

DATE OF MEETING NOVEMBER 9, 2020  
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**SUBJECT ANIMAL RESPONSIBILITY BYLAW**

## **OVERVIEW**

### **Purpose of Report**

To introduce a modernized Animal Responsibility Bylaw that includes provisions for animal welfare, control, licensing, duties of animal owners, penalties, and enforcement as per the recommendations outlined in the Animal Control Service Review.

### **Recommendation**

That the Governance and Priorities Committee select one of the following options:

1. That the Governance and Priorities Committee direct staff to forward the draft "ANIMAL RESPONSIBILITY BYLAW 2020 NO. 7316", as circulated, to Council for consideration of first three readings.

OR

2. That the Governance and Priorities Committee direct staff to forward the draft "ANIMAL RESPONSIBILITY BYLAW 2020 NO. 7316" with the following amendments (insert amendments here) to Council for consideration of first three readings.

## **BACKGROUND**

In December 2019, Allan Neilson, of Neilson Strategies, was retained by the City to conduct a review of the City's animal control services. As part of that review, he was asked to undertake the following:

- examine the animal control service;
- consult with stakeholders;
- identify service-related issues to address;
- conduct research on best practices and experiences in other jurisdictions; and
- provide recommendations for the City to consider.

At the June 8, 2020 Special Council meeting, Mr. Neilson presented his findings and report entitled "Animal Contract Service Review" and outlined the key issues and recommendations for moving forward. Once concluded, staff conveyed that they would bring forward a staff report with recommendations based on those outlined in Mr. Neilson's report.

At the July 6, 2020 Council meeting, staff brought forward a report that included the recommendations outlined in Mr. Neilson's report for Council's consideration. One of the recommendations supported by Council was to have staff prepare an update to the "Licencing and Control of Animals Bylaw" to incorporate the recommendations of the service review. The recommendations referred to were outlined in Figure 3.1 and 4.1 of the Consultant's report (marked as Attachment 3 to this report) and primarily based on the SPCA's Model Animal Responsibility Bylaw. The draft bylaw is now before Council for consideration.

## **DISCUSSION**

As noted in the background section of the report, staff was directed to draft a new bylaw that included the following recommendations supported by Council:

- to emphasize the importance of responsible pet ownership;
- to consider removing reference to "Restricted Dogs" since it is no longer best practice (and not practicable) to target;
- to consider changing "Vicious Dog" to "Aggressive Dog"
- modernize sections to reflect current best practises on tethering, and add additional standards of care (e.g. prohibitions against forcing dogs to run, while leashed to bicycles);
- to require every owner of a cat to provide the cat with identification, such as a collar, traceable tattoo or microchip, to enable the cat to be returned to the owner by Animal Control Services staff or another person;
- that every cat that is permitted to go outside be spayed or neutered; and
- to prohibit every owner of a cat from allowing the cat to be at large in a public place or on another person's property, unless it is under the immediate charge and control of the owner or other person responsible for the animal.

In the Consultant's report, Mr. Neilson suggested using the SPCA model bylaw as a guide (see Attachment 4) as well as to look to language from the City of Duncan and District of North Cowichan's bylaws related to responsible cat ownership and overpopulation, mandatory spaying and neutering for cats who go outdoors, cats at large, and animal identification. Staff also referred to the City of Victoria and Township of Esquimalt bylaws that were referenced as examples in the SPCA model bylaw.

Although the recommendation supported by Council was to update the "Licencing and Control of Animals Bylaw" to incorporate the recommendations of the service review, the bylaw was developed in 1995 and therefore extremely outdated making it challenging to amend. Instead, staff developed a new bylaw that provided for regulatory control of certain activities while also encouraging responsible pet ownership as recommended in the Consultant's report.

### **Consultation/Engagement Process:**

Once the initial draft bylaw was prepared with the above information incorporated, the following stakeholders/experts were invited to provide feedback on the draft:

- Alison Cuffley (Government Relations Officer for the SPCA);
- Leon Davis (Shelter Manager for the SPCA);
- Ian Fraser (Owner/Senior Animal Control Officer for Nanaimo Animal Control Services);
- Carley Colclough (Pound and Adoption Coordinator for Nanaimo Animal Control Services);

- Chrystal Kleis (Executive Director of the Cat Nap Society); and
- Lynn Devries (Experienced Beekeeper)

The following staff also provided feedback on some, or all, aspects of the bylaw:

- Dave LaBerge, Manager of Bylaw Services;
- Cheryl Kuczarski, Senior Bylaw Enforcement Officer;
- Kevin Brydges, Environmental Protection Officer;
- Barbara Wardill, Manager, Revenue Services; and
- Jeremy Holm, Director of Development Approvals.

The collective suggestions were compiled, considered, and where possible, added to the second draft for stakeholders to review. Overall, most of the suggestions were able to be included; however, there were a few instances where there was differing opinions on the way some clauses were worded or suggestions to undertake new initiatives (such as regulating outdoor birds and feeders) that weren't addressed as they were outside the scope of this project.

I want to acknowledge and thank the above noted individuals for the time they took to thoroughly review the draft and for the thoughtful input each person provided. It was an extremely valuable aspect to this project as each person was able to view the bylaw from a different perspective.

Once everyone had an opportunity to provide feedback for the second time, the bylaw was then forwarded to the Municipal Solicitor for a legal review. This also gave staff the opportunity to seek guidance on the wording on clauses where opinions varied. After incorporating the lawyer's suggested changes, the bylaw is now before Council for review and feedback (see Attachment 2).

Staff will walk Council through the various clauses of the bylaw at the meeting but listed below are the more significant highlights and supporting rationale:

#### Companion Animal Limits

The City's Animal Regulation Bylaw currently does not have a limit on the number of pets, which can result in hoarding issues. The size and type of animal, the owner's capacity to provide care, and the size of the owner's property all play a role, and the goal is to find an acceptable limit that allows for enforcement in hoarding situations, while not penalizing the average owner.

Several bylaws that have limits on pets were reviewed and based on those bylaws, staff are recommending that each property owner be allowed up to 6 Companion Animals (including not more than 4 Dogs over the age of 16 weeks and not more than 5 cats over the age of 12 weeks). Given there has been no limit to date, a maximum of 4 small animals (such as hamsters, gerbils, guinea pigs and small birds) were also included (on top of the 6 companion animals). Council may, however, wish to consider limiting the number of Companion Animals to a total of 6 (including small animals).

Exemptions to that limit have been included for people who are temporarily fostering dogs and cats; however, it is subject to them being part of an animal rescue organization such as the SPCA. In these cases, they must also notify the Poundkeeper with the number of species of dogs or cats and the estimated length of time they will be providing care.

In terms of those residents who might currently have more than the allotted number of pets as outlined in the bylaw, they would be grandfathered but not allowed to replace the animal once it passes away or is given away until the conditions of the bylaw are met. As of October 23, 2020, 7,239 residents took out dog licenses. Of those, 32 residents have more than 4 dogs.

#### Removing Reference to “Restricted Dogs”

The SPCA and the City’s Animal Control provider both oppose breed specific restrictions, as evidence demonstrates that it does not adequately address the problem of dog aggression in a community. Some of the reasons cited by the SPCA include:

- breed specific restrictions ignores the fact that aggressive behaviour can occur in any breed and therefore does not protect the public;
- breed specific restrictions do nothing to discourage irresponsible behaviour by people who breed, train, sell or possess dangerous dogs that are not named under the breed ban;
- there are no efficient methods to determine a dog’s breed in a way that can withstand a legal challenge. Any breed ban bylaw inevitably results in the creation of subjective and arbitrary factors to determine breed;
- in order to avoid breed specific restrictions, people who want aggressive dogs simply switch to other breeds or select cross-breeds that are difficult to classify. Some jurisdictions have now banned upwards of 30 breeds in order to follow these trends, placing great burdens on enforcement; and
- breed specific restrictions treads upon the rights of responsible dog guardians who cherish a non-aggressive pet whose breed may fall under the legislation.

#### Changing “Vicious Dog” to “Aggressive Dog”

The “Vicious Dog” definition was removed as it included reference to “Restricted” dogs, which has been removed under the new draft (see rationale above). The new definition for Aggressive Dogs reflects the aggressive behaviour of any dog, regardless of breed. Additional provisions for licencing of aggressive dogs, as well as duties for aggressive dog owners, has been added as recommended in the SPCA’s model bylaw.

#### Standards of Care

As outlined in the SPCA’s model bylaw, animals that are poorly cared for can become serious risks to community health and safety. Animals housed in unsanitary conditions are common sources of disease and animals raised in inadequate environments without socialization (e.g. confined in crates or tethered in back-yards) are at risk of developing aggressive temperaments.

Dogs are social animals who crave and thrive on companionship and interaction with people and other animals. Left for hours, days, or months on a chain, dogs suffer immense psychological damage. They can become aggressive, anxious, and neurotic and feel naturally defensive due to their confinement. A bylaw that requires basic standards of animal care allow animal control officers to be proactive and address these issues of concern before an incident occurs. These bylaw provisions can also be used to complement the provisions on animal care contained in the *BC Prevention of Cruelty to Animals Act*. The following animal welfare provisions have been included in the draft bylaw:

- Animal cruelty provisions;
- Basic animal care requirements;
- Outdoor shelter requirements;

- Sanitation requirements;
- Tethering provisions;
- Transport of animals in motor vehicles; and
- Exercising dogs from motor vehicles.

### Animals in Hot Cars:

As cited in the SPCA bylaw, the SPCA has the authority to remove animals in distress from vehicles; however, the Cruelty Investigations Department is 100% donor-funded and limited by having only 30 constables for the entire province and cannot issue tickets. The RCMP has the ability to remove animals from vehicles, but are often dealing with other high priority response situations. Having a clause included in the bylaw, will give Bylaw Enforcement Officers the ability to issue a ticket when an animal is in distress and call the RCMP or SPCA to remove the animal from the vehicle.

### Cat Identification

As stated within the SPCA guide, the BC SPCA cares for more than 14,000 cats each year, approximately ½ of whom come as strays. The percentage of animals reunited with their owners in a community is directly connected to identification and has been demonstrated to be important for:

- controlling animal movement associated with disease control;
- preventing theft and the recovering strays, and lost and stolen animals;
- helping to reunite pets and owners;
- reducing stress to individual animals and their owners;
- reducing daily care costs if found; and
- reducing the number of animals euthanized due to not being claimed by owners who cannot trace them.

The SPCA's model bylaw recommends that the owner of every cat affix sufficient identification on the cat by means of a "quick release" or "break-away" collar, harness, traceable tattoo or microchip so that the cat can be traced back to its owner.

It is important to note that COVID has resulted in longer wait times to get veterinarian appointments for non-essential surgeries and microchipping. Should Council adopt the bylaw, enforcement of this provision would be taken into consideration.

### Mandatory Sterilization for Cats

The majority of the animals that the SPCA takes in are either strays or unwanted litters. The number of unwanted animals is increasing and caring for them is becoming unsustainable. The workload for animal control officers and organizations such as the Cat Nap Society, as well as control, housing and euthanasia of unwanted animals are costly budget items. The SPCA states that municipalities that have invested in proactive strategies for reducing pet overpopulation have realized financial efficiencies in their operational costs.

Options for initiatives that municipalities can undertake include:

- Subsidies for funding spay/neuter programs for low income residents or for organizations such as the Cat Nap Society (as recommended in the Consultant's report);

- Higher fines for unsterilized animals, which provides a financial incentive for owners to spay or neuter their animals (as proposed in the fees and charges bylaw that will be before Council for consideration); and
- Requirements for breeders to be licensed to discourage casual or “backyard breeding” (as outlined in the draft bylaw).

It should be noted that the SPCA annually runs a low cost spay-neuter program for low-income families to have their pet sterilized. Free microchipping is also offered as part of this program.

#### Prohibition on Cats at Large

One of the recommendations outlined in the Consultant's report is that the City prohibit every owner of a cat from allowing the cat to be at large in a public place or on another person's property, unless it is under the immediate charge and control of the owner or other person responsible for the cat.

The SPCA recommends that cats live indoors and the risks of letting your cat outdoors include:

- other cats or dogs in the neighbourhood can cause injuries to a cat;
- busy streets and traffic can cause injury or death;
- exposure to contagious diseases and parasites;
- extreme weather conditions;
- poisoning;
- pet theft;
- animal cruelty; and
- eaten or injured by wildlife like coyotes, eagles or other predators.

Outdoor roaming cats also cause problems by digging in neighbour's gardens, marking territory by spraying, and prey on songbirds and other wildlife.

The SPCA's website offers many tips on keeping one's cat happy, healthy and safe indoors as well as tips on ways to provide cats without outside time while still adhering to the bylaw (i.e. training one's cat to walk on a harness, supervision, or building an enclosure to keep the cat safe).

#### Feeding of Cats:

A new provision has been added that prohibits any person from leaving food out for cats. Doing so can attract cats belonging to other owners, as well as unwanted wildlife. Exemptions were provided under Section 61 to accommodate the work of the Cat Nap Society as this organization has been successfully operating a “Trap, Neuter, Release” program in the Nanaimo area since 1998. Feeding of feral cats is permitted provided the person is registered with an approved organization with a Trap Neuter Release program of which the plan must be in writing with copies provided to the City's Poundkeeper and the SPCA.

#### Other Bylaw Provisions:

Provisions for keeping of livestock, keeping of backyard hens/ducks, and bees remains unchanged from the original bylaw other than housekeeping amendments for clarity purposes.

### Conclusion:

As with any new comprehensive regulatory bylaw, it is not always possible to think of every scenario that may arise. However, staff believe that the draft before Council goes a long way to address the concerns highlighted in the consultant's report as well as addressing outdated provisions. It also provides a much more streamlined framework for the Poundkeeper to follow when enforcing the bylaw. Should any issues arise that were not identified in the bylaw once it is adopted, staff can certainly bring forward bylaw amendments in the future, as necessary.

### Next Steps:

- Once Council has reviewed the bylaw at the November 9, 2020 Governance and Priorities Committee meeting, and provided its feedback, staff will bring forward a finalized draft for Council's consideration (incorporating any feedback received) for first three readings on November 16, 2020. If more significant changes are required, the target will be the December 7, 2020 Council meeting.
- Once the bylaw receives its first three readings, the bylaw will need to be sent to the Minister of Forests, Lands and Natural Resource Operations for approval. During this time, staff will develop a FAQ sheet that highlights the new bylaw provisions as well as the contact protocol for animals running at large, animals in hot cars, etc., so that it is ready for release once the bylaw is adopted.
- Associated fee and fine schedule bylaws will be developed.
- Following adoption, a press release will be issued, along with a finalized copy of the FAQ sheet.

### OPTIONS

That the Governance and Priorities Committee select one of the following options:

1. That the Governance and Priorities Committee direct staff to forward the draft "ANIMAL RESPONSIBILITY BYLAW 2020 NO. 7316" as circulated, to Council for consideration of first three readings.

OR

2. That the Governance and Priorities Committee direct staff to forward the draft "ANIMAL RESPONSIBILITY BYLAW 2020 NO. 7316" with the following amendments (insert amendments here) to Council for consideration of first three readings.

### Implications:

One of the other recommendations as put forward by the Consultant and endorsed by Council was to direct staff to prepare an RFP for revised contracted services, subject to the adoption of the 2021-2026 Financial Plan as the current contract has expired. Prior to moving forward with this directive, the new Animal Responsibility Bylaw should be adopted first so that anyone wishing to bid on the RFP is aware of what provisions need to be enforced.

It is anticipated that there will not be any significant financial implications associated with the bylaw itself as enforcement provisions have been streamlined.

### **SUMMARY POINTS**

- In December, 2019, Allan Neilson, of Neilson Strategies was retained by the City to undertake a review of the City's animal control services, identify service-related issues, conduct research on best practices and experiences in other jurisdictions and provide recommendations for the City to consider.
- At the June 8, 2020 Council meeting, Mr. Neilson presented his findings and outlined the key issues and recommendations for moving forward which included having staff prepare amendments to the bylaw that focus on the importance of responsible pet ownership and to incorporate the following provisions:
  - removing reference to "Restricted Dogs" since it is no longer best practice (and not practicable) to target;
  - changing "Vicious Dog" to "Aggressive Dog".
  - modernizing sections to reflect current best practices on standards of care;
  - requiring every owner of a cat to provide the cat with identification;
  - requiring every cat that is permitted to go outside be spayed or neutered; and
  - prohibiting cats to be at large in a public place or on another person's property, unless it is under the immediate charge and control of the owner or other person responsible for the animal.
- On July 6, 2020, Council supported the Consultant's recommendations and directed staff to move forward with developing a new bylaw for Council's consideration.

### **ATTACHMENTS:**

Attachment 1 - Draft "Animal Responsibility Bylaw 2020 No. 7316"

Attachment 2 - Existing "Licencing and Control of Animals Bylaw 1995 No. 4923"

Attachment 3 - Recommendations from Animal Service Review

Attachment 4 - SPCA Model Animal Responsibility Bylaw Reference Guide

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