



City of
Peterborough

To: **Members of the Committee of the Whole**

From: **Patricia Lester, City Solicitor and Director of Legal Services**

Meeting Date: **June 20, 2016**

Subject: **Report OCS16-004
Comprehensive Animal By-law**

Purpose

A report to recommend the adoption of a new City of Peterborough comprehensive Animal By-law.

Recommendations

That Council approve the recommendations outlined in Report OCS16-004 dated June 20, 2016 of the City Solicitor and Director of Legal Services, as follows:

- a) That the Animal By-law, as set out in Appendix "A" of Report OCS16-004, be approved;
- b) That the By-law to Appoint Peterborough Humane Society employees as by-law enforcement officers, as set out in Appendix "B" of Report OCS16-004, be approved;
- c) That a committee be established by Council to conduct hearings regarding Animal Control Orders, with such terms of reference as set out in Appendix "C" of Report OCS16-004;
- d) That the agreement with the Peterborough Humane Society for the provision of animal control services be increased by \$15,000 a year, to cover the net cost, after licensing fees, for the provision of services and regulations relating to cats;
- e) That the Mayor and Clerk be authorized to execute the amending agreement between the City and the Peterborough Humane Society.

Budget and Financial Implications

The City is presently paying annual operating costs of \$340,194 to the Peterborough Humane Society (PHS) for the provision of animal control services, enforcement of the City's animal by-laws and the operation of the Pound, with the term of the contract ending December 21, 2021.

In order to pay for services relating specifically to cats (licensing, provision of services and enforcement of cats running at large) the City's costs will increase by an additional \$15,000 a year for a total of \$340,209 annual operating costs. Cat licensing fees will be retained by the PHS, to cover its increased costs of administering the new regulations for cats.

Background

A. Review of City Animal by-laws

When Council approved the five-year agreement with the PHS in 2014, Staff was directed along with the PHS to undertake a review of all animal by-laws, including a review to regulate cats through licensing and report back to Council.

Fifteen separate animal by-laws have been reviewed by Staff and PHS representatives along with a review of other municipality's animal by-laws. In addition, applicable provincial legislation such as the **Ontario Society for the Prevention of Cruelty to Animals Act** (OSPCA) and regulations pertaining to care of animals; the **Dog Owner's Liability Act** (DOLA); the **Pound Act** and the **Animals for Research Act** were reviewed.

The comprehensive by-law review was undertaken to account for changes in legislation; standards of care for animals and specific community-related issues such as the control of stray and feral cats.

Chapter 180 of the Municipal Code is the primary by-law setting out terms for the general keeping of animals and identification.

Over the years, Chapter 180 was amended to revise dog licensing fees; exclusion of dogs from certain City lands; proof of immunization; and the impounding and importing of animals.

It also set out a complex and administratively burdensome permitting system for the identification of certain animals under a temporary or extended permit basis. Additional by-laws were enacted over time dealing with the keeping of pigeons, regulating the number of cats per household and the keeping of chickens in residential areas of the City.

From an enforcement standpoint referring to numerous by-laws or cross-referencing the by-laws was cumbersome and could result in unsuccessful prosecutions.

In reviewing all of the animal by-laws, the PHS has consulted with other shelters, pet stores, and rescue groups such as Animal Rescue Krew (ARK), Operation CatNip and the Kawartha Veterinary Association in an effort to lead the way in establishing a unified approach to all animal welfare, including cats.

Staff has consulted with Peterborough Public Health with regards to the keeping of chickens in residential zoned areas of the City and the role of the Medical Officer of Health in reviewing distance separations from coops to premises where food is prepared.

Attached as Appendix “A” to this report is a Draft Animal By-law that both requires and encourages responsible pet ownership.

B. Summary of Key Revisions

Article 1 – Definitions

Many of the definitions were updated to reflect current terminology and additions of new sections in the by-law.

Article 2 - Prohibited Animals

Schedule “A” to the By-law was revised to add additional species of prohibited animals.

Article 3 - Restricted Animals

Revised to reflect that the responsibility for the registration of Restricted Animals will now be undertaken by the PHS and limit the number of Restricted Animals to 3 animals per species per household. Previously there was no restriction on the number that could be kept. Individuals must still apply for annual permits and the PHS retains the right to inspect facilities for the animals prior to granting a permit. Permit fees remain at \$20.00 per animal.

The Article dealing with a permitting process for temporary and extension permits has been deleted because the process was administratively out-dated.

As well, the Schedule addressing Permitted Animals, has been deleted because of identification requirement issues and it could limit the introduction of new permitted domestic species.

Article 4 – Grandfathering

Since the schedules for Prohibited and Restricted animals were revised, this has necessitated a new section, allowing for the keeping of such animals (owned prior to the passing of this By-law) through a registration process. Within 90 days of the passing of the By-law, pet owners must register their animals with the Humane Society. The lawful keeping of the animal under this provision is only for the lifespan of the animal or until it is permanently removed from the City.

Article 5 - Keeping Animals

Revised to reference the OSPCA Regulation 60/09 which sets out the standards of care for animals. Such standards of care provide for:

- adequate and appropriate medical attention;
- space for an animal to move naturally and to exercise;
- sanitary conditions;
- ventilation;
- light;
- protection from the elements;
- transportation ensuring physical safety and general welfare;
- standards for pens or enclosed structures or areas for the animal and standards for dogs living outdoors.

The inclusion of these terms now permits an Animal Control Officer to enforce such standards either under the City's by-law or under the **OSPCA Act**.

Tethering requirements include that no animal can be tethered for longer than 10 consecutive hours, must have access to water and shelter, must have unrestricted movement and the tether must be a minimum of 3 meters.

Article 6 – Animals at Large

This article deals with animals found in any place other than the owner's property and is also repeated in the specific articles dealing with dogs and cats running at large.

Article 7 - Impounded Animals

Revised to more clearly set out the requirements if an animal is found running at large or trespassing. This section supplements the provisions of the **Pounds Act**.

Article 8 - Licensing Fees

Schedule "C" has been revised to clarify a senior citizen is now defined to mean age 60 versus 65, allowing them a reduced licensing fee. The Schedule also includes licensing of cats, reflective of the licensing provisions for dogs. Revised fees include an increase in the kennel fee from \$100 to \$150 and a new administrative charge of \$1.50 per PayPal online payment for licenses.

Article 9 - Dogs – General

Revised to now reflect a maximum of 3 dogs can be kept per household, there was no prior restriction on the number of dogs. This restriction is the same as for cats with the exception that dogs and cats under the age of four months are also permitted, allowing time for owners to sell/give animals away. Grandfathering more than 3 dogs or cats, will be permitted by registration, provided such registration occurs within 90 days of the passing of the bylaw. The section now includes provisions to require a dog owner to remove feces from his/her property in a timely manner. Control of nuisances, safety of people, the ability to provide adequate care including medical, shelter and food are the primary reasons to limit the number of animals per household. It will also assist with hoarding situations that are encountered by the PHS.

Article 10 – Dogs – Biting

This is a new article that provides for an Animal Control Officer to issue muzzle orders if the Officer has grounds to believe the dog may bite or has bitten a person or another animal. The **Municipal Act, 2001**, permits a municipality to require the muzzling of a dog under any circumstances and if requested by the owner of the dog, to hold a hearing to determine whether or not to exempt the owner in whole or in part from the requirement.

Presently, the only authority an Animal Control Officer has to muzzle a dog, comes from the DOLA and is only applicable when a dog has actually bitten a person or domestic animal. Although an Interim Order can be obtained from the court, prior to the trial of the matter, that process can take months. Whereas, authorizing an Animal Control Officer to issue an Order is a less onerous exercise and one more likely to adequately protect the health, safety and well-being of people. The ability to issue an Animal Control Order within hours or days can limit the actual number of dog bites before they even occur.

The following chart specifies the increase in the number of dog bites per year for 2013 to 2016 and the type of orders sought from the court and actually granted.

Year	# of Dog bites for year	Average Dog bites per month	DOLA Charges	Muzzle Orders Granted	Destruction Order	Prohibition Orders	Dola Warrants	Seizure of Dog
2013	45	3.76	1	1	0	0	1	1
2014	50	4.16	5	3	0	0	0	0
2015	71	5.91	6	2	1	1	0	1
2016	38	7.6	10	TBD	TBD	0	1	1

Staff is recommending that Council delegate its authority to conduct hearings to an appeals committee. It is suggested that a committee of 3 members be appointed with 1 representative from Council and 2 members from the community at large. Appointments would occur through the normal committee, board and commission appointment process. Appendix “C”, attached to this report is the recommended Terms of Reference for such a committee and it sets out the purpose, operation, composition, qualification and role of committee members. Council would be delegating the authority to confirm, vary or reverse an Animal Control Order.

Article 11 - Cats

Historically, it has been widely accepted that cats are allowed to roam free. However with a significant increase in the number of cats in our community residents are tired of neighbour's cats, or feral cats, digging and eliminating in their gardens, howling at night or killing song birds, thus a need to regulate cats has become necessary.

Through the licensing of cats and regulating their behaviour, i.e. not allowing them to run at large and creating the owner's responsibility to remove excrement, PHS's costs to operate the City Pound may be reduced and offset by revenue from licensing. A decrease in the cat population may also result by encouraging pet owners to spay or neuter their animals and thereby pay a reduced license fee.

The PHS new Animal Care Centre, to open in 2018, will have a High Volume Spay Neuter clinic that will be able to accommodate feral cats, brought to the PHS by various animal welfare organizations such as LAWS, ARK and Operation CatNip. This service is intended to greatly reduce the feral cat population.

By introducing these regulations for cats they will now be aligned with the responsibilities that dog owners have had for some time under the City's various animal by-laws.

Article 12 – Chickens

Presently the keeping of chickens is permitted in agricultural zoned areas of the City and in residential zones areas, with a restriction that coops must be a certain distance from premises where food is prepared. In discussion with the PHS and Peterborough Public Health, issues relating to disease, noise and nuisance have arose and therefore it is recommended moving forward, that chickens only be kept in agricultural zones. For those individuals who presently keep chickens in residential areas they will be limited to keeping no more than 6 chickens and on the sixth anniversary of the passing of the by-law no person shall be permitted to keep a grandfathered chicken in a residential zone.

Deletions to by-laws

The keeping of pigeons and the regulation of fur farms have been deleted. PHS is not aware of either section being applicable in the City.

General Revisions

Additional articles have been added that will assist in enforcement of the by-law including:

- a) the duty to identify yourself to an Animal Control Officer if asked to do so and that a failure to do so constitutes a hindrance or obstruction of the officer;
- b) the power of entry and inspection under section 436 of the **Municipal Act, 2001**; and
- c) a transitional provision that allows for any offences that took place prior to the enactment of the new Animal By-law shall continue.

Summary

Pets have become part of many families and provide companionship and health benefits to their owners. However not all pet owners understand or accept the responsibilities that pet ownership entails. Some pet owners are unaware of their responsibilities or neglectful to their pets and allow their pets to annoy neighbours or suffer distress. This can result in threats to people and animals, damage or contamination of property, pet overpopulation, dog bites and abuse or neglect of animals. The solution is a comprehensive animal by-law, enforcement by the PHS and education that encourages responsible pet ownership.

Submitted by,

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Attachments:
Appendix “A” – DRAFT Consolidated Animal By-law
Appendix “B” – Appointment By-law
Appendix “C” – Terms of Reference