defined**

“Council” means the Council of The Corporation of the City of Kitchener.

**408.1.6 Fowl - defined**

“fowl” means domestic fowl including, but not limited to, chickens, geese, ducks and game birds as defined in the *Game and Fish Act*. By-law 98-186, 30 November, 1998.

**408.1.7 Harbour - defined**

“harbour” shall include living with, having care and control of, feeding, leaving food in a manner that is likely to attract a cat or kitten to a property, and shall also specifically include a situation in which any person provides food to any cat or kitten whether domesticated or feral.

**408.1.8 Kitten - defined**

“kitten” means any registered purebred or common domestic cat, male or female, up to the age of twelve weeks unless otherwise specified by this Chapter and shall include a domestic breed of kitten that is or appears to be feral. By-law 2008-96, 20 May, 2008.

**408.1.9 Lot - defined**

“lot” means a parcel of land which can be legally conveyed pursuant to the *Planning Act*. By-law 98-186, 30 November, 1998.

**408.1.10 Order - defined**

“Order” means an order issued pursuant to Section 408.4.3 or 408.4.4 of this Chapter." By-law 2008-98, 20 May, 2008.

**408.1.11 Owner - defined**

“owner” means a person who keeps or harbours an animal and where the owner is a minor, the person responsible for the custody of the minor.

**408.1.12 Poundkeeper - defined**

“Poundkeeper” means the Kitchener-Waterloo and North Waterloo Humane Society, including its officers and employees.

**408.1.13 Zoning By-law - defined**

“Zoning By-law” means any by-law administered by the City passed pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, or a predecessor or successor thereof, as may be amended from time to time.

## Article 2 GENERAL PROVISIONS

**408.2.1 Running at large - prohibited - owner responsibility**

No owner of an animal shall allow his/her animal to run at large.

**408.2.2 Running at large - conditions**

An animal shall be deemed to be running at large when it is found not under the effective control of an adult person and not under leash, unless the animal is on the lands of a person who has given prior consent to it being unleashed.

**408.2.3 Leash - length**

No leash shall exceed 2.4 metres (8 feet).

**408.2.4 Excrement - removal by owner - upon defecation**

Every owner of an animal shall remove forthwith and dispose of any excrement left by his/her animal on any property in the City other than his/her own property.

**408.2.5 Attack - fighting - prohibited**

No owner shall permit his/her animal to attack or fight with any animal.

**408.2.6 Trespass by animal - prohibited**

No owner shall permit his/her animal to trespass on private property. By-law 98-186, 30 November, 1998.

**408.2.7 Slaughter house - location - restrictions**

No person shall at any time use any house, dwelling unit, or accessory building, or any part thereof, or any land abutting same, as a place for slaughtering animals unless such place is distant not less than 180 metres (590.6 feet) from any dwelling unit and not less than 45 metres (147.6 feet) from any highway.

**408.2.8 Permitted animals**

Permitted animals means:

- (a) mammals which are commonly known as the following:
  - cats;
  - chinchillas;
  - degus;
  - dogs, including dogs over the age of twelve weeks;
  - ferrets;
  - gerbils;
  - guinea pigs;
  - hamsters;
  - hedgehogs;
  - mice;
  - rabbits;
  - rats;
  - sugar gliders.
- (b) all birds, reptiles, amphibians, fish and invertebrates which are not restricted or prohibited animals;
- (c) all animals which are used for animal husbandry or are otherwise permitted by the Zoning By-law.

**408.2.9 Restricted animal**

A restricted animal means:

- (a) a lizard which will grow to more than 65 centimetres (25.6 inches) in length from snout to vent;
- (b) a snake which will grow to more than 2 metres (6.6 feet) in length;
- (c) a prohibited animal which was kept or harboured by its owner on the date the animal was prohibited or which was purchased by its owner from a pet shop in the City in accordance with Chapter 575 of The City of Kitchener Municipal Code.

**408.2.10 Prohibited animal**

A prohibited animal means:

- (a) an animal which is venomous or poisonous in captivity;
- (b) an animal which is wild-caught, provided that a wild-caught fish shall be deemed to be a permitted animal until January 1, 2004;
- (c) an animal whose parent is a prohibited animal;
- (d) a mammal which is not a permitted animal;
- (e) birds which are members of the following orders:
  - Order Anseriformes, for example, but not limited to, ducks, geese and swans;
  - Order Casuariiformes, for example, but not limited to, cassowaries and emus;
  - Order Galliformes, for example, but not limited to, grouse and pheasants, except for non-indigenous quail species which have been captive-bred for more than six generations;
  - Order Rheiformes, for example, but not limited to, rheas; and
  - Order Struthioniformes, for example, but not limited to, ostriches;
- (f) reptiles which are members of the following orders:
  - Order Crocodylia, for example, but not limited to, crocodiles; and
  - Order Sphendonitida, for example, but not limited to, tuatara;
- (g) amphibians which are members of the Order Gymnophobia or Apoda commonly known as legless amphibians.

**408.2.11 Prohibited animal - keeping - offence**

No person shall keep or harbour or permit to be kept or harboured a prohibited animal.

**408.2.12 Restricted animal - keeping requirements**

The owner of a restricted animal shall comply with the following requirements:

- (a) to register the restricted animal on or before February 15, 2000 or after that date within seven working days of becoming the owner of the restricted animal by providing the Poundkeeper with his/her name, address and telephone number and a description of the restricted animal;
- (b) to keep the restricted animal, when it is on the lands and premises of the owner, confined and under effective control, as approved by the Poundkeeper;
- (c) to keep the restricted animal under the effective control of an adult person and under leash or otherwise contained at all times when it is not confined in accordance with clause (b);
- (d) to provide the Poundkeeper with the new address and telephone number of the owner within two working days of moving the restricted animal;
- (e) to provide the Poundkeeper with the name, address and telephone number of the new owner within two working days of selling or giving away the restricted animal;
- (f) to advise the Poundkeeper within two working days of the death of the restricted animal; and
- (g) to advise the Poundkeeper forthwith if the restricted animal is running at large or has bitten or attacked any person or animal, including dogs over the age of twelve weeks.

**408.2.13 Prohibited - restricted animal - exceptions**

Sections 408.2.11 and 408.2.12 of this Chapter shall not apply to:

- (a) an animal hospital or clinic lawfully operated and supervised by a veterinarian licensed to practice in Ontario;
- (b) an animal shelter operated by the Kitchener-Waterloo and North Waterloo Humane Society;
- (c) premises registered as a research facility in accordance with the *Animals for Research Act*;
- (d) the lawful operation of a circus, carnival, performance, exhibition, zoo or public display;
- (e) subject to the approval of the Kitchener-Waterloo and North Waterloo Humane Society:
  - (i) premises where animals are being kept for the purposes of rehabilitating the individual animal;

- (ii) when under the auspices of the federal or provincial government or an organization or facility with appropriate expertise, premises where animals are being kept for the purpose of preserving the individual animal or the animal species, provided that the premises meet Canadian Association of Zoos and Aquaria standards;
- (f) day care facilities or educational establishments where short-term educational programs are being conducted.

**408.2.14 Animal Designation Appeal Committee - hearing**

The Poundkeeper or a resident of the City may request that a Committee of Council, known as the Animal Designation Appeal Committee, conduct a hearing as to whether:

- (a) a species of mammal should be added to Section 408.2.8 as a permitted animal or to Section 408.2.9 as a restricted animal; or
- (b) a species of bird, reptile, amphibian, fish or invertebrate should be added to Section 408.2.9 as a restricted animal or to Section 408.2.10 as a prohibited animal.

**408.2.15 Request for hearing**

- (a) Requests from residents shall be submitted between January 1 and February 15 of each year.
- (b) One request from a resident in regard to Section 408.2.14(a) and one request from a resident in regard to Section 408.2.14(b), such requests to be chosen by lottery after February 15 if necessary, shall be considered by the Animal Designation Appeal Committee during the remainder of the year.

**408.2.16 Animal Designation Appeal Committee - decision**

The Animal Designation Appeal Committee may recommend to Council that:

- (a) the mammal species be added to Chapter 408 as a permitted or a restricted animal if:
  - (i) the mammal species has been captive-bred for at least 10 generations;
  - (ii) the general public is capable of providing a level of care for the animal species which protects it from suffering at all stages of its life, considering the animal's physical and psychological or behavioural well-being;

- (iii) the danger the animal species may present to public health or safety is minimal;
  - (iv) the danger the animal species may present to the local ecosystem should it escape or be released is minimal.
- (b) a bird species be added to Chapter 408 as a restricted or prohibited animal if:
- (i) the bird species has been captive-bred for less than six generations;
  - (ii) the general public is not capable of providing a level of care for the animal species which protects it from suffering at all stages of its life, considering the animal's physical and psychological or behavioural well-being;
  - (iii) the danger the animal species may present to public health or safety is not minimal; or
  - (iv) the danger the animal species may present to the local ecosystem should it escape or be released is not minimal.
- (c) a reptile, amphibian, fish or invertebrate species be added to the Chapter as a restricted or prohibited animal if:
- (i) the general public is not capable of providing a level of care for the animal species which protects it from suffering at all stages of its life, considering the animal's physical and psychological or behavioural well-being;
  - (ii) the danger the animal species may present to public health or safety is not minimal; or
  - (iii) the danger the animal species may present to the local ecosystem should it escape or be released is not minimal.

**408.2.17 Hearing evidence**

The Animal Designation Appeal Committee may require any person to give evidence relevant to the subject matter of a hearing.

**408.2.18 Entry - Inspection - right**

The Regional Medical Officer of Health and any Health Inspector, the Chief Fire Prevention Officer and any Fire Inspector, the Chief Building Official and any Building/Plumbing Inspector, Property Standards Officer or Municipal Law Enforcement Officer, and the Poundkeeper and any Ontario Society for the Prevention of Cruelty to Animals Inspector may, at all reasonable times during normal business hours, enter upon and inspect any lands and premises where animals are kept for the purpose of insuring compliance with the provisions of this Chapter. By-law 99-169, 4 October, 1999.

**Article 3****PIGEONS - RABBITS****408.3.1 Enclosure - requirements**

No person shall keep or permit to be kept pigeons or rabbits in other than an enclosure that:

- (a) where it is not a cage, has its inside walls and ceiling limewashed or painted at least annually;
- (b) is screened to the maximum extent possible from adjacent premises and streets by hedges, shrubs, fences or other suitable screening;
- (c) in the opinion of the Poundkeeper, provides adequate space, lighting and ventilation having regard to the number of pigeons and rabbits kept therein;
- (d) in the opinion of the Regional Medical Officer of Health, does not house pigeons or rabbits in such a manner or in such number as to constitute an actual or potential threat or hazard to human health;
- (e) is maintained in such a manner as to prevent the emission of noxious odours therefrom;
- (f) is readily maintained in a clean and sanitary condition;

- (g) is constructed and maintained in compliance with the provisions of any applicable Act or Regulation and any other municipal by-law including, without restricting the generality of the foregoing, the *Health Protection and Promotion Act* and Regulations, the Ontario *Building Code Act, 1992* and Regulations, the *Fire Prevention and Protection Act* and Regulations, Chapter 665 of the City's Municipal Code and the Zoning By-law;
- (h) is constructed in such a manner as to prevent the escape from the enclosure of any pigeon or rabbit kept therein;
- (i) is located to the rear of the property and situated 12.2 metres (40 feet) from any school, church, dwelling unit or other premises used for human habitation or occupancy, other than premises occupied exclusively by the owner or members of the owner's immediate family.

**408.3.2 Enclosure - existing - location - exemption**

An enclosure in existence prior to October 26, 1987 shall, notwithstanding that it does not comply with Section 408.3.1(i) shall be deemed to be an enclosure within the meaning of Section 408.3.1 provided it complies in all other respects with the provisions thereof and provided it cannot be re-located to comply with Section 408.3.1(i).

**408.3.3 Enclosure - maintained sanitary - feed - waste storage**

Every person keeping pigeons or rabbits in an enclosure shall:

- (a) remove and dispose of in a sanitary manner at least three times each week all droppings, refuse or offal, and any dropped or scattered feed within or adjacent to any enclosure. No material so removed may be burned or stored on or within the lands and premises from which it is removed; and
- (b) store all feed in rodent-proof containers.

**408.3.4 Pigeons - in City - prohibited - rabbits - limitation**

No person shall keep or permit to be kept any pigeons or more than six rabbits on any lot within the City.

**408.3.5 Agricultural land - exemption**

Section 408.3.4 does not apply to a lot located within an area zoned agricultural by the Zoning By-law.

**408.3.6 Permitted use - by Zoning By-law - exemption**

Section 408.3.5 does not apply to a lot where the keeping of pigeons or rabbits is a permitted use either expressly or by necessary implication, within the meaning of the Zoning By-law. By-law 98-186, 30 November, 1998.

**408.3.7 Pigeon keeping - exemption - conditions**

Notwithstanding Section 408.3.4, where a person or property has been granted an exemption by Council prior to August 31, 2004, allowing for the keeping of pigeons in the City, pigeons may be kept provided that:

- (a) the pigeons are kept continuously from August 31, 2004 forward;
- (b) the number of pigeons kept does not exceed that number of pigeons specifically permitted in the exemption if applicable;
- (c) the pigeons are kept at the location specified in the exemption if so specified;
- (d) where no location is specified in the exemption that the exemption shall not apply to a property other than the property the pigeons were kept at on August 31, 2004;
- (e) the pigeons are kept for sporting or exhibitions purposes;
- (f) the pigeon keeper resides at the property and is a *bona fide* member of an organized pigeon club or association;
- (g) each pigeon is banded with an identifying leg band issued by the said organization;
- (h) the pigeon keeper ensures compliance with all other regulations of this Chapter respecting the keeping of pigeons. By-law 2004-144, 29 June, 2004.

**408.3.8 Infection - communicable disease - responsibility**

In the event the owner of pigeons or rabbits suspects they are infected with a communicable disease, the owner shall immediately consult a veterinarian licensed to practice in Ontario to diagnose the condition. If the diagnosis confirms that the pigeons or rabbits are infected with a communicable disease, the owner shall immediately notify the Regional Medical Officer of Health and comply with any direction which may be issued by the Regional Medical Officer of Health in this regard. By-law 98-186, 30 November, 1998.

**408.3.9 Pigeon keeping - exemption revoked - permanent**

Where a person or property was granted an exemption by Council prior to August 31, 2004, allowing for the keeping of pigeons in the City, Council may permanently revoke this exemption if the pigeon keeper or property has failed to comply with any of the regulations respecting the keeping of pigeons in this Chapter, the conditions of Section 408.3.7, or the conditions of the original exemption. By-law 2004-144, 29 June, 2004.

**Article 4**  
**CATS**

**408.4.1 Harboursing - causing nuisance - prohibited**

No person shall keep or harbour any cat or kitten in a manner that adversely impacts neighbouring properties or residents whether through offensive odours, noise likely to disturb inhabitants, straying or roaming of cat(s) or kitten(s), accumulation of feces or otherwise.

**408.4.2 Keeping - conditions adverse to health - prohibited**

- (a) No person shall keep or harbour any cat or kitten in a manner that adversely impacts the health or well-being of the cat or kitten.
- (b) For the purposes of Section 408.4.2(a), the following are deemed to be circumstances which could adversely impact the health or well-being of a cat or kitten: unsanitary conditions, neglect, overcrowding, inadequate feeding, and inadequate medical attention.

**408.4.3 Nuisance - order - issued - reduction of cats**

Where a person is convicted under Section 408.4.1 of this Chapter, the City's Director of Enforcement may issue an order to discontinue the contravening activity by reducing the number of cats or kittens at a property and/or kept or harboured by that person and such Order shall be complied with. The number to which the total number of cats and kittens must be reduced to shall be at the Director of Enforcement's discretion and may be as low as zero.

**408.4.4 Health concerns - order - issued - reduction of cats**

Where a person is convicted under Section 408.4.2(a) of this Chapter, the City's Poundkeeper may issue an order to discontinue the contravening activity by reducing the number of cats or kittens at a property and/or kept or harboured by that person and such Order shall be complied with. The number to which the total number of cats and kittens must be reduced to shall be at the Poundkeeper's discretion and may be as low as zero.

**408.4.5 Order - information - requirements**

Every Order shall:

- (a) give reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
- (b) indicate the number to which the total number of cats and kittens must be reduced;
- (c) shall indicate the date by which there must be compliance with the order to reduce the number of cats; and

- (d) shall include a statement that failure to comply with the order may result in seizure of any cats and kittens and/or charges under this Chapter.

**408.4.6 Order - appeal - deadline**

An Order may be appealed by the individual(s) to whom it is directed. Such appeal shall be made in writing to the Clerk of the City within ten business days of the Order's date of issuance.

**408.4.7 Appeal - hearing - time frame**

Where an Order has been appealed, the Animal Designation Appeal Committee shall hold an appeal hearing pursuant to the provisions of the *Statutory Powers Procedure Act*. The Animal Designation Appeal Committee shall endeavour to hold such appeal hearing within thirty days of the request.

**408.4.8 Appeal - non-attendance - dismissal - adjourned**

Where a person has requested an appeal and does not appear at the appointed time, the Animal Designation Appeal Committee may dismiss the appeal as abandoned or, where it has cause to believe it would be beneficial to adjourn the appeal, may do so to allow the person who requested the appeal an opportunity to be present. If the appeal is dismissed as abandoned by the Animal Designation Appeal Committee, the Order shall stand.

**408.4.9 Order - modified by Committee**

The Animal Designation Appeal Committee may recommend that an Order be ratified, affirmed, rescinded, added to, varied, substituted, or that time for compliance with the Order be extended.

**408.4.10 Order - ratified by Council - effective**

Any recommendation of the Animal Designation Appeal Committee must be ratified or affirmed by Council before taking effect and Council may ratify or affirm, rescind, add to, vary, or substitute the Order of part thereof and may also extend time for compliance with the Order.

**408.4.11 Order - non-compliance**

Where compliance with an Order has failed to eliminate any violation of Section 408.4.1 or 408.4.2(a) under this Chapter, a further Order or Orders may be made pursuant to this Chapter regardless of whether any other charge is laid or conviction is obtained under Section 408.4.1 or 408.4.2(a) of this Chapter.

**408.4.12 Failure to comply - action by City**

In the event of a person's failure to comply with an Order issued under this Chapter, the City may take such action as necessary to cause compliance with the Order at that person's expense. Such action may include the removal of cats from the property. The City may recover the costs of such remedial action from the person the Order directed or required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

**408.4.13 Poundkeeper - cat - removal - not returned**

The Poundkeeper shall treat any cat(s) or kitten(s) removed pursuant to this Chapter in the same manner as an animal found running at large but shall not return such cat(s) or kitten(s) to the person or location from which they were removed unless it is shown to the satisfaction of the Poundkeeper that returning them would not facilitate a situation of non-compliance with the governing Order.

**408.4.14 Keeping number other than specified - prohibited**

No person shall keep more cats or kittens than specified by an Order. By-law 2008-96, 20 May, 2008.

**Article 5****IMPOUNDING ANIMALS****408.5.1 Running at large - seizure - impounding**

The Poundkeeper may seize and impound any animal found running at large.

**408.5.2 Animal impounded - record kept - by Poundkeeper**

The Poundkeeper shall keep a record of every animal impounded or seized, including the date it was impounded, a description of the animal, the tag number if it wore a tag, the date of disposition and the disposition made.

**408.5.3 Animal impounded - restored to owner - deadline**

Possession of the animal may be restored to the owner if the owner claims possession of the animal within three days, exclusive of statutory holidays and Sundays, after the date of seizure and impounding.

**408.5.4 Impound fees**

The Poundkeeper may release an impounded animal to its owner after identification of the animal by the owner and payment by the owner of Thirty-Five Dollars (\$35) for the first day or any part thereof and Eight Dollars (\$8) for each additional day or any part thereof which the animal has been impounded plus the cost of any vaccination given in accordance with this Chapter.

**408.5.5 Female - in heat - running at large - impound duration**

Any female animal found to be running at large in heat shall be impounded by the Poundkeeper until no longer in heat, but in any case no longer than twenty-one days.

**408.5.6 Impound animal - not tagged - immunized**

Any animal impounded not wearing a tag for the current year may be given an inoculation to provide immunization against rabies.

**408.5.7 Animal impounded - owner liable - for all fees**

Where an animal is impounded, the owner shall be liable for the impound and maintenance fees prescribed and shall pay all fees on demand to the Poundkeeper.

**408.5.8 Animal not claimed - sale - disposed**

In the event that possession of any impounded animal has not been restored to the owner within three days, exclusive of statutory holidays and Sundays, after seizure, the animal may be sold by the Poundkeeper for such price as he/she deems reasonable or the Poundkeeper may dispose of the animal pursuant to the *Animals for Research Act* and Regulations thereunder. The sale of any animal so sold shall belong to the Poundkeeper and no damages or compensation shall be recovered on account of any disposition made thereunder.

**408.5.9 Animal impounded - injured - destroyed**

Where an animal which has been seized is injured or should be destroyed without delay for humane reasons, the Poundkeeper may dispose of the animal in a humane manner as soon after seizure as he/she thinks fit without permitting any person to reclaim the animal or without offering it for sale and no damages or compensation shall be recovered on account of such disposition.

## Article 6 ENFORCEMENT

**408.6.1 Fine - for contravention**

Every owner who contravenes any provision of this Chapter or, an Order issued pursuant to this Chapter, is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5000), exclusive of costs, for each offence, recoverable under the *Provincial Offences Act*. By-law 98-186, 30 November, 1998; By-law 2008-96, 20 May, 2008.

**Article 7**  
**SEVERABILITY**

**408.7.1 Validity**

Each and every of the provisions of this Chapter is severable and if any provisions of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the remaining provisions hereof shall remain in full force and effect.

**Article 8**  
**REPEAL**

**408.8.1 By-law - previous**

By-law 87-202 as amended by By-laws 89-77, 89-206, 91-114, 91-184, 91-272 and 92-26, and By-law 87-275 as amended by By-laws 91-185, 91-271, 92-260, 95-11, 96-97 and 98-72 are repealed. By-law 98-186, 30 November, 1998; By-law 2008-96, 20 May, 2008.