

COMMITTEE OF THE WHOLE (WORKING SESSION) JANUARY 29, 2002

COMPREHENSIVE ANIMAL CONTROL BY-LAW

Recommendation

The Director of Legal Services in consultation with the Senior Manager of By-law Enforcement and the Manager of Special Projects, Licensing and Permits recommend that Council enact a comprehensive by-law to regulate and prohibit the keeping of animals in the City of Vaughan, and that other Animal Control By-laws be repealed;

And that the by-law contains the following provisions:

“That the total number of animals per dwelling unit be limited to 6, with no more than three (3) dogs and (3) cats”.

The Director of Legal Services requests Council direction regarding provisions for pigeons.

Purpose

The purpose of the report is to provide information on the proposed Comprehensive Animal Control By-law and seek direction regarding pigeons and for enactment of the by-law.

Background - Analysis and Options

On June 26, 2000 Council resolved

“That the City of Vaughan enact a comprehensive by-law to regulate the keeping of animals in the City of Vaughan, and that all other animal control by-laws be repealed.

And that staff be directed to commence procedures to apply for private legislation, similar to the Cities of Kitchener and Waterloo Act, 1996, to authorize the regulation and prohibition of particular breeds of dogs and to investigate the merit of fencing options for particular breeds of dogs and report to a future Committee regarding the draft legislation and timing.

And that staff provide a report on the regulation of pigeons including the issue of a grandfathering clause, in consultation with COVRA and the Canadian Racing Pigeon Union representatives.”

On July 10, 2000, Council deferred the enactment of the by-law .

Contents of Proposed By-law

Exotic and Prohibited Animals

Schedule ‘B’ of the new proposed City of Vaughan Animal Control By-law, Schedule ‘B’ attached as Attachment # 1, lists all proposed prohibited animals, which includes exotic animals, farm animals or “wild” animals ranging from all venomous and poisonous animals to coyotes, wolves and all non-human primates. Farm animals are generally permitted on lands zoned Agricultural.

There are very small parcels of land, which remain, zoned A Agricultural, but are now surrounded by residential development. These parcels have dwellings and are used as

residential lands, not farms. Accordingly, farm animals are not permitted on these small parcels, due to incompatibility with abutting residential uses.

Owners will be required to remove exotic animals at their own expense. Should there be an emergency situation, or where an owner cannot be located, either the City's animal control contractor (Kennel Inn) or emergency services personnel would be called to collect the prohibited animal, and the cost charged to the owner.

Attachment #2 shows the exemptions similar to the Toronto by-law which are provided in the proposed by-law for various sites, including Wildcare Wildlife Rehabilitation Centre, veterinarians premises, schools, and York Regional Police premises.

Staff have received a request from one business in Vaughan, Reptilia Inc., located on Fernstaff Court in Concord, requesting an exemption to the exotic animal provisions as a company operating primarily for education purposes. Reptilia has provided educational programs for the Toronto School Boards and York Region School Boards, and has provided letters of support from the Toronto Boards. They provide educational programs for groups such as Brownies, Girl Guides, Cubs and Scouts, and provide lessons at libraries, or at their location, as well as birthday parties. They have also attended City of Vaughan summer or winter camps to provide demonstrations to children. Reptilia keep crocodylia and some snakes larger than permitted by the by-law, but only for display and educational purposes and not for sale. Staff attended the premises on January 23 and can support an exemption for Reptilia, as a business operated primarily for educational purposes with an accessory retail component.

Control of Cats

Currently, the City of Toronto, Towns of Aurora, Newmarket and Markham all have by-laws which require licensing and control of cats. Toronto has advised that they rescinded their by-law pertaining to cats being on a leash as the animals tended to entrap or injure themselves. However, animal control in Toronto can pick up cats for trespassing.

The by-law can include provisions for licensing of cats and the City's animal control contractor can pick up cats who are trespassing, whether strays or not.

Restricting Numbers of Animals

The proposed by-law contains provisions restricting the total number of animals per household to 6, with no more than three (3) dogs or three (3) cats, similar to the City of Toronto.

Pigeons

The City presently prohibits the keeping of pigeons in industrial or commercial zones, and limits the number to 6 in residential areas, except for persons who are members of the Canadian Racing Pigeon Union (By-law 347-95). Up to 60 racing pigeons may be kept. Very few complaints are received about pigeons.

The ratepayer's representatives felt that pigeons should not be allowed in any residential areas. They explained that the proposed by-law allowed too many (up to 60 racing pigeons if the person is a member of the Canadian Racing Pigeon Union). They felt that this activity was better reserved for rural areas only.

Further to Council's direction, By-law Enforcement and Legal Staff met with representatives of COVRA and four representatives of the Canadian Racing Pigeon Union (CRPU) in January 2001.

Information was provided regarding coops, number of racing pigeons and fledglings. There was general consensus that most of the problems with pigeons and coops were related to the keeping of pet pigeons, rather than racing pigeons. The number of racing pigeon enthusiasts is small, due to the time needed to care for the birds and the expense of their care.

At the meeting, CPRU indicated that most of the races take place on Saturdays, yet the by-law does not permit flights on weekends, and they requested an amendment to permit flights on Saturdays. The COVRA representatives did not agree with this request. We have no record of any complaints regarding weekend activity.

Toronto and Markham ban keeping pigeons. Richmond Hill allows a maximum of 25 birds, and Brampton allows 2 birds, with a provision for keeping up to 30 birds if the owner had racing pigeons prior to the enactment of the by-law.

Dogs

The City presently has by-laws controlling various matters involving dogs, including licensing, dogs running at large, leashing, muzzling (vicious dogs), and dog waste (stoop & scoop). Some of these provisions have been incorporated into the draft by-law, in a revised and updated form. Barking dogs are controlled by the City's Noise By-law. Further recommended amendments are set out below.

a) Control of Dogs – Aggressive Breeds

Further to Council's direction to report to a future Committee regarding a draft private legislation to regulate and prohibit particular breeds of dogs, staff researched the laws governing various jurisdictions to determine appropriate controls and provisions to include in a private bill.

In August of 2001, the Province announced a proposed new Municipal Act. This new Act, which would contain spheres of jurisdiction would enable municipalities to respond to local issues more quickly, because they would not have to go to the Ontario Legislature for legislative changes every time they wanted to do anything innovative. This is intended to provide all municipalities with clear consistent authority, thereby reducing requests for private legislation.

The new Municipal Act was enacted December 12, 2001 and is to take effect on January 1, 2003. The new Act provides that Animals are a complete sphere of jurisdiction for a lower tier municipality. In addition the new Act provides specific authority for the municipality to require the muzzling or leashing of a dog under any circumstances. The present Act authorizes a by-law requiring muzzling or leashing only after a dog has bitten a person or other domestic animal.

As an alternative to seeking private legislation at this time, staff are recommending stricter provisions for regulating aggressive breeds under the City's present Municipal Act authority. The By-law can contain provisions requiring dogs classified as "aggressive" by the by-law to be microchipped and to be contained in an enclosure while on its owner's property, meaning not just a fence, but an enclosed pen or dog run. The by-law also would provide that the owner of a dog may request a hearing by Council, or an Animal Control Officer if so delegated by Council, who wished an exemption from these provisions, as required by the present Municipal Act.

Staff are looking to the Kitchener By-law regarding classification of breeds and can recommend the following as a definition for “aggressive” dogs in the proposed by-law:

“Pit Bull dog” means a dog of any age which can be identified as a dog of one or more of the following breeds or mixed breeds by the Poundkeeper, namely:

- i) Pit Bull Terrier;
- ii) American Pit Bull Terrier;
- iii) Pit Bull;
- iv) a Pit Bull dog does not include a dog which is registered as a Staffordshire Bull Terrier or an American Staffordshire Terrier with the Canadian Kennel Club. By-law 97-25, 3 February, 1997;

and

“means a dog of any age which can be identified as a dog of one or more of the following breeds or mixed breeds by the Poundkeeper, namely:

- i) Pit Bull Terrier;
- ii) American Pit Bull Terrier;
- iii) Pit Bull;
- iv) Staffordshire Bull Terrier except a Staffordshire Bull Terrier which is registered with the American Kennel Club or the Canadian Kennel Club;
or
- v) American Staffordshire Terrier, except an American Staffordshire Terrier which is registered with the American Kennel Club or the Canadian Kennel Club.

b) Control of Dogs - General

The proposed By-law increases the control of dogs generally by redefining the term “control” to mean “on an approved leash”. Previously on public property, owners could have “control” without leashing.

c) Dog Owner’s Liability for Bites and Attacks

Subsection 2 (1) of the Dog Owner’s Liability Act imposes liability on a dog owner for such dog’s bites or attacks on a person or domestic animal. In addition to this liability, the victim can proceed against the dog’s owner under the Provincial Offences Act and the court may order that the dog owner take steps as required by the Court for the more effective control of the dog, or that the dog be destroyed.

d) Leash Free Areas

When this item was last before Council, it was suggested that the proposed By-law could provide for leash free areas for dogs as set out on a schedule to the by-law. There were no areas on the schedule. Staff have not included a provision allowing leash free zones at this time. In the event an area was to be chosen, an amendment to the by-law would be required to add the area on a schedule in any event. At that time, the by-law could also be amended to allow for leash free areas.

Fees

Pursuant to Council's direction, the by-law contains a provision that no license fee is charged for an animal that is spayed or neutered and microchipped. The Manager of Licensing, Special Projects and Permits is recommending the license fees remain the same.

Conclusion

The Municipal Act grants Ontario municipalities the authority to pass by-laws regulating the keeping of animals within the municipality, under the auspices of ensuring public safety and controlling the nuisances that animals can cause in an urban environment.

The proposed comprehensive Animal Control By-law, with the introduction of prohibitions for exotic and prohibited animals, control of cats, and limiting the numbers of animals per household, encourages responsible pet ownership. Council can proceed to regulate breeds of dogs that are aggressive, by requiring microchipping and enclosures to further public safety.

It is proposed that a citywide communiqué be released through the media to advise residents of the new program. So as not to incur any additional staffing costs the Licensing section of the Clerk's Department would continue to license cats and dogs on voluntary basis. Additional licenses can be sold through the City's animal control contractor Kennel Inn.

Attachments

Attachment # 1 Schedule 'B' – prohibited animals
Attachment # 2 Exemptions provided in the by-law

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Respectfully submitted,

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HAW:da

ATTACHMENT #1

SCHEDULE 4B

PROHIBITED ANIMALS

Mammals

Artiodactyla (such as cattle, goats, sheep, pigs);
Carnivora (such as coyotes, wolves, foxes, hybrid wolf dogs) except dogs;
Chiroptera (bats) such as fruit bats, myotis, flying foxes;
Eulipotyphla (such as anteaters, shrews, armadillos);
Felidae (such as tigers, lions, leopards, jaguars) except domestic cats;
Hystricomorpha (such as capybaras);
Lagomorpha (such as hares, pikas) except rabbits;
Marsupialia (such as kangaroos, opossums, wallabies) except sugar gliders derived from self-sustaining captive populations;
Mustelidae (such as mink, skunk, weasels, otters, badgers) except ferrets;
Non-Human Primates (such as chimpanzees, gorillas, menaca, orangutans);
Perissodactyla (such as zebras and tapirs) except the domestic horse, mule and donkey;
Proboscidea (elephants);
Procyonidae (such as coon, fisher, raccoons and marten);
Rodentia (such as porcupines and prairie dogs) except rodents which do not exceed 1,500 grams and are derived from self-sustaining captive populations;
Ursidae (bears);
Viverridae (such as mongoose, civets, genets).

Birds

Anseriformes (such as ducks, geese, swans, grebe);
Galliformes (such as pheasants, grouse, quail, turkeys);
Scythionibunnies (flightless birds such as ostriches, rheas, cassowaries, emus, kiwis).

Reptiles

Urochordata (such as alligators, crocodiles, gavials, caimans);
All snakes which reach an adult length larger than 2 metres;
All lizards which reach an adult length larger than 7 inches, measured from snout to tip of tail.

Other

All Arthropod of the classes Arachnida, Chilopoda and Diplopoda (such as scorpions and centipedes);
All venomous and poisonous animals (such as rattlesnakes and cobras).

1. **PROHIBITED ANIMALS**

- (1) No person shall, whether on a temporary or permanent basis, any prohibited animal in the City.
- (2) For purposes of Section 111 below, prohibited animals are those classes of animals listed in Schedule B.
- (3) Section 111(2)(b) not apply to:
 - (a) areas of the City in which certain locally produced products are being made by Non-Profit groups and farm products or products not only taken away during farming;
 - (b) the premises of an affiliate or branch of the Ontario Society for the Prevention of Cruelty to Animals;
 - (c) the premises of an accredited veterinary hospital under the care of a licensed veterinarian;
 - (d) premises registered as research facilities pursuant to the Animals in Research Act, R.S.O. 1990, c.24.20;
 - (e) premises of the York Region Police Department;
 - (f) on the premises of a university or community college, Kennedy school, junior high school, etc. provided where such animals are being kept for research, study or teaching purposes or are otherwise registered as research facilities under Section 6 of the Animals in Research Act;
 - (g) on premises holding a license under any Statute of the Province of Ontario or Dominion of Canada which permits the keeping of animals under stated conditions;
 - (h) domesticated dogs, cats, or the families Antrodactylus and Pseudodactylus, Annelididae, Gastropoda and Struthionidae as per 1975 Zoned agricultural;
 - (i) in situations where animals are kept for performance for a temporary period.