



Town of Newmarket
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Animal Control and Pet Store Licensing Staff Report to Council

Report Number: 2020-40

Department(s): Legislative Services

Author(s): Flynn Scott, Manager of Regulatory Services

Meeting Date: June 15, 2020

Recommendations

1. That the report entitled Animal Control and Pet Store Licensing dated June 15, 2020 be received; and,
2. That Council approve the draft Animal Control By-law 2020-XX; and,
3. That Council approve the draft Business Licence By-law 2020-XX; and,
4. That Council directs staff to move forward with a phased approach to breeders and kennels, where zoning is amended to permit such businesses within specific zones;
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

Animal welfare has been a growing discussion on a municipal level as a direct result of recent provincial changes regarding the role and expectations of the Ontario Society for the Prevention of Cruelty to Animals (OSPCA). Municipalities throughout Ontario have identified gaps in legislative authority to properly address growing community concerns in relation to animal welfare and protection. On January 1, 2020, the province enacted the Provincial Animal Welfare Services (PAWS) Act to bridge identified gaps in enforcement responsibilities between local governing bodies and the provincial government. In an effort to maintain community expectations, the Town of Newmarket has undergone a comprehensive review of its existing Animal Control By-law and to propose a Pet Store licensing regime for Council's consideration.

Purpose

The purpose of this report is to present Council with next steps regarding the care and control of animals through the adoption of the Animal Control By-law 2020-XX. This report also presents to Council the licensing framework of Pet Stores through the adoption of the Business Licence By-law 2020-XX.

Background

Legislative Authority

Under the Municipal Act, a municipality may enact by-laws respecting animals, which includes domestic animals such as dogs or cats. Additional powers are provided to seize, impound, and sell animals that are trespassing or at large.

The Municipal Act also allows the Town to provide for a system of licences with respect to certain classifications of business by adopting a licensing by-law. As specified in the Municipal Act, a licensing by-law should relate to consumer protection, the economic and social well-being of the municipality, and the health, safety, and well-being of persons in the municipality. Conditions may be imposed on a licence to ensure a business is compliant with the regulations established to reflect community objectives.

Historical Reference

On March 25, 2019, a Regulatory Review Workshop with Council identified Animal Control and Pet Store Licensing to move forward with amendments and new regulations by Q4 2019.

Throughout Q3 and Q4 of 2019, the Manager of Regulatory Services has engaged stakeholders by facilitating one-on-one meetings to receive feedback and hear recommendations for how to move forward and propose regulations that balance the needs and expectations of the community.

In December 2019, a third party consultant (StrategyCorp) conducted an administrative and service level delivery review for the Town of Newmarket. Part of this review identified the Administrative Monetary Penalty System (AMPS) as a relevant tool for enforcement of newly proposed by-laws moving forward.

On January 23, 2020, a Public Information Centre (PIC) was held to receive community input and feedback for proposing changes to the existing Animal Control By-law, while also considering new regulations for Pet Stores within the Town of Newmarket.

An online survey was posted online at HeyNewmarket.ca to receive stakeholder and community input from January 17 to February 9, 2020. The survey was highly effective and resulted in over 650 participants.

Town staff was on target to bring forward a proposed Animal Control By-law and a licensing framework for Pet Stores in April, 2020. However, due to the COVID-19

pandemic, project plans were postponed until a later date. As part of the Outstanding Matter List presented to Council at the May 19, 2020 Electronic Special Council Meeting, Council approved moving forward with the proposed Animal Control and Pet Store Licensing By-laws in June 2020.

Discussion

The Town of Newmarket Regulatory Services Department has undertaken a review of current regulations throughout various Ontario municipalities in relation to animal-related services to identify best practices pertaining to:

- care and control practices;
- animal registration (licence tags);
- dogs and cats at large;
- feral cats;
- stoop and scoop;
- muzzle order requirements;
- noise/barking dogs;
- tethering;
- feeding wildlife; and
- prohibited animals.

Further research has also been completed to explore municipalities that regulate Pet Stores and the requirements imposed pertaining to:

- care and control practices;
- cages and storage of animals;
- access to food and water;
- hours of operation;
- records retention;
- animal sourcing; and
- breeder restrictions.

Public Consultation for Animal Control and Pet Store Regulations

On January 23, 2020, the Town of Newmarket held a Public Information Centre (PIC) to conduct consultation and receive community input on regulations pertaining to animal services. A survey was also posted to HeyNewmarket.ca from January 17 to February 9, 2020, where the Town received over 650 responses from public engagement. Provided below is a summary of the feedback received:

Animal Control: Tethering

Are you satisfied with current provisions regarding tethering in the Animal Control By-Law?



- Yes (46.42%)
- No (48.39%)
- Undecided/it doesn't matter to me (5.02%)

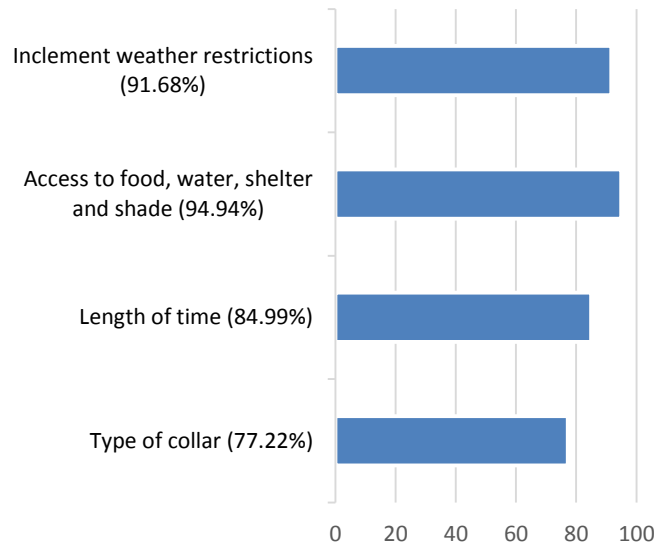
When asked about the Town's current animal tethering regulations, **270** out of **558** respondents reported that current provisions are not satisfactory to community expectations.

General comments were also received recommending stronger regulations regarding animal tethering to ensure the safety and wellbeing of animals within our community.

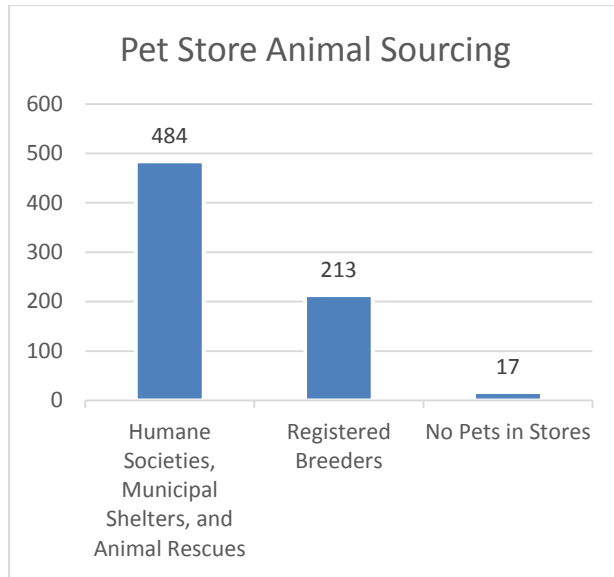
When asked about additional regulations regarding tethering:

- **507** out of **553** respondents want to see inclement weather protection for tethered animals;
- **525** out of **553** respondents felt that tethered animals should have access to food, water, and shelter;
- **470** out of **553** respondents want to see time limitations imposed; and
- **427** out of **553** respondents want to see clearer regulations on the type of collar permitted to be used while tethering.

Would you like to see any of the following regulations added to Newmarket's Animal Control By-law regarding tethering? (select all that apply)



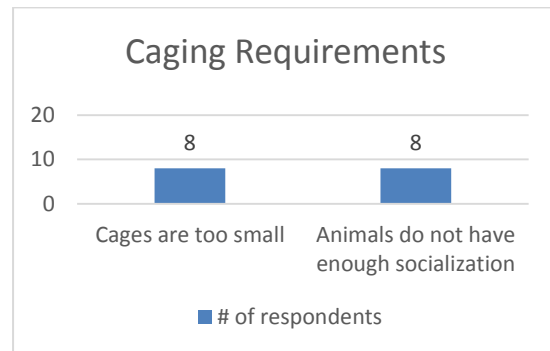
Pet Stores: Animal Sourcing



When asked about allowing Pet Stores to sell dogs or cats:

- **17** out of **46** respondents want to see no sales permitted;
- if sales were permitted, **484** out of **574** respondents want to see animals sourced from humane societies, shelters, or rescue groups; and
- if sales were permitted, **213** out of **574** respondents would support sourcing from registered breeders.

When asked about caging regulations for Pet Stores that have animals for sale, **8** out of **22** respondents commented that cages are often too small and there are not enough socialization protocol requirements in place to support the animals.



Additional comments were received requesting Pet Stores have stronger regulations to ensure:

- all rescue groups are legitimate before permitting animal sourcing for Pet Store sales;
- animals within a Pet Store have access to water, food, and reasonable exercise throughout the day; and
- only registered and licensed breeders are permitted to be used for animal sales to eliminate 'puppy mills'.

Overall, **536** out of **579** respondents (93%) strongly support licensing Pet Stores within the Town of Newmarket.

Please refer to **Appendix A** for additional information on community concerns that were raised during the consultation period and a review of how those concerns have been addressed.

Proposed Animal Control By-law 2020-XX

The Town of Newmarket currently regulates domestic animals and domestic animal owners under the Town's Animal Control By-law 2016-53. This By-law is primarily enforced through Aurora's Animal Services Division as a contracted partnership between the Town of Newmarket, the Town of Aurora, and the Town of Georgina. All municipalities within this partnership have committed to reviewing their existing Animal Control By-laws and to develop consistent regulations as closely as possible, while still recognizing individual community needs. The Town of Aurora recently adopted a new Animal Control By-law in July 2019, which has been reviewed prior to presenting the proposed by-law for Newmarket.

In addition to reviewing public feedback received through consultation, Town staff has also reviewed municipalities across Ontario to determine best practices moving forward.

Due to an overwhelming response being received for stronger regulations pertaining to animal tethering, Town staff are proposing new regulations as follows:

- the tether is never less than 3m;
- the animal has unrestricted movement;
- the animal is tethered in a manner that contains it to its own property;
- the animal has access to adequate water, food, shelter, and shade;
- choke collars or chains are not permitted while tethering; and
- the animal is tethered for no longer than 3 hours per day (consecutive or not).

Additional regulations are also being proposed pertaining to Animal Control as follows:

- amending current regulations that limit a person to owning up to three (3) dogs and four (4) cats to permit one (1) additional animal if it is a Service Animal;
- adding additional regulations to ensure every animal has access to water, food, shelter, and veterinary care (if required);
- adding new regulations pertaining to the feeding of wildlife to ensure feeders are kept in a sanitary condition to avoid further attractants than intended; and
- implementing existing Urban Hen requirements directly into the proposed by-law.

During the consultation period, comments were also received in support of regulations for a trap, neuter, and release program pertaining to feral cats. Upon review of other municipalities across Ontario, Town staff noted no other communities as having specific regulations pertaining to feral cats, with the exception of two (2) provisions:

1. Cats at large are not permitted and Animal Services will respond accordingly to any complaint calls received; and
2. A 'trap, neuter, and release' program is identified within the City of Toronto's Animal Control By-law, which grants exemptions to feeding wildlife for the intention of trapping and further clarifies that their Animal Services Department has the power to trap, neuter, and release, where deemed appropriate.

The Town's newly proposed Animal Control By-law has added an exemption to feeding wildlife for the intention of trapping feral cats and the existing provision regarding cats at large has been incorporated into the new regulatory framework proposed. A part from these additions, no other regulations have been imposed on feral cats.

Proposed Pet Store Licensing (Business Licence By-law 2020-XX)

The Town of Newmarket currently has no regulations pertaining to Pet Stores. Presently, there are three (3) known Pet Stores within Newmarket that actively sell animals or fish within the store, with an approximate total of five (5) known stores that operate primarily as a Pet Store within the Town. In conducting a review of Ontario municipalities, Town staff identified nine (9) of them as having a Pet Store licensing regime imposed. While some municipalities have imposed minimal restrictions, other communities have taken a stronger approach to regulate concerns identified pertaining to the sale of animals within a Pet Store. Please refer to **Appendix A** of this report for more information.

Due to an overwhelming response being received for stronger regulations pertaining to Pet Stores and animal sourcing, Town staff are proposing new regulations as follows:

- domestic animals (excluding cats or dogs) are permitted to be sold but are required to comply with very specific regulations, which include access to food, water, and appropriate caging restrictions;
- appropriate records are maintained for every animal and available upon request;
- a cat or dog is only permitted to be sold if sourced from a municipal animal shelter, a registered humane society, or a recognized animal rescue group;
- a cat or dog must be provided access to food and water, adequate caging and exercise, and must be veterinary checked to verify its health;
- every purchaser of a cat or dog shall be provided with a full record of the animal;
- every Pet Store must retain records for each cat or dog for a duration of twelve (12) months following its sale and available upon request;
- an attendant must be present in the Pet Store at all times during business operating hours; and
- no animals identified on the prohibited animals list shall be permitted to be sold or kept within the Town of Newmarket.

The proposed regulations are consistent with municipalities across Ontario that licence Pet Stores. They are also consistent with the general consensus of public feedback received during the consultation period.

It is relevant to note that animal sourcing of cats or dogs for Pet Stores has been a highly controversial discussion across varying municipalities that seek to restrict such sales. In consultation with a local Pet Store owner, feedback has been received to request consideration on allowing cats or dogs to be sourced from local breeders as an additional animal sourcing requirement. In reviewing the viability to include local breeders as a permitted animal sourcing option, Town staff identified several challenges

in doing so. For example, municipalities that permit the sourcing of animals from a local breeder have also established regulations and a licensing regime for breeders (defined as a kennel). Imposing regulations and a licensing regime on kennels further ensures that local breeders are not obtaining animals from 'puppy mills' or falsifying records for where the animals were obtained.

Currently, the Town's Zoning By-law does not permit breeders or kennels to operate on any property within the Town's boundaries. Without being able to regulate breeders or kennels through a licensing regime due to zoning restrictions, community concerns raised regarding 'puppy mill' sourcing would not be properly addressed. As a result, Town staff are not recommending to allow breeders as an animal sourcing option for Pet Stores at this time. However, staff are recommending a phased approach to kennels and breeders by reviewing zoning regulations to consider allowing such businesses to operate within the Town at a later date. Once a zoning review has been completed, consideration can be given on how to proceed through an amended licensing regime.

Conclusion

In reviewing the Animal Control By-law and a licensing regime for Pet Stores, Town staff has conducted extensive consultation with relevant stakeholders, neighbouring municipalities, and the community as a whole to identify new and improved regulations for the wellbeing of all animals within the Town of Newmarket. Staff will continue to engage stakeholders on a quarterly basis to ensure the regulations proposed meet the community's needs and expectations. Overall, the proposed regulations have addressed the most significant concerns raised during the public consultation process and staff will continue to monitor the success of the program on an ongoing basis.

Business Plan and Strategic Plan Linkages

This report aligns with the Town of Newmarket's vision of being *Well Beyond the Ordinary*. This report also aligns with the Rev-it-up recommendations for improving administration and service levels within the Town of Newmarket.

Consultation

Consultation has been conducted as follows:

- through a PIC and online survey to engage the public and address community expectations;
- through one-on-one meetings with relevant stakeholders to identify current challenges or gaps in legislation;
- with a local Pet Store owner within the Town to understand financial impacts to their business operations; and
- with various municipalities across Ontario to better understand their existing regulations.

Municipalities that were reviewed include:

- Toronto;
- Hamilton;
- Brampton;
- Mississauga;
- Oshawa;
- Aurora;
- Richmond Hill;
- Vaughan;
- Markham;
- Kitchener; and
- London.

The Town's Legal Department was also provided a copy of this report and the proposed by-laws prior to being presented to Council.

Human Resource Considerations

There are no impacts to human resources for implementing the proposed by-laws.

Budget Impact

There are no impacts to budget for implementing the proposed by-laws. The Town of Aurora will continue to provide Animal Services pursuant to the existing contract between Aurora and Newmarket and the Town's Licensing Division will enforce Pet Stores as part of their regular duties.

Attachments

Attachment #1: Appendix A – Public Consultation Results

Attachment #2: Animal Control By-law 2020-XX

Attachment #3: Business Licence By-law 2020-XX

Approval

Lisa Lyons, Town Clerk/Director of Legislative Services, Corporate Services

Esther Armchuk, Commissioner, Corporate Services

Contact

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