

## **Staff Report 2019-104**

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Meeting Date: June 18, 2019

Subject: Proposed Animal Care and Control By-law

Submitted By: Laura Hall, Manager, Regulatory Services, Corporate Services

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### **RECOMMENDATION**

That Animal Control By-law 2013-130, as amended and Leash Free Park By-law 2006-128, as amended, be repealed and replaced with the proposed Animal Care and Control By-law attached as Schedule A to Staff Report 2019-104 to take effect September 1, 2019.

### **REPORT HIGHLIGHTS**

- As part of the review, staff hosted an Open House, consulted with applicable stakeholders and agencies and researched best practices approached used by other Ontario municipalities.
- Staff also considered recent changes to the OSPCA service level to ensure animal welfare matters are addressed.
- Key areas raised through the public engagement sessions included provisions for the care and keeping of animals (specifically dogs), keeping of cats, dangerous dogs and the keeping of pigeons for sporting purposes.
- The proposed By-law represents a compilation of the best practices which, in consultation with the public and internal Staff, have been adapted to meet the specific needs of the Town.
- Key changes to the new proposed by-law include establishing limits to the number of cats per property, new provisions for the keeping of animals, adjustments to the timelines and conditions imposed on an owner when a dog is deemed as dangerous, specific keeping requirements for pigeons and clear enforcement powers and authority when Officers investigate animal related matters.
- Staff will conduct a public education and awareness campaign once the by-law is enacted to continue to address responsible pet ownership principles.

### **DISCUSSION**

#### **Background**

In February 2018, Council directed staff to investigate options to regulate the keeping of pigeons and to complete a fulsome review of the Animal Control By-law. The purpose of this report is to provide for Council's consideration the proposed new Animal Care and Control By-law attached as Schedule A. In place of continuing to regularly amend the current By-law as needed, the new proposed By-law includes updated best practices from other municipalities to proactively meet the changing needs of the community and better protect both animals and the public.

### **Review Process**

#### **Assessment of other Municipalities**

Research undertaken to update the current Animal Control By-law demonstrated that the by-law lacks many common regulations that have become modern best practices. Therefore, to complete a fulsome review, By-laws from eight (8) local municipalities were primarily used as examples for benchmarking. Brampton and Mississauga were each included to provide comparisons within Peel Region while other municipalities such as Clarington, Oshawa, Waterloo, Oakville, Kitchener and Toronto were also reviewed. Recently updated By-laws were selected to assess current trends and, while By-laws were found to be similar across jurisdictions, Clarington's By-law was specifically included to consider regulations within a rural environment. The proposed By-law represents a compilation of the best practices which, in consultation with the public and internal Staff, have been adapted to meet the specific needs of the Town.

#### **Stakeholder Engagement**

Staff recognize that animals are kept for diverse reasons including as residential pets, for recreation or sport, as service animals and on farms to support agricultural livelihoods. Therefore, public consultation was a crucial part of the review process to gain input from the community.

A draft of the new Animal Care and Control By-law was presented to the public at an Open House held on March 26, 2019. In advance of the open house, notice including the By-law was posted on the Town's website. The open house was further advertised through a social media campaign, on information screens at Town facilities and in local. Advertisements highlighted key proposed changes and invited the public to review the draft By-law. While many residents attended to learn more about the changes, others provided opinions on specific topics including feral cats, feeding of wild animals, leashing of dogs and dangerous dogs. Several residents who were unable to attend the meeting provided comments by e-mail.

To further assess public opinion and provide residents an opportunity to give feedback, Staff developed an online survey which was available for a total of thirty days and completed by 161 participants. The survey was available to those in attendance at the Open House and remained open for several days after. Questions were posed on diverse topics including the types and numbers of animals kept, feral cats, pigeons, the role of Municipal Law Enforcement Officers regarding animal welfare and the keeping of livestock animals. Key findings of the survey include significant support for strengthening standards of care in the By-law and enforcement at the local rather than provincial level. Further, 85% of respondents agreed that homeless cats should be trapped, neutered and returned to their environment to humanely control their population. Finally, while a very small number of respondents expressed interest in keeping pigeons, a small majority of 54% did think pigeons should be permitted on residential properties. The full results of the survey are attached as Schedule B.

To ensure the efficient administration and enforcement of the proposed By-law, Municipal Law Enforcement Staff and the Animal Shelter were consulted. In addition, staff engaged the OSPCA and the Caledon OPP on current enforcement of animal welfare matters within the Town. Staff recognize that some residents currently keep pigeons for sport racing. Therefore, careful consultation was completed with local and national pigeon organizations including the Central Peel Racing Pigeon Club, Dufferin County Flyers, the Canadian Racing Pigeon Union and the Canadian Pigeon Fanciers Association. Key members of these organizations were interviewed to gain feedback on proposed By-law regulations to carefully balance the keeping of pigeons with the need to mitigate any negative impacts to nearby property owners.

Feedback received from both the public and Staff through the stakeholder engagement process was carefully analyzed and several updates were included in the By-law as a result.

### **OSPCA Service Level Changes**

The animal cruelty framework in Ontario falls under the OSPCA Act. The OSPCA, which has been in place for over a 100 years is not a government agency but instead a private charity that has been given quasi law enforcement powers and responsibilities that are not normally afforded to such organizations. Such powers were challenged in court and found to be unconstitutional because the agency is not subject to the same oversight as other government organizations with similar powers. The OSPCA has indicated that they intend to step away from enforcement as of June 28, 2019. The Ontario government is working on a new model to ensure animal welfare matters are protected. Police services continue to have the authority to enforce the laws that protect animals and we anticipate that such powers may be expanded to include local municipalities.

In discussions with the OSPCA they have indicated that on average they respond annually to approximately 30 complaints in Caledon – 19 related to care, with a handful of cases being more serious in nature and subsequently leading to seizure of animals in unfavourable conditions.

### **Key Proposed Changes**

#### **Standards of Care**

Prescribing standards of care and keeping of animals and including provisions in By-laws has become a common best practice for many municipalities. While the Town's current Animal Control By-law mostly lacks such regulations, the new proposed version introduces general standards that require animals to be kept in a manner and provided with adequate food and water, a sanitary environment, appropriate shelter and veterinary care if necessary. Requirements are set out for the construction and maintenance of animal enclosures and several Sections are included to address specific issues such as animals being left in a hot or unventilated vehicle or outside in unsafe weather such as extreme cold. While the new provisions will apply to animals broadly,

an exception is included to permit active agricultural operations to keep farm animals in accordance with normal farm practices.

### **Dogs**

While some common provisions regarding dogs that are within the current by-law remain in the proposed by-law, several new Sections have been included to better protect dogs and mitigate nuisances to surrounding neighbours. In addition to leashing, tethering has been regulated to ensure dogs remain safe by prohibiting the use of choke chains or pronged collars and limiting the amount of time a dog can be tethered to four consecutive hours. Further it is proposed that dogs must be adequately supervised to prevent nuisance barking. Regulations for doghouses and dog runs are outlined to ensure that they are adequately constructed, maintained and set back from lot lines to avoid nuisances to neighbours.

Significant improvements are being suggested to the regulations concerning dangerous dogs. The current By-law requires that any dog that has bitten or caused injury to a person or domestic animal is automatically deemed dangerous. In contrast, By-laws from other municipalities provide flexibility by making the designation contingent on whether there are any mitigating factors such as where a dog is acting in defence, being provoked or reacting to a person trespassing. The proposed By-law follows this best practice by defining mitigating factor to ensure that the punitive designation of dangerous dog is only applied where appropriate. Further, in addition to existing conditions in the By-law being clarified, new conditions have been incorporated to provide additional tools for managing dangerous dogs such as the following:

- a dangerous dog identification tag may be required to be worn at all times to ensure that any person handling the dog is aware of the designation;
- the owner may be asked to provide a photograph or other identifying information for the dog to improve tracking; and
- the dangerous dog may be required to complete behavioural training.

Clear timelines for each condition have been specified so that the owner of a dangerous dog fully understands their obligations and when compliance is required. Finally, the Leash Free Park By-law has been consolidated into the new proposed By-law making it comprehensive and simpler for residents as only one By-law will need to be consulted for rules concerning dogs.

### **Cats**

Significant input regarding cats was received from the public at the Open House meeting, resulting in several updates to the draft By-law. In contrast to the current By-law that does not limit the number of cats which can be kept, the proposed version sets a maximum of 5. This number provides a balance between the survey results which proposed 4 and best practices of other municipalities that permit up to 6. At the request of the public, exceptions to the permitted number were included for rescue organizations that foster cats for adoption or keep cats in connection with a trap, neuter and return (TNR) program that manages feral cat populations.

While survey respondents were often undecided about whether feral cats are a problem in the Town, approximately 85% percent agreed that they should be humanely trapped, neutered and returned to their environment to better control their population. Therefore, a provision was added to provide the Town with clear oversight over such a program should it choose to establish one. Finally, at the request of the public feral cats were also removed from the definition of wild animal to permit their feeding.

### **Pigeons**

As a result of the direction from Council to investigate options to regulate the keeping of pigeons, an in-depth review was conducted to determine if this is feasible for the Town. In addition to the regulations for backyard hens that remain largely unchanged in the new draft By-law, it is proposed that pigeons be permitted to be kept on residential and agricultural lots. Many municipalities including Waterloo, Oakville, Mississauga and Brampton do permit the keeping of pigeons with careful regulation. Among the municipalities reviewed, a range of 40-60 pigeons are commonly permitted to be kept while the Pigeon Clubs we consulted with indicated the average is 60. Therefore, the draft By-law proposes that an owner may only keep a maximum of 60 pigeons on a lot.

Due to the increased number of pigeons which may be kept as compared to backyard hens, the proposed placement requirements are stricter. Pigeons will only be permitted on residential or agricultural lots that are at least 1 acre in size. Further, to minimize potential nuisances, any pigeon loft will be required to be located in a rear yard, set back six metres from any lot line and fifteen metres from any dwelling on an adjacent lot. The height and maximum size of a pigeon loft are also limited.

In addition to the above requirements, provisions are further set out to carefully mitigate impacts on adjacent residents. For example, maintenance standards are prescribed to ensure that lofts are regularly cleaned and pigeons are prohibited from perching, nesting or straying onto any property in the vicinity of the lot on which they are kept. Pigeons would be permitted to be released from a loft for training flights as they may be kept for racing. However, consistent with Mississauga and Brampton, flights are carefully regulated so that they may only take place twice a day within specific times and only half of the total number of pigeons may be released at a time. This would result in a total of 10 being released at once if the maximum permitted number are kept. Finally, to ensure that animal welfare is protected, the owner must reside on the lot where the pigeons are kept.

### **General Updates**

Several additional Sections of the By-law have been updated to improve administration and enforcement. For example, the provisions concerning the Animal Shelter were re-drafted to clarify the rights and obligations of Staff and residents when an animal is impounded, redeemed, adopted, surrendered or placed into protective care.

The prohibited animals schedule was significantly updated to be consistent with those in other local By-laws. Numerous types of animals were added to the schedule so that it is

comprehensive and exceptions are set out making it clearer which animals are permitted.

The enforcement powers available to the Town's Municipal Law Enforcement Officers and the processes for administering them have been carefully set out in the By-law. This will improve the efficiency of enforcement and increase transparency to the public regarding how enforcement powers and penalties may be exercised. The enforcement provisions for active matters regarding the care and keeping of animals will continue to be addressed by the current by-law provisions or other by-laws, as applicable. The new By-law will be applied to concerns brought forward as per the enactment date.

### **Next Steps**

Should Council approve the recommendations presented in this report, Staff will bring forward the new Animal Care and Control By-law, attached as Schedule A for consideration to take effect September 1, 2019. Further, set fines will be developed to support enforcement and the adoption of the new By-law will be communicated, as deemed appropriate. Officers will continue to enforce concerns brought forward related to the new provisions and continue to monitor parks to address concerns regarding dogs off-leash.

Finally, the Town's website will be updated to reflect the changes, and additional communication to residents on the new provisions within the by-law and expectations regarding responsible pet ownership will be released.

### **FINANCIAL IMPLICATIONS**

There are no immediate financial implications associated with this report.

### **ATTACHMENTS**

Schedule A – Proposed Animal Care and Control By-law  
Schedule B – Online Survey Results