



## Committee of the Whole Report For the Meeting of April 12, 2018

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**To:** Committee of the Whole **Date:** April 5, 2018  
**From:** Tom Zworski, City Solicitor  
**Subject:** Amendments to the Animal Control Bylaw

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### RECOMMENDATION

That Council give three readings to the *Animal Control Bylaw Amendment Bylaw (No. 4) Bylaw No. 18-050*.

### EXECUTIVE SUMMARY

On March 15, 2018, Council directed that staff bring forward amendments to the *Animal Control Bylaw No. 11-044*. The text of the motions with requested amendments is attached as Appendix "A" to this Report.

Based on Council's directions, Legal Services have prepared an amendment bylaw, which has been included on the April 12, 2018 Council agenda. The purpose of this report is to explain the changes to the *Animal Control Bylaw* as well as to identify and explain the requested changes that have not been included at this time. Attached as Appendix "B" to this Report is a copy of the current bylaw (without schedules) showing the proposed changes included in the amendment bylaw.

Some provisions requested by Council have not been included in the proposed amendments because further review of these provisions is required (as explained further in the report), the proposed regulation requires provincial approval, or the requested amendments properly belong in other bylaws and will be brought forward at a later date.

The proposed *Animal Control Bylaw Amendment Bylaw (No. 4) No. 18-050* has been prepared based on Council's directions on March 15, 2018. While not all requested changes have been included at this time, this amendment implements Council's directions in a manner consistent with the language of the current bylaw while remaining true to Council's intentions as reflected in the March 15, 2018 motion.

## PURPOSE

The purpose of this report is to introduce the *Animal Control Bylaw Amendment Bylaw (No. 4) Bylaw No. 18-050* and to provide an explanation of the changes this will introduce as well as the reasons why certain requested amendments have not been included at this time.

## BACKGROUND

On March 15, 2018, Council directed staff to bring forward certain amendments to the *Animal Control Bylaw No. 11-044*. Legal Services have prepared the amendment bylaw to implement Council's direction. However, in the course of drafting the amending bylaw, it has become clear that some of the proposed amendments cannot be implemented at this time. In addition, legal review identified some changes to the requested amendments that were necessary to make the amendments properly fit within the City's current bylaw. Finally, some changes have been flagged as potentially leading to unintended consequences that require further consideration by Council.

On March 15, 2018, Council directed staff to refer other proposed regulations regarding chickens and bees to the Urban Food Table and the Victoria Beekeeping Association. That has now been done and these organization's comments will be provided to Council separately, at which time, further amendments may be considered.

## ISSUES & ANALYSIS

The following issues have been identified during the preparation of the requested amendments:

### 1. Changes to section 12 – Tying of Animals

The current language, while less specific than the requested amendment, is broader in its application, in that it applies to all animals. The new language limits the application of the section to dogs only. While other changes (e.g., the new section 17A – Animal Cruelty) may address this, there is a potential that a gap is being created in the regulations by restricting section 12 to dogs only.

### 2. Changes to section 25 – Limits on Number of Animals

The proposed amendments impose limits on a number of dogs, cats, rabbits, guinea pigs, and chickens that may be kept on a parcel of land. These limits, except in relation to chickens, apply to each apartment or strata lot separately as if it were a separate parcel of land – see proposed section 25(3). The limit in relation to chickens or any animals kept outside, applies to each parcel of land as a whole. This represents a significant change from the current bylaw which allows only one dog per apartment but does not impose any limits in relation to other animals.

To give effect to these limits, the amendment bylaw includes new definitions of “dog”, “cat”, “rabbit”, and “guinea pig”. Also defined are the words “keep”, “lot”, and “self-contained dwelling unit” to avoid any ambiguity or uncertainty. Those definitions are being added to section 2 of the bylaw.

The proposed amendments do not include a prohibition on keeping of any ungulate, rooster, or mink. That is because domestic ungulates are already captured and prohibited in the current bylaw as farm animals. Similarly, roosters are already specifically prohibited in the current bylaw.

Reference to mink has been omitted because they are considered to be wildlife and, under the *Wildlife Act*, may not be possessed unless as part of a fur bearing farm operation. Furthermore, a bylaw regulating mink or other wildlife would require approval of the Minister of Environment. Therefore, if Council wishes to proceed with such amendment, a separate bylaw would be required.

3. Definitions of “Aggressive Dog”, “Dangerous Dog”, and “Vicious Dog”

The amending bylaw does not include these definitions because there are no accompanying regulations that use these terms. The current bylaw provides a set of rules for dangerous dogs, which is consistent with the authority in the *Community Charter*. Should Council wish to develop new regulations that differentiate between dogs based on different level of aggressiveness or viciousness, these definitions could be added as part of those amendments. However, further policy and legal review of any such regulations is recommended.

4. New Section 17A – Animal Cruelty

This new section has been added to Part 3 – Animal Welfare of the bylaw, however, it has been modified to remove the prohibition on abandoning animals (proposed paragraph (a)) because this provision already exists in the current bylaw – see section 8.

5. Prohibition on Sale of Cats, Kittens, Dogs, Puppies, and Rabbits in Pet Stores or other Retail Stores

The requested prohibition on sale of certain animals is a form of business regulation. Section 59(2) of the *Community Charter* requires that, before adopting or amending a business regulation bylaw, Council must provide an opportunity for affected persons to make representations to Council. Therefore, these amendments will be brought forward separately with required notice and consultation.

6. Changes to the Vehicle for Hire Bylaw

On March 22, 2018, Council directed staff to make other changes to the *Vehicles for Hire Bylaw* in relation to various provisions related to bus and horse-drawn carriage stands. Therefore, the amendments requested as part of the animal control regulations have not been included in this amendment package and will, instead, be brought forward together with other amendments to the *Vehicles for Hire Bylaw* that Council has recently given direction to undertake.

## **OPTIONS & IMPACTS**

Council may give three readings to the proposed *Animal Control Bylaw Amendment Bylaw (No. 4) Bylaw No. 18-959* in its present form. Alternatively, Council can make amendments to the bylaw as drafted by staff. Finally, Council may provide further directions to staff and direct preparation of a different amendment bylaw.

### *Accessibility Impact Statement*

There are no direct accessibility impacts that result from the proposed bylaw amendments. Pursuant to the *Guide Dog and Service Dog Act*, the proposed changes should not affect any guide or service dogs or their owners.

## *2015 – 2018 Strategic Plan*

The proposed regulations are related to the overarching objective of continuous improvement.

### *Impacts to Financial Plan*

The proposed amendments are not expected to have any financial plan impacts. Staff have reviewed proposed changes with the City's animal control contractor and there is no expectation of additional costs or service level changes.

### *Official Community Plan Consistency Statement*

The proposed amendments are consistent with the OCP.

## **CONCLUSIONS**

The proposed *Animal Control Bylaw Amendment Bylaw No. 18-050* has been prepared based on Council's directions on March 15, 2018. While not all requested changes have been included at this time, this amendment implements Council's directions in a manner consistent with the language of the current bylaw while remaining true to Council's intentions as reflected in the March 15, 2018 motions.

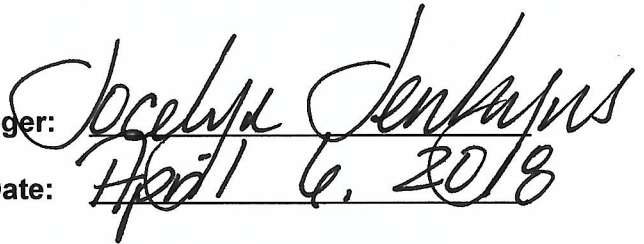
Respectfully submitted,



Tom Zworski  
City Solicitor

Report accepted and recommended by the City Manager:

Date:

  
April 6, 2018

### **List of Attachments (if relevant)**

Appendix "A" – March 15, 2018 motion

Appendix "B" – Bylaw showing proposed changes