

The Corporation of the City Of Guelph

By-Law Number (2009) - 18709

Being a By-law respecting the use of body-gripping traps within the City of Guelph.
(Harper's By-law)

Whereas Sections 8 and 10 of the Municipal Act, 2001 authorize the City to enact by-laws respecting, among other things, animals, the protection of persons and property, and health, welfare and well-being of persons;

And whereas the Council of the Corporation of the City of Guelph wishes to respond to concerns expressed by City residents about the use of body-gripping traps within the City of Guelph;

Now therefore the Council for The Corporation of the City of Guelph enacts as follows:

1. Definitions

In this by-law:

- a. "Act" means the Fish and Wildlife Conservation Act, 1997, as amended;
- b. "body-gripping trap" means a body-gripping trap as defined in the Act;
- c. "City" means the Corporation of the City of Guelph;
- d. "Council" means the City of Guelph Council;
- e. "farmer" means a farmer as defined in the Act;
- f. "Officer" means a Police Officer or person appointed by by-law to enforce the provisions of this by-law;
- g. "regulations" means any regulations made under the Act; and
- h. "trap" means trap as defined in the Act.

2. Prohibition

No person shall use or cause or permit to be used a body-gripping trap within the City of Guelph.

3. Exemptions

3.1 Despite section 2.1, a person may use a body-gripping trap provided that person is in compliance with all trapping standards under the Act and:

- 1) that person is a farmer as defined in the Act, a member of a farmer's family or a licensed trapper, and is using the body-gripping trap on lands within the City of Guelph where agriculture is a permitted use, by zoning or by way of legal non-conforming use; or

- 2) that person is an authorized agent of the City; or
- 3) that person is an authorized agent of the Province of Ontario.

3.2 A person trapping by means of a body-gripping trap pursuant to an exemption in section 3.1 shall ensure that before engaging in any trapping:

- 1) warning sign(s) is(are) posted on the subject property in public view in the form and in accordance with the requirements identified in Schedule A to this by-law;
- 2) he or she is registered with the City to trap within the City;
- 3) an identification tag issued by the City is affixed to each trap;
- 4) each trap is inspected at least once daily, the traps cleared as required and a record of each trap's status, time and date of inspection is maintained and produced for inspection by the City, upon request; and
- 5) a site plan or legible drawing showing the location of each trap, is provided to the City.

3.3 Any person may apply to Council for an exemption from the prohibition in section 2.1, to permit such person to use a body-gripping trap for a period of time specified in such application.

3.4 In determining whether to grant an exemption, Council shall consider whether a threat to public health, safety or well-being exists which cannot be fully or expeditiously resolved using alternatives to body-gripping traps, such as live trapping or sound-emitting devices.

3.5 If an exemption is granted pursuant to section 3.3, in its authorizing document Council shall specify the number of traps and model of each trap to be used and the duration of the exemption;

3.6 A person trapping by means of a body-gripping trap pursuant to an exemption in section 3.3 shall ensure that before engaging in any trapping:

- 1) warning sign(s) is (are) posted on the subject property in public view in the form and in accordance with the requirements identified in Schedule A to this by-law;
- 2) he or she is registered with the City to trap within the City;
- 3) an identification tag issued by the City is affixed to each trap;
- 4) each trap IS inspected at least once daily, the traps cleared as required and a record of each trap's status, time and date of inspection is maintained and produced for inspection by the City, upon request; and
- 5) a site plan or legible drawing showing the location of each trap, is provided to the City.

- 6) the person executes an indemnity in favour of the City in the form attached as Schedule B to this by-law;
- 7) any other condition(s) that Council deems reasonable and appropriate in the circumstances.

3.7 Where an exemption is granted, breach of any condition of that exemption shall render the exemption null and void, without any liability to the City and the person to whom the exemption was granted shall be subject to compliance with this by-law as if the exemption had never been granted.

3.8 Every person applying to Council for an exemption pursuant to section 3.3 shall, at least 10 business days prior to the Council meeting at which the request for exemption is to be addressed, provide to the Director of Operations a complete and accurate application form, as provided by the City, setting out the particulars respecting the exemption requested.

3.9 Every person exempted pursuant to section 3 of this by-law shall be responsible for all expenses associated with that exemption and use of exempted traps and shall register every body-gripping trap used pursuant to an exemption with the City.

4. Registry

The Director of Operations will maintain, a registry of body-gripping traps used within the geographical limits of the City.

5. Enforcement

5.1 The Director of Operations shall be responsible for the administration of this by-law, any order made pursuant to section 431(a) of the Municipal Act, 2001 in relation to the enforcement of this by-law or any order made pursuant to section 438(2) of the Municipal Act, 2001 in relation to the enforcement of this by-law.

5.2 The provisions of this By-law may be enforced by an Officer.

5.3 Any Officer may enter on any land at any reasonable time or pursuant to an order under section 438(2) of the Municipal Act, 2001, for the purpose of carrying out an inspection to determine whether or not this by-law is being complied with.

5.4 For the purposes of an inspection under this by-law, any Officer may:

- 1) require the production for inspection of documents or things relevant to the inspection;
- 2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- 3) require information from any person concerning a matter related to the inspection; and

4) 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.

5.5 An inspection of any room or place actually being used as a dwelling, shall be subject to the provisions of section 437 of the Municipal Act, 2001.

5.6 Where an Officer determines that any provision of this By-law or a condition of an exemption granted under section 5.3.6 of this By-law is being contravened, the Officer may take any necessary steps to have the trap removed and the person responsible for the contravention shall be responsible for any costs associated with removal.

5.7 Where a trap is removed due to contravention of this by-law, the trap will be stored with the City's Operations Department for a period often (10) days from removal. Upon the expiry often (10) days, if the trap is not retrieved by its owner, it will be disposed of by the City at the owner's expense.

6. Penalty

6.1 Every person or corporation who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a maximum fine of \$100,000.00.

6.2 Every director or officer of a corporation who knowingly concurs in the contravention by the corporation of any provision of this by-law is guilty of an offence and, upon conviction, is liable to a maximum fine of \$100,000.00.

7. Effective date

This by-law shall come into full force and take effect on the date of passing.

Passed this twenty-sixth day of January, 2009.

Karen Farbridge – Mayor

Lois A. Giles – City Clerk

By-Law Number (2009)-18709 Schedule A

Warning Sign Requirements

Warning signs required to be posted pursuant to this By-law shall:

- 1) be a minimum size of 12" X 12" (300mm X 300mm);
- 2) state the following message in bold black lettering with minimum letter size of 1.5 inches (38mm):
 - Caution!
 - Animal trapping in effect
 - Do Not Enter
- 3) be constructed of a durable, sturdy material that is resistant to fading and deterioration;
- 4) be posted on a solid, stationary device at a minimum height of 6.0 feet (1.82m) from the ground to the bottom of the sign and no higher than 8.0 feet (2.42m) from the ground to the top of the sign;
- 5) be posted at least 72 hours immediately prior to the start of any trapping and maintained in place in good condition, including repair or replacement of the sign if necessary, until all trapping activity ceases;
- 6) be posted as follows where the property on which the trapping is to occur is a park, recreation facility, sports facility, or conservation area intended for public access:
 - a. four (4) signs shall be posted within a 164 feet (50m) radius of the trap, with a maximum distance of 230 feet (70m) between signs;
 - b. where there are designated paths or pedestrian trails within the 164 feet (50m) radius of a trap, a minimum of (1) sign shall be posted at each of the trail or pedestrian access points; and
- 7) be posted as follows for all other properties:
 - a. signs shall be posted along every property line of the property on which trapping is to occur;
 - b. a minimum of one (1) sign shall be posted per property line;
 - c. despite subsection 7 (b) of this Schedule, there shall be at least one sign posted every 300 feet (91.44m) along the property line;
 - d. signs shall be posted in such a manner and location so that they are clearly visible from the property, roadway, trail or the like that is immediately adjacent such property line.

By-Law Number (2009)-18709 Schedule B

Indemnity and Waiver

Whereas pursuant to section 3.3 of the City of Guelph's trapping by-law, Council for the City of Guelph has granted (**name**) an exemption from the prohibition on the use of body-gripping traps within the City of Guelph from (**day and date**) to (**day and date**) inclusive, for the use of (**specify number and type of body-gripping traps**) ("the Traps").

And whereas as a condition of that exemption, Council for the City of Guelph has directed that (**name**) provide an indemnity to the Corporation of the City of Guelph in the form set out herein.

Therefore in consideration of the Corporation of the City of Guelph permitting such exemption from the prohibition on the use of body-gripping traps within the City of Guelph, (**name**), hereby indemnifies and saves the Corporation of the City of Guelph harmless against and from any and all actions and claims including, without limitation, all claims for personal injury, death, property damage or nuisance arising from or in connection with the use of the Traps or any act, deed or omission of (**name**) or any agent, contractor, or employee of (**name**), and against and from all costs, reasonable counsel fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon. (**name**) further agrees to waive any and all claims, demands, damages, costs, expenses, actions and causes of action against the Corporation of the City of Guelph in respect of any property damage or personal injury, including death, howsoever caused arising directly or indirectly from or in connection with the use of the Traps.

Signed and sealed on behalf of (**name**) this (**day**) day of (**month**) 20(**year**)

Signature of Authorized Person Signature of Witness

Name/Title:----- Name: -----

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