



City of
Peterborough

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

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

Meeting Date: **September 5, 2017**

Subject: **Report OCS17-005
Comprehensive Animal By-law Amendments**

Purpose

A report to recommend the adoption of a new Animal By-law permitting urban hens and clarifying the keeping of exotics in the community.

Recommendations

That Council approve the recommendations outlined in Report OCS17-005 dated September 5, 2017 of the City Solicitor and Director of Legal Services, as follows:

- a) That Animal By-law #16-079 and 1984-138 be repealed and a new by-law be enacted that permits the keeping of hens in residential zones in the City and amends the exotic animal provisions dealing with reptiles;
- b) That the agreement with the Peterborough Humane Society for the provision of animal control services, which expires December 31, 2021, be increased by \$53,800 annually, commencing January 1, 2018, from \$355,194 to \$408,994 for the provision of services and enforcement relating to hens and increased for a one-time amount of \$35,000 in 2018 for initial start-up costs, and
- c) 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 an annual amount of \$355,194 to the Peterborough Humane Society (“PHS”) as compensation for the provision of animal control services, enforcement of the City’s Animal By-law and the operation of the Pound, with the term of the contract ending December 31, 2021.

To pay for the additional services relating specifically to hens (registration, licensing, banding, potential impounding and enforcement of the by-law) the City’s costs will increase by \$53,800 a year with an initial start up cost of \$35,000 as follows: (Peterborough Humane Society - Business Case for Urban Hens – Appendix A)

Term of Agreement	Current Compensation	Recommended Compensation
Jan 1 – Dec 31, 2018	\$355,194	\$443,994
Jan 1 – Dec 31, 2019	\$355,194	\$408,994
Jan 1 – Dec 31, 2020	\$355,194	\$408,994
Jan 1 – Dec 31, 2021	\$355,194	\$408,994

Adequate funds will be budgeted in the 2018 to 2021 operating budgets to fund this expenditure.

Background

A. Urban Hens

Council Direction

On June 27, 2016 (Report OCS16-004) Council directed staff, in consultation with the PHS and Peterborough Public Health (“PPH”), to prepare an amending by-law for Council’s consideration specific to chickens that included the following provisions:

- i. that a maximum number of chickens be established for residentially zoned properties in the City;
- ii. that chicken owners be registered with PHS and PPH;
- iii. that the cost to provide such resources to register and or licence, enforce the by-law and any other related costs be provided to Council and that staff provide an updated report on chicken regulations in the first quarter of 2017;
- iv. that By-law 1984-138 remain in effect until such time as Council considers the amending by-law; and

- v. that staff report back to Council in five years with any operational, registration or licensing issues pertaining to chickens.

Research

For purposes of this report, the term “hen” will be used to refer to the keeping of the female chicken. City staff conducted extensive research on the hen provisions found in the by-laws of 15 municipalities located in Ontario, Alberta and British Columbia. (Municipal Research on Keeping Urban Hens – Appendix B)

Of the 15 municipalities reviewed, 9 allow urban hens, 2 temporarily allow hens as they undergo a pilot project, 1 has allowed residents to grandfather hens if owned prior to 2009 and 3 municipalities do not allow urban hens. None of the municipalities allow the keeping of roosters. Recently the City of Toronto has announced that it will consider a pilot project to allow urban hens in residential zones.

Public Consultation

A public survey (Chicken By-law Consultation – Appendix C) was released in February, 2017 to seek input on whether or not residents supported the keeping of chickens in residential zones in the City. The survey was announced through a media release and was available on the City’s website for 3 weeks. A paper survey was available in the main lobby of City Hall for residents who did not have access to the internet. A total of 1,601 individuals responded to the survey which represents approximately 2% of the City’s population (Statistics Canada 2016 Census pop. 81,032). There were 1,597 online responses and 4 individuals completed the survey in person. Members of the public were invited to forward additional comments to an email that was set up for public consultation with 11 emails received.

Survey Results

The majority of respondents (81%) indicated that they supported residents being allowed to keep chickens in the City, however only 45% indicated that they would be interested in actually keeping chickens on their property.

The primary reasons for keeping chickens were:

Fresh eggs for the household – 96%

Educational activity – 68%

Pet – 34%.

Respondents not supportive of the keeping of hens indicated the following reasons:

Noise and odour – 83%

Unsanitary conditions or disease – 79%

Decrease in property value - 58%

With respect to conditions that may be imposed on the keeping of chickens in the by-law, the following data was collected:

Standards of care regarding coop construction and excrement handling – 83%

Limiting the number of chickens to 6 or less – 67%

Minimum lot size – 48%

Minimum distance from neighbouring buildings – 44%

Minimum distance from property lines – 35%

Consultation with Animal Professionals

Legal staff consulted and met with animal professionals to receive advice on the keeping of urban hens and other pertinent aspects of the Animal By-law. This included officers from the PHS, the Ontario Society for the Prevention of Cruelty to Animals (“OSPCA”), staff from the PPH, and the President and CEO of the Pet Industry Joint Advisory Council of Canada (“PIJAC”). City staff also spoke with a local veterinarian who advised that any veterinarian has the ability to provide services for urban hens and there is no special license required.

Summary of Key Revisions Relating to Urban Hens (see Appendix D – Draft Animal By-law)

As a result of the public consultation, review of other municipal practices and meetings/discussions with animal experts, the following is a summary of the key provisions:

Definitions

A definition of coop, hen and hen run will be added to the definitions section of the by-law.

Grandfathering

The grandfathering section will be amended to allow individuals who own more than four hens in the City at the time the new by-law is passed, to keep them for the life of the hen.

Keeping Animals

This section will be amended to permit the keeping of hens in residential zones.

Hens

This new section will set out the requirements for keeping hens in the City. Owners may have a minimum of 2 hens, and a maximum of 4 hens. The rationale for this number is:

- a) hens are a social animal and do not like to be alone, therefore for animal welfare purposes the keeping of only 1 hen will be prohibited; and
- b) the majority of respondents to the survey recommended 2 to 4 hens based on the average property size in Peterborough and the close proximity to neighbours.

Residents will be required to register with the PHS by completing a Declaration indicating that they have read and understand the Animal By-law and that they are in compliance with each applicable section. Individuals who rent the property they reside at must obtain written permission from the property owner and file it with the PHS.

The Declaration will also include best practice information for the safe handling of hens and information from the Ontario Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”) titled “Biosecurity Recommendations for Small Flock Poultry Owners”.

Once the Declaration is signed and submitted, the owner of the hens will be given a starter kit that includes a band for each hen that will be numbered by the PHS for identification of the owner of the hen. The band will be placed on the leg of the hen, and is designed not to cause the animal any distress. The bands chosen are plastic, as the metal bands become too cold in the winter months.

This new section further sets out requirements for the construction, location, maintenance and cleanliness of the coop and coop run and prohibits roosters from being kept in the City. The daily cleaning of manure and the ability for owners to compost the manure for fertilizer will be also be stipulated.

The PPH has advised that it has no health concerns with respect to the composting of manure as it is a common practice in most municipalities. PIJAC advised that the hen manure does not pose as great a risk in small backyard flocks as it does in large farming facilities. The requirement for daily cleaning will eliminate the health concern of inhalation of particles of dried manure.

A prohibition on the sale of products associated with hens (eggs and manure) has been included for health purposes.

A new Set Fine Schedule that includes offences for hens will be forwarded to the Regional Senior Justice of the Ontario Court of Justice once the new by-law is passed. The set fines for hens will be similar to the fines found in the by-law for cats and dogs.

Exemptions

The new section on hens does not apply to chickens kept in agricultural zones in the City, and an exemption will be included to make this clear.

Schedule – Fees

The fee schedule will be amended to include a Hen Impound Fee, and fees for the registration, annual license, replacement band and grandfathering of hens.

Public Concerns with the Keeping of Urban Hens

Respondents of the survey were concerned with noise and odour. The by-law addresses these concerns by prohibiting the keeping of roosters which will decrease the potential for noise complaints. The requirement to regularly clean coops and properly store hen manure will decrease the concerns about foul odours.

Respondents also expressed health concerns and the potential for disease. In London, United Kingdom, in May of 2017, thirty-four hens were euthanized after an avian influenza outbreak among backyard flocks. Avian influenza (Bird Flu) is a viral infection that is spread from bird to bird, and in rare cases, can also be spread to humans.

If an avian flu were to spread in Peterborough, any affected hens would need to be destroyed. The Centre for Disease Control (“CDC”) in the US, reported in June, 2017 that for this year, 47 states had reported cases of human salmonella connected with backyard flocks, including 372 people infected. Just over one third of the individuals who became ill were children under the age of 5 and a total of 71 people were hospitalized. While salmonella can get into the eggs, most infections are spread to people after the handling of hens when the birds’ fecal matter gets on their hands. The CDC recommends that children under the age of 5 not handle or touch chicks, ducklings or other live poultry without adult supervision and individuals should always wash their hands well with soap and water after handling the birds.

B. Exotic Animals

Council Direction

On June 27, 2016 (Report OCS16-004) after hearing from delegations speaking about reptiles, specifically snakes and lizards, Council directed that staff report back on potential amendments to the exotic pet provision in the by-law after consultation with exotic pet owners. Although exotic animals are listed in both of the current by-law Schedules, staff have only focused on reptiles.

Research

Staff researched exotic pet provisions in 14 Ontario municipalities (Municipal Research on Exotic Animals – Appendix E) and found that Peterborough’s by-law was very similar to those reviewed. The majority of by-laws prohibit python and boa constrictor snakes and all venomous animals. There are no exceptions to venomous animals in any of the by-laws that were reviewed. In some cases, even de-venomized animals were prohibited.

The prohibition on snakes over 3 metres (9.8 feet) and lizards over 2 metres (6.5 feet) was also found to be common in a majority of the by-laws reviewed. Kitchener and London were the only municipalities with a restricted animal schedule and only Vancouver and London placed restrictions on the number of exotic animals that could be owned. None of the municipalities charged a fee to register or license restricted animals.

Public Consultation

A survey was circulated to the public in April, 2017 (Restricted Animal Consultation Survey – Appendix F) seeking input on restricted animals and the public was notified that they could send comments to the City through a specific email. To date, no emails were received but 3 individuals signed and forwarded a template letter in support of the keeping of exotic pets in the City. The survey was announced through a media release and was available on the City’s website for 3 weeks. A paper survey was available in the main lobby of City Hall for residents who did not have access to the internet.

Survey Results

A total of 746 individuals responded to the survey which represents approximately 1% of the City's population. The majority of respondents (46%) indicated that none of the animals listed in the Restricted Animal Schedule should remain restricted in the City. The majority (49%) also indicated that the animals listed in the Restricted Schedule should not be limited to only 3 animals.

When reviewing the comments of the survey respondents, it was evident the respondents were not aware that restricted animals were permitted to be kept in the City, so long as the animal was registered with the PHS, and a license fee was paid. Most respondents, based on their comments, believed that restricted animals were prohibited under the by-law.

Consultation with Animal Professionals

Legal staff consulted and met with animal professionals to receive advice on the Restricted and Prohibited animals listed in the Animal By-law Schedules. This included officers from the PHS, the OSPCA, the Welland Humane Society, the owner of the Indian River Reptile Zoo, the Manager and Curator of the Riverview Park and Zoo and the President and CEO of PIJAC.

The recommendation to limit the size of snakes and lizards comes from PIJAC Canada. President and CEO, Louis McCann is considered an expert and one of the foremost authorities on urban animal issues in the country. He has spent the last 35 years working in the pet sector and holds a Bachelor of Science with a major in wildlife management. Mr. McCann is frequently called upon by municipalities to assist with the drafting of by-laws, and his expertise with respect to exotic animals was heavily relied upon by City staff to revise the Animal By-law. PIJAC also works closely with humane societies.

Recommendation to Continue Limiting Size of Reptiles

Mr. McCann explained that the prohibition on reptiles over a certain length is the easiest rule to apply in terms of enforcement. Enforcement officers only need a measuring tape to determine if the reptile is prohibited. Relying solely on the colour pattern of a species is problematic as there are a growing number of colours due to the crossbreeding or inbreeding of reptiles, resulting in new sub-species.

The 2 or 3 metre rule takes all of these factors into account and prohibits reptiles that are known to be dangerous to humans. As a complement to this approach, PIJAC also recommends that specific snakes be prohibited, including specific types of anacondas and pythons. These snakes can grow to be 5 to 10 metres (16 – 33 feet) in length or larger. Mr. McCann did point out that the ball python is a more docile snake than most pythons and advised that it does not always grow to be larger than 3 metres. In that case, a ball python would not be a prohibited animal in the City.

Summary of Key Revisions Relating to Exotics (see Appendix D – Draft Animal By-law)

As a result of the public consultation and after review of regulations in other municipalities and discussions with animal experts, the following is a summary of the key provisions:

Definitions

The definition of “self-sustaining captive population” will be added as suggested by PIJAC. The definition of “exotic” was deleted as it was only used in one context.

Prohibited Animals

A section will be added to prohibit the keeping of animals whose ownership is prohibited under existing Provincial and Federal legislation.

Restricted Animals

All sections, schedules and references to restricted animals will be removed from the by-law.

Keeping Animals

The requirement to keep excepted animals in agricultural zones only will be removed from the by-law. The Prohibited Schedule will specifically set out excepted animals and animals only allowed to be kept in an agricultural zone.

Exemptions

To enable organizations in neighbouring townships to bring animals into the City for educational purposes, an exemption will be created for the Indian River Reptile Zoo and the Kawartha Turtle Trauma Centre.

Schedule – Prohibited Animals

Exceptions will be added to the Prohibited Schedule that would allow residents to keep animals that were previously restricted in the City.

Animals that were listed in the Restricted Schedule are now allowed to be kept in the City, or are listed as exceptions in the Prohibited Animal Schedule.

After reviewing our Prohibited Animal Schedule, PIJAC recommended that we allow further exceptions in our by-law. Under “Marsupiala” it was recommended that we allow sugar gliders derived from self-sustaining captive population as they make excellent pets and are becoming popular among pet owners.

Under “Mustelidae” it was recommended that we allow domestic ferrets derived from self-sustaining captive population. PIJAC also recommended that we amend our exception to rodents that would exclude those weighing over 1500 grams, and to specifically exclude the following snakes: Green Anaconda, Yellow Anaconda, Reticulated Python, African Rock Python, Burmese Python, Indian Python and the Amethyst Python.

Schedule – Restricted Animals

This Schedule will be deleted in its entirety. There is no longer a restriction on the number of animals that can be kept except for dogs, cats and hens. Animal professionals explained that reptiles and lizards should not have the same restrictions as cats and dogs. Having 30 dogs or cats in a home, is not the same as having 30 snakes, spiders or lizards.

The term “exotic pigs” will not be added as an exception in the Prohibited Schedule. Instead, based on a recommendation from PIJAC, specific types of exotic pigs are now exempt. This includes Pot-bellied pigs, Vietnamese pot-bellied pigs, and Kune Kune pigs. All other pigs are prohibited in the City unless they are located in an agricultural zone.

Schedule – Fees

This Schedule will be amended to allow fees for the registration and licensing of hens. The fees for cats will be amended to allow for a lower fee for seniors, and for altered cats. The previous fees were based on the age of the cat, and this change will match the fee structure in place for dogs.

Summary

Urban hens are becoming common in many municipalities across the province and residents have expressed an interest in raising hens and using the eggs as a sustainable, organic food source. With proper regulations in place, few municipalities are reporting issues with allowing urban hens in residential zones. The licensing and registration requirements will allow the PHS the ability to monitor the animals and staff will work closely with PPH should an avian influenza outbreak occur.

Deleting the Restricted Animal Schedule in the City’s Animal By-law will make it easier to understand which animals are or are not allowed to be kept and it would also make enforcement of the by-law easier for PHS staff. Owners would be permitted to keep more than three snakes, spiders or reptiles, and registration and licensing would no longer be required.

Licensing and registration of restricted animals has been in effect in Peterborough for many years, however pet owners have not been registering these animals with the City or the PHS. Removing restricted animals and the regulations associated with them will not cause a loss of revenue to the City as it has been a widely ignored requirement for years.

All of the suggested revisions to the by-law have been carefully reviewed by the PHS who agrees from a knowledge, enforcement and animal welfare aspect.

Submitted by,

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Appendix A – Humane Society - Business Case for Urban Hens
Appendix B – Municipal Research on Keeping Urban Hens
Appendix C – Chicken By-law Consultation Survey
Appendix D – Draft Animal By-law
Appendix E – Restricted Animal Consultation Survey
Appendix F – Municipal Research on Exotic Animals