

DATE OF MEETING JUNE 7, 2021

AUTHORED BY KAREN ROBERTSON, DEPUTY CITY CLERK

SUBJECT MINISTRY APPROVAL UPDATE - ANIMAL RESPONSIBILITY BYLAW

OVERVIEW

Purpose of Report

To seek Council's approval of the amended provisions that regulate wildlife in the Animal Responsibility Bylaw as required by the Ministry of Forests, Lands and Natural Resource Operations.

Recommendation

That Council rescind third reading of "ANIMAL RESPONSIBILITY BYLAW 2021 NO. 7316".

That Council give third reading, as amended, to "ANIMAL RESPONSIBILITY BYLAW 2021 NO. 7316" as attached to the June 7, 2021 report by the Deputy City Clerk.

BACKGROUND

On 2021-FEB-01 Council gave three readings to "ANIMAL RESPONSIBILITY BYLAW 2021 NO. 7316. From there, the bylaw was forwarded to the Ministry of Forests, Lands and Natural Resource Operations for the Minister's approval.

The review was conducted by the policy and legal staff at the Ministry and they requested clarifications be made to the provisions that regulate "Wildlife" in the bylaw prior to recommending approval by the Minister.

DISCUSSION

Since receiving a copy of the City's Animal Responsibility Bylaw, the Ministry's policy and legal staff have been conducting their review of the bylaw sections that required Ministerial authorization.

On April 22, 2021, City staff were advised by the Ministry that the definition of "Owner" was problematic in that the Ministry is considered an "Owner" of "Wildlife" and Sections 90, 102 and 103, as worded, had the potential to conflict with the *Wildlife Act*. As such, they wanted to see amendments to those sections to help clarify the intent prior to recommending approval to the Minister.

City staff, with input from legal counsel, provided the Ministry with proposed amendments to address their concerns and the proposed revisions, as identified in the attached bylaw, were accepted by Ministry staff on May 28, 2021. They are now prepared to move forward with

seeking approval from the Minister once Council has formally given the bylaw third reading, as amended, to accept the changes.

The specific amendments Ministry staff wanted to see addressed are as follows:

1. To include a Scope provision (Sections 1.1, 1.2, and 1.3) to clarify:
 - a) that the bylaw does not apply to the government of British Columbia;
 - b) that the bylaw doesn't apply to an activity or conduct that has been authorized by a permit or licence issued under the *Wildlife Act* or the *Animal Health Act*.
 - This is due to the fact that the Ministry has issued one permit to a person in Nanaimo to possess a small number of controlled alien species for personal use under the authority of the *Wildlife Act's* Controlled Alien Species Regulation; and
 - c) that the bylaw does not relieve any person from complying with any Provincial enactment governing "Wildlife".
2. Expanding the definition of "Owner" to specifically exclude the government of British Columbia as the Province is deemed an "Owner" when it comes to "Wildlife".
3. Adding a definition of "Wildlife" to correlate with the "Wildlife Act";
4. To exclude "Wildlife" from the seize and impound provisions (Section 90) and the disposition of unredeemed Animals provision (Section 102 and 103).
 - Ministry staff want to ensure that the Province, through its Conservation Officers, would be the individuals responsible for assisting with any calls associated with wildlife that may be injured or suffering.
5. Poultry was also added to any provisions associated with Aggressive Dogs.
 - This was an omission that needed to be added to clarify that dogs would be deemed aggressive for attacking or killing poultry.

OPTIONS

Option 1:

That Council rescind third reading of "ANIMAL RESPONSIBILITY BYLAW 2021, NO. 7316".

That Council give third reading, as amended, to "ANIMAL RESPONSIBILITY BYLAW 2021, NO. 7316" as attached to the June 7, 2021 report by the Deputy City Clerk.

As noted in the staff report, the proposed amendments have been vetted by the City's lawyer and address the Ministry's concerns regarding the provisions to regulate "Wildlife". Should Council support the amendments, the approval process would be expedited by the Ministry's staff to seek the Minister's approval given they have already done their review and provided preliminary approval to the changes proposed by the City. Final approval still rests with the Minister.

Option 2:

That Council direct staff to make the following amendments to "ANIMAL RESPONSIBILITY BYLAW 2021, NO. 7316": (insert proposed changes here) and bring back a staff report to a future Council meeting.

Should Council wish to make further amendments to the bylaw outside of those proposed in the bylaw attached to the staff report, specific direction from Council would be sought and a future report to highlight any implications would be required. It would also prolong the RFP process for the Animal Services contract (which expired in August 20, 2020) as any contractor bidding on

the RFP would be doing so based on the new bylaw, which requires Minister approval prior to advertising.

SUMMARY POINTS

- The Ministry’s policy and legal staff concluded their review of the sections within the Animal Responsibility Bylaw that required Ministerial authorization.
- The Ministry requested that amendments be made to the bylaw to clarify the provisions that regulate “Wildlife”.
- Proposed amendments were provided to Ministry staff, which have been accepted. If endorsed by Council, Ministry staff will proceed with recommending the Minister’s approval of the bylaw.

ATTACHMENTS:

Attachment 1 - BL 7316 – Animal Responsibility Bylaw (with tracked changes)

Attachment 2 - BL 7316 – Animal Responsibility (clean copy)

Submitted by:

Karen Robertson,
Deputy City Clerk

Concurrence by:

Sheila Gurrie,
Director of Legislative Services