

**Report to
Rapport au:**

**Community and Protective Services Committee
Comité des services communautaires et de protection
21 March 2016 / 21 mars 2016**

**and Council
et au Conseil
13 April 2016 / 13 avril 2016**

**Submitted on March 14, 2016
Soumis le 14 mars 2016**

**Submitted by
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2016-COS-EPS-0011

SUBJECT: Pet Shop By-law Review

OBJET: Révision des règlements municipaux sur les animaleries

REPORT RECOMMENDATIONS

**That the Community and Protective Services Committee recommend that
Council:**

- 1. Approve amendments to Schedule 29 of Licensing By-law No. 2002-189 (as amended) relating to Pet Shops, as described in this report and in Document 1, to:**

- a. Restrict the sources of cats and dogs available for sale in new pet shops and existing licensed pet shops, other than those described in recommendation 1b), to municipal animal shelters, humane societies, societies for the prevention of cruelty to animals, and rescue organizations; and
 - b. Permit the three (3) licensed pet shops currently selling cats and dogs sourced from commercial establishments to continue to sell cats and dogs sourced from those establishments identified in recommendation 1a) as well as those from commercial establishments that have been inspected annually by an agent authorized under the *Ontario Society for the Prevention of Cruelty to Animals Act* or the (Quebec) *Animal Welfare and Safety Act*, who has confirmed in writing that the commercial establishment's premises, and the animals therein, meet the requirements of the relevant Act, and that there are no convictions or outstanding Orders against the owner or operator of the commercial establishment under the relevant Act;
2. Delegate the authority to finalize and make minor adjustments to the required amending by-law to give effect to the intent of Council to the General Manager, Emergency and Protective Services, in consultation with the City Clerk and Solicitor, as described in this report.

RECOMMANDATIONS DU RAPPORT

Que le Comité des services communautaires et de protection recommande au Conseil :

1. d'approuver les modifications à l'annexe 29 du Règlement sur les permis n° 2002-189 (modifié) concernant les animaleries, comme décrites dans le présent rapport et dans le Document 1, visant à :
 - a. limiter les sources de chats et de chiens offerts à la vente dans les animaleries autorisées, nouvelles ou existantes, autres que celles décrites dans la recommandation 1 b), aux refuges municipaux pour animaux, aux sociétés de protection des animaux, aux sociétés pour la prévention de la cruauté envers les animaux et aux organismes de sauvetage d'animaux;

- b. **permettre aux trois animaleries autorisées qui vendent actuellement des chats et des chiens provenant d'établissements commerciaux de continuer à vendre des chats et des chiens provenant de ces établissements identifiés dans la recommandation 1 a) ainsi que ceux provenant d'établissements commerciaux qui sont inspectés annuellement par un agent autorisé en vertu de la *Loi sur la Société de protection des animaux de l'Ontario* ou de la *Loi sur le bien-être et la sécurité de l'animal* (Québec) qui a confirmé par écrit que les locaux de l'établissement commercial et les animaux qui s'y trouvent respectent les exigences de la loi concernée et que le propriétaire ou l'exploitant de l'établissement commercial ne fait pas l'objet d'une ordonnance en vigueur ou d'une condamnation en vertu de la loi concernée;**
2. **de déléguer le pouvoir d'établir la version finale du règlement de modification requis et d'y apporter des modifications mineures pour être conforme à l'intention du Conseil au directeur général, Services de protection et d'urgence, en consultation avec le greffier municipal et chef du contentieux, comme décrit dans le présent rapport.**

BACKGROUND

Section 151 of the *Municipal Act, 2001* grants municipalities the authority to license and regulate various types of businesses, including pet shops. Licensing by-laws are enacted in consideration of the municipal role and mandate with respect to public health and safety, nuisance control and consumer protection.

The former municipalities of Cumberland, Gloucester, Goulbourn, Nepean, Ottawa and Vanier all had in place pet shop licensing regulations, the harmonization of which was, in June 2011, approved and enacted by Council as Schedule 29 to Licensing By-law 2002-189, as amended, relating to pet shops, with support through stakeholder and public consultation. "Pet shop" means a shop or place where animals for use as pets are sold or kept for sale.

As is the standard for all business licenses, a pet shop must comply with the zoning, building and property standards requirements of the City, have appropriate insurance, and provide indemnification. Although the primary mandate of municipal licensing relates to public safety, nuisance control and consumer protection, the current harmonized pet shop regulations do provide a number of mechanisms which protect animals in pet shops, including, as a condition of licensing, the requirement for inspections/approvals of the pet shop's premises by an Inspector/Agent appointed

under the *Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act*, of which the Ottawa Humane Society (OHS) employs.

Among other provisions, the by-law also requires:

- the maintenance of records of the animals acquired by the pet shop, including their origin, and that said records are made available for inspection and follow-up by the appropriate agency, as necessary;
- the provision of records to purchasers, including vaccination and other veterinary care;
- that staff charged with the care and feeding of animals is knowledgeable and experienced, and has access to written protocols;
- that any enclosures provided must be of adequate size, with access to food and water, as appropriate;
- that animals receive veterinary examination and treatment, as needed; and,
- that animals are kept in hygienic, well-ventilated and lighted, safe conditions, in accordance with standards of care established under the *OSPCA Act*.

Although the by-law requires that records of the sources of animals be maintained and made available for inspection, the sources themselves are not restricted. The by-law does however provide that animals owned by and sold for a humane society or society for the prevention of cruelty to animals or other recognized animal welfare organization are exempt from the record maintenance requirements.

Since the enactment of the by-law in 2011, animal welfare advocates have expressed increasing concern about the sale of commercially-sourced cats, dogs and rabbits in pet shops, and have suggested that the source of such animals be restricted to municipal animal shelters, humane societies, society for the prevention of cruelty to animals (SPCAs) and rescue organizations through an adoption model (involving a fee for cost recovery purposes).

As part of the 2015 Council-approved By-law Review Strategy therefore, Council directed staff to review Schedule 29 of the Licensing By-law (2002-189, as amended) relating to pet shops, in terms of whether restricting the sale of cats, dogs and rabbits in pet shops to specified “non-commercial” sources is an appropriate way to address the concerns associated such sale as outlined below.

As evidenced by the results of staff's review, the sale of rabbits is not a significant activity undertaken by Ottawa pet shops nor does it appear to be an issue in Ontario generally. Of the five municipal jurisdictions reported to have amended their regulations to incorporate source restrictions, three do not include rabbits in those restrictions. It is therefore proposed that rabbits not be included in the consideration of this review or in the draft by-law amendments.

DISCUSSION

The sale of cats and dogs in pet shops has been cited by proponents of animal source restrictions as contributing to:

- fewer adoptions, overpopulation and high euthanasia rates in local shelters;
- impulse purchases, which lead to increased instances of pet abandonment and surrender; and,
- economic demand for commercial breeders, some of whom use substandard breeding and animal care practices (i.e. puppy and kitten mills).

No specific data establishing a direct link between the aforementioned circumstances, and the sale of commercially-sourced animals in pet shops is evident, although other factors are discussed in this report.

Shelter Information

The decline in animal intake of the City of Toronto Animal Services (TAS) since 2011, when the source restrictions were enacted there, has been cited by proponents as being attributable to such restrictions. TAS advises however that the decline is more likely attributed to other factors such as the expansion of its feral cat Trap-Neuter-Release Program and the elimination of cat pick-ups by Animal Services staff, both implemented since 2011.

Ottawa Humane Society (OHS) animal intake statistics below (ref. OHS Annual Reports) show a nominal decline in totals over the last several years, with owner-surrendered and claimed animal numbers remaining relatively constant, and adoptions showing an increase over three (3) years. The OHS reports that a significant re-homing effort is required to achieve these results.

| | | 2012/13 | 2013/14 | 2014/15 |
|--------------|--|----------------|----------------|----------------|
| Total Intake | | 10,304 | 10,015 | 9,589 |

| | | | | |
|--|--------------|-------|-------|-------|
| (includes cats, dogs, small animals, wildlife) | | | | |
| Strays | | 6,039 | 5,545 | 5,126 |
| | Cats claimed | 5.8% | 5.2% | 6.5% |
| | Dogs claimed | 54% | 59% | 61% |
| Surrenders | | 2,210 | 1,995 | 2,013 |
| Transferred from other shelters | | 254 | 328 | 245 |
| Adoptions | | 3,602 | 4,148 | 4,158 |

Impulse Purchases

While adoptions involve a fee to be paid by the adopter, such fee is intended to recover costs of the adoption agency and is typically significantly less than for an animal purchased from a pet shop or directly from a breeder, which fees are generally in the hundreds of dollars. The cost associated with the latter sources may be a factor in curbing impulse purchases, particularly in light of other less costly, often free-of-charge and unregulated sources of pets. A 2013 Leger and Leger Marketing Study reported that 24% of owned cats and 28% of owned dogs were obtained through relatives or friends, while only 6% of owned cats and 4% of owned dogs were sourced from retail pet shops. On-line sources likely account for a large proportion of animal acquisition. There is no specific data to confirm that impulse purchases are more prevalent in pet shops than through any other source, although many not-for-profit humane organizations have in place a rigorous application process for prospective animal adopters that might be a deterrent to impulse acquisitions.

Puppy/Kitten Mills

Throughout the consultation, the most commonly-referenced point of rationale for the restriction of animal sources to municipal animal shelters, humane societies, SPCAs and rescue organizations, related to the alleged prevalence of puppy/kitten mills as the main sources of such animals for pet shops.

A “puppy mill” is defined by the National Companion Animal Coalition (NCAC) as a high-volume, sub-standard dog breeding operation, which sells purebred or mixed breed dogs, to unsuspecting buyers. The NCAC, established in 1996 to promote socially responsible pet ownership and enhance the health and well being of companion animals, is comprised of representation from the Canadian Federation of Humane Societies, the Canadian Veterinary Medical Association, the Canadian Kennel Club, and

the Pet Industry Joint Advisory Council of Canada (PIJAC). Some of the characteristics common to puppy mills are:

- a) Sub-standard health and/or environmental issues;
- b) Sub-standard animal care, treatment, and/or socialization;
- c) Sub-standard breeding practices which lead to genetic defects or hereditary disorders;
- d) Erroneous or falsified certificates of registration, pedigrees and/or genetic background.

A similar definition and characteristics could also apply to cats, although kitten mills are less common.

Recommendations

To place the issue in the Ottawa context, there are currently 16 licensed pet shops in Ottawa, only 3 of which sell cats and dogs originating from “commercial” sources. Those sources include one cat rescue and 14 cat and dog breeding establishments located largely outside of the boundaries of the City of Ottawa – most in Ontario, but several in the Province of Quebec. A few of these establishments have been inspected by an OSPCA Agent/Inspector, meaning that the concerns surrounding puppy and kitten mills – substandard breeding and animal care practices – would be addressed, if they exist. The other 13 licensed Ottawa pet shops either do not sell cats and dogs or, where they do, those animals are sourced from local humane societies, SPCAs or rescue organizations, and form part of an adoption centre in the shop.

There have been some complaints registered with the City and with OHS concerning pet shops – about 30 in relation to 9 different shops over the course of 2014 and 2015. There is however no clear evidence to confirm that cats and dogs sold in pet shops are sourced from puppy/kitten mills. Notwithstanding that circumstance, the recommendations endeavour to address concerns commonly associated with puppy/kitten mills to help ensure that sources for the three pet shops are inspected and comply with animal care standards and regulations.

Municipal animal shelters are regulated under the *Animals for Research Act*, and humane societies and SPCAs are governed by the Ministry of Community Safety and Correctional Services in Ontario and the Ministry of Agriculture, Fisheries and Food in Quebec. Rescue organizations typically operate through a private foster-home model, where the animals are placed in a home environment for temporary care until they are adopted. OSPCA Agents or Inspectors may inspect the placement premises of such

organizations if necessary, upon invitation or with a warrant. The aforementioned agencies and organizations would comprise the approved sources for cats and dogs with respect to any new pet shops and to any existing licensed pet shops which do not currently sell commercially-sourced cats and dogs.

With respect to the 3 pet shops currently sourcing cats and dogs from breeding establishments, in addition to municipal animal shelters, humane societies, SPCAs and rescue organizations, they would also be permitted to access establishments inspected every twelve months under Section 11.4 of the *OSPCA Act* which provides for inspections of animal establishments, including breeders. Compliance is required with *Ontario Regulation 60/09, Standards of Care*, under the Act as well as the Canadian Veterinary Medical Association [Code of Practice for Canadian Kennel Operations](#) in the case of dogs, and the [Code of Practice for Canadian Cattery Operations](#) in the case of cats. These standards and codes prescribe requirements with respect to food, water, care, housing, accommodation, medical attention, safety, supervision, among others. For those establishments located in Quebec, annual inspections under the *Animal Welfare and Safety Act*, as well as the aforementioned Codes, would be required.

Inspections would be conducted upon request by the establishment, with the Inspector or Agent providing to the owner or operator of the establishment a written report confirming that the premises, and the animals therein, meet the requirements of the relevant Act, and that there are no convictions or outstanding Orders against the owner or operator of the commercial establishment under the relevant Act. There may be a nominal fee for such an inspection. In turn, the establishment would provide a copy of the report to the pet shop, which would make the documentation available for inspection by the City.

Typically, municipal animal shelters, humane societies, SPCAs and rescue organizations place adult cats in the adoption centres that they establish in participating pet shops, as kittens and puppies are often unavailable. Further, adult dogs, which are generally in the majority of dogs available through municipal animal shelters, humane societies, SPCAs and rescues, cannot be appropriately accommodated in the pet shop adoption centre environment. Without the additional source option of inspected establishments, residents who would prefer a kitten or puppy to a once-stray or a rescued adult animal with potential pre-existing health and/or behavioural issues, would have highly-limited options to obtain such a young animal other than directly from breeders which are not always accessible. The proposed amendments to the pet shop regulations would ensure that all sources of cats and dogs are inspected and operating within provincial standards of care.

The proposed inspection requirement is also consistent with the approach prescribed in the pet shop regulation as it applies to the shop itself, and will allow the businesses of the 3 particular licensed pet shops referenced herein to continue until they are no longer licensed.

Additionally, excluding the inspected-establishments option would likely drive the operations currently accessed by the 3 pet shops to other unregulated venues, such as on-line. The existing licensing regulations, coupled with the proposed new parameters around sources, would ensure that the animals sold in the 3 particular pet shops come from inspected sources and continue to have standards of care, including any necessary veterinary attention and other care in the retail environment, while providing an alternative for customers.

It should be noted that no pet shop will be permitted to accept cats or dogs from any other sources, including residents who wish to surrender their pet to the shop. This is an unregulated source and such practices should not be encouraged. Residents with cats or dogs in need of homes are encouraged to contact a municipal animal shelter, humane society, SPCA or rescue organization.

Violations of any provisions of the pet shop licensing regulations may result in the issuance of a Provincial Offence Notice (ticket) with an associate fine, or a summons to Court, or license suspension or revocation.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

Input on the question of the sale of cats, dogs and rabbits in pet shops, was sought through on-line channels as a convenient way for residents to share their views. Participants were encouraged to review the [Discussion Paper](#), available on Ottawa.ca, and to complete the electronic Comment Sheet. Information about the consultation was also posted on Twitter and Facebook, and was re-tweeted and shared, respectively.

A message highlighting the Discussion Paper and Comment Sheet was also forwarded initially to a distribution list of about 100 individuals who, and organizations which, had expressed interest in the subject matter, to solicit their input.

A dedicated “Bylaw Reviews / Révision Règlements” mailbox (bylawreviews@ottawa.ca or revisionreglements@ottawa.ca) was established as a primary point of contact for this

and subsequent by-law reviews approved by Council in the Review Strategy, and with a view to encouraging residents to share their comments with the By-law Review Team.

In addition, staff contacted directly a number of the key stakeholders, including Puppymill Awareness Working Solutions (PAWS), Ottawa Humane Society, Ottawa Kennel Club, Pet Industry Joint Advisory Council (PIJAC) of Canada, and pet shop licensees, with a view to soliciting input and with an offer to meet. Staff met with those who requested same, which included representatives of PAWS and PIJAC, as well as the owners of the pet shops currently selling commercially-sources cats and dogs.

The results of the consultation are detailed in Document 2. Comments were considered and were incorporated into the development of the recommendations and this report based on evidence, legal authority and reasonableness, and weighing the various perspectives.

Key stakeholders and other participants were also notified of the Community and Protective Services Committee meeting at which the item would be discussed. Notification was also posted on the City's website in accordance with the Notice By-law, as amended.

ADVISORY COMMITTEE(S) COMMENTS

No advisory committees were consulted in the preparation of this report as none are relevant to the subject matter.

LEGAL IMPLICATIONS

There are no legal impediments to Committee and Council considering this report. Set out below is the legislative framework that supports the recommendations found in this report.

To begin with, Subsection 10(2) of the *Municipal Act, 2001*, grants municipalities the broad powers to enact by-laws in a variety of areas including the following: the protection of persons and of property, including consumer protection (paragraph 8); animals (paragraph 9); and. business licensing (paragraph 11).

In addition to the above-noted broad powers, Part IV the *Municipal Act, 2001*, provides municipalities with the specific authority to license businesses and trades, under Subsection 151(1). Furthermore, the statute provides the authority for the City to require a business to obtain a business license in order to operate; to impose conditions as a requirement of obtaining, continuing to hold, or renewing a license; to impose

special conditions on a particular business or class of businesses; and to govern and regulate the real and personal property used for the business and the persons carrying on the business or engaged in it.

As a result of the foregoing provisions, the City has the statutory authority to license Pet Shop licensees in the manner proposed in this Report as well as to regulate the animals sold in such establishments and to require that particular verifications occur in respect of those animals.

In addition, the *Ontario Society for the Prevention of Cruelty to Animals Act*, as amended, establishes the Ontario Society for the Prevention of Cruelty to Animals (the "SPCA") for the purposes of facilitating and providing for the prevention of cruelty to animals and their protection. This *Act* establishes standards of care and administrative requirements for animals and prohibits causing or permitting distress to an animal. Section 11.4 authorizes inspectors and agents of the SCPA appointed under the Act to inspect a building or place where animals are kept for exhibition, entertainment, boarding, hire, or sale to ensure that the standards of care and administrative requires prescribed in the Act are being complied with. Inspectors and agents may also inspect dwellings where animals are kept under the authority of a warrant. Violations of the statute may lead to charges laid under this *Act* and enforcement actions may also include the seizure of animals in distress under prescribed circumstances or order the owner of the animal to obtain veterinary care or take other actions necessary to relieve the animal of its distress. Penalties for offences committed by individuals or corporations under the *Act* include fines of up to \$60,000 and may also lead to prohibition or restitution orders imposed by the Court.

The equivalent legislation in the Province of Quebec is the *Animal Welfare and Safety Act*, as amended. Together with the Regulation passed under it, this statute establishes standards of care for animals and corresponding obligations for owners or custodians of animals to ensure animal care. This legislation also creates prohibitions for and offences related to animal welfare in Quebec. Inspectors appointed under this statute have similar powers as those under the above-noted Ontario *Act* to inspect premises and to enforce the standards prescribed under the Act, to lay charges for contraventions, and to seize animals in distress in prescribed circumstances. Penalties for contraventions under the *Act* include the imposition of fines of up to \$62,500 for individuals and \$125,000 for corporations or non-personal entities. Other penalties provided in the legislation include Court orders and imprisonment.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with the contents of the report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the recommendations as the costs, if any, are included in the current budget for Emergency and Protective Services' By-law & Regulatory Services. No incremental costs are anticipated.

ACCESSIBILITY IMPACTS

There are no direct impacts on persons with disabilities and seniors associated with the contents of this report.

TERM OF COUNCIL PRIORITIES

There are no direct or specific impacts on Term of Council Priorities associated with the recommendations, although this report addresses one of the by-law reviews approved by Council as part of a 2015 direction (By-law Review Strategy, ACS2015-COS-EPS-0020).

SUPPORTING DOCUMENTATION

Document 1 – Drafting Instructions – Amendments to Schedule 29 to Licensing By-law No. 2002-189 (as amended) relating to Pet Shops

Document 2 – Summary – Results of Consultation

DISPOSITION

If the recommendation is approved, Business Services and Strategic Support Branch of the Emergency and Protective Services Department, in consultation with the City Clerk and Solicitor, will prepare and process the amending by-law for enactment by Council at a subsequent meeting.

Business Services and Strategic Support Branch and By-law & Regulatory Services Branch will implement Council directions emanating from this report, as appropriate.