

Hamilton City Council BYLAWS



Approved By: Council	Date Adopted : 23 May 2013
Date In Force: 1 July 2013 section 8.2 1 November 2013	Review Date: 1 July 2023

HAMILTON CITY ANIMAL NUISANCE BYLAW 2013

This bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002 and any amendments to that act.

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1. PREAMBLE

- 1.1. The purpose of this bylaw is to ensure that the keeping of animals, birds and bees within the Council's boundaries does not create a nuisance and if a nuisance does arise then the Council has appropriate regulatory powers to take relevant action.

2. SHORT TITLE

- 2.1. This bylaw may be cited as the Hamilton City Animal Nuisance Bylaw 2013.

3. REVOCATION OF EXISTING BYLAWS

- 3.1. The Hamilton Animal Nuisance Bylaw 2008 is hereby revoked.
- 3.2. All matters and proceedings commenced under the bylaw listed in section 3.1 and pending or in progress on the coming into operation of this bylaw may be continued, completed and enforced under this bylaw.

4. PURPOSE

- 4.1. The purposes of this bylaw are:
- a) protecting the public from nuisance,
 - b) protecting, promoting, and maintaining public health and safety; and
 - c) regulating the keeping of animals.

5. SCOPE

- 5.1. This bylaw shall apply to the keeping of animals on private property in the district of Hamilton City Council.

6. COMPLIANCE WITH OTHER ACTS

- 6.1. This bylaw is in addition to, and should be read in conjunction with, relevant legislation, regulations and guidelines for maintaining public health, keeping animals, animal welfare and agricultural practices. Persons who keep animals must comply with the requirements of the National Animal Welfare Advisory Committee (NAWAC) of the Ministry of Agriculture and Forestry for animal welfare issued under the Animal Welfare Act 1999, and any other applicable legislation, regulations or bylaws.

7. DEFINITIONS

- 7.1. In this bylaw except where inconsistent with the context:

- Animals**
- a) Means any live member of the animal kingdom that is:
 - I. A mammal; or
 - II. A bird; or
 - III. A reptile; or
 - IV. An amphibian; or
 - V. A fish (bony or cartilaginous); or
 - VI. Any octopus, squid, crab, lobster, or crayfish (including freshwater crayfish); or
 - VII. Any other member of the animal kingdom which is declared from time to time by the Governor-General, by Order in Council, to be an animal for the purposes of this Act; and
 - b) Includes any mammalian foetus, or any avian or reptilian pre hatched young, that is in the last half of its period of gestation or development;

and

- c) Includes any marsupial pouch young
- d) Includes bees; but
- e) Does not include:
 - I. A human being; or
 - II. Except as provided in (b) or (c) of this definition, any animal in the pre-natal, pre-hatched, larval, or other such development stage;
 - III. A dog.

Authorised Officer Means an employee or contractor of the Hamilton City Council appointed or authorised to carry out general or specific duties arising from any of the provisions of this bylaw, and includes a Police Officer and any enforcement officers appointed and warranted by Council under the Local Government Act 2002.

Council Means Hamilton City Council.

Enforcement Officer Means the same as Authorised Officer.

Nuisance Without limiting the meaning of the term nuisance, a nuisance shall be created by an animal causing unreasonable trouble or annoyance, or unreasonable interference with the peace, comfort or convenience of any person or persons.

Without limiting the meaning of the term “nuisance”, a nuisance shall be deemed to be created in any of the following cases, that is to say:

- a) Where any accumulation or deposit is in such a state or so situated as to be offensive.
- b) Where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive.
- c) The term “nuisance” means any noise emitted by an Animal that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person.

8. KEEPING OF ANIMALS

- 8.1. Every person who owns or keeps any animal on private property must ensure that the animal:
 - a) Does not create a nuisance to any person; and
 - b) Is kept in conditions that do not create a nuisance to any person.
- 8.2. No person shall keep a rooster in any part of the district of Hamilton without the prior written approval of an authorised officer. Approval if given may be subject to conditions.
- 8.3. Without limiting clause 8.1, no person may keep any animal on the premises, if in the opinion of the authorised officer, the keeping of such animals is causing a nuisance.

9. ENFORCEMENT

- 9.1. Where an authorised officer has reasonable grounds for suspecting that a nuisance exists, an authorised officer may, by written notice, require the owner or person keeping the

animal to take such action as the authorised officer considers necessary to mitigate or eliminate the nuisance within a timeframe specified in the notice.

- 9.2. An authorised officer may seize or impound any animal causing a nuisance if the owner or person keeping the animal has not adequately mitigated or eliminated the nuisance within the timeframe specified in the written notice issued by the authorised officer under clause 9.1 above.

10. PENALTIES AND OFFENCES

- 10.1. A person commits a breach of this bylaw who:
- a) Permits or allows any condition to exist or continue to exist contrary to this bylaw;
 - b) Fails to comply with any lawful notice of direction given under this bylaw.
 - c) Where required, fails to obtain written approval or having obtained written approval fails to abide by the conditions (if any).
- 10.2. Obstructs or hinders any authorised officer in the performance of any duty to be discharged by that officer under or in exercises of any power conferred by this bylaw;
- 10.3. Pursuant to section 242 of the Local Government Act 2002, any person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- 10.4. Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw.
- 10.5. The Council may recover the costs of removing or altering the work or this that is in breach of this Bylaw from the person who committed the breach. This does not relieve that person of liability for the breach.
- 10.6. Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw.
- 10.7. The Council may seize and impound property materially involved in the commission of an offence, under and in accordance with sections 164 and 165 of the Local Government Act 2002.
- 10.8. The council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

The COMMON SEAL of the HAMILTON CITY COUNCIL
was hereunto affixed in the presence of:

Councillor:

Councillor:

Chief Executive: