



**Committee of the Whole Report**  
**For the Meeting of November 8, 2018**

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**To:** Committee of the Whole **Date:** October 30, 2018  
**From:** Nancy Johnston – Manager Bylaw and Licensing Services  
**Subject:** Appointment of Animal Control Officer

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**RECOMMENDATION**

That Council approve the appointment of Chris McAllister: as Bylaw Officers pursuant to section 2(a) of the Inspection Bylaw (06-061); and as an Animal Control Officer pursuant to section 49(1) of the Community Charter

**EXECUTIVE SUMMARY**

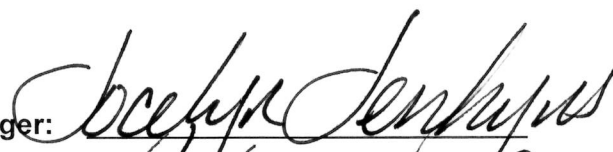
Chris McAllister has joined Victoria Animal Control Services staff filling role of Animal Control Officer. To enable him to act as an Animal Control Officer and enforce the Animal Responsibility Bylaw and Parks Bylaw, a specific resolution of council is required.

Respectfully submitted,

A handwritten signature in black ink that reads "N. Johnston".

Nancy Johnston  
Manager Bylaw and Licensing Services

Report accepted and recommended by the City Manager:



*Cheryl Jenkyus*

Date: Nov 2, 2018

## PART 1 - INTRODUCTION

### Title

- 1 This Bylaw may be cited as the "ANIMAL RESPONSIBILITY BYLAW".

### Definitions

- 2 In this Bylaw

"animal"

means any member of the animal kingdom, other than a human being;

"animal control officer"

means a person designated as an animal control officer for the purposes of section 49 of the *Community Charter*;

"cat"

means an animal of the species *Felis domesticus* that is apparently over the age of twelve weeks old;

"chicken"

means an animal of the species *Gallus gallus domesticus*;

"dangerous dog"

means a dog that has been designated as a dangerous dog under section 28;

"dog"

means an animal of the species *Canis familiaris* that is apparently over the age of twelve weeks old;

"farm animal"

means any domesticated animal normally raised for food, milk or as a beast of burden and includes cattle, horses, swine, sheep, goats, mules, donkeys, asses and oxen but does not include poultry or bees;

"guinea pig"

means an animal of the species *Cavia porcellus* that is apparently over the age of twelve weeks old;

## Division 6 – Animal Control

### Classes of animals

**47** For certainty and without limiting section 12 (1) [*bylaw variation authority*], a bylaw under section 8 (3) (k) [*spheres of authority – animals*] may establish different classes of animals on the basis of sex, age, size or breed.

### Seizure and related powers

**48** A council may, by bylaw, do one or more of the following:

- (a) provide for the seizure of animals that are
  - (i) unlicensed, if there is a requirement that they be licensed,
  - (ii) unlawfully at large on a highway or in a public place,
  - (iii) straying or trespassing on private property, or
  - (iv) on unfenced land and not securely tethered or contained;
- (b) establish penalties to be paid in relation to animals seized under this section;
- (c) establish or regulate fees to be paid in respect of seizures under this section;
- (d) provide for the sale, other disposition or destruction of impounded animals, if
  - (i) the animals are not claimed within the time and in the manner established by the bylaw, or
  - (ii) the penalty or fees are not paid within a reasonable time;
- (e) provide for the seizure and destruction of any animal that is subject to suffering that the council, or a person designated by council, considers cannot be otherwise reasonably addressed.

### Special powers in relation to dangerous dogs

**49** (1) In this section:

**"animal control officer"** means

- (a) a municipal employee, officer or agent designated by the council as an animal control officer for the purposes of this section, or
- (b) a peace officer;

**"dangerous dog"** means a dog that

- (a) has killed or seriously injured a person,

- (b) has killed or seriously injured a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

(2) In addition to the authority under section 48 but subject to this section, an animal control officer may seize a dog if the officer believes on reasonable grounds that the animal is a dangerous dog.

(3) Before exercising a power under subsection (2), in the case of a dog that has acted as described in paragraph (a) or (b) of the definition of "dangerous dog", the animal control officer must consider whether the dog was acting while in the course of

- (a) attempting to prevent a person from committing an unlawful act, or
- (b) performing law enforcement work.

(4) An animal control officer may enter a place to exercise the power under subsection (2),

- (a) in any case, with the consent of the owner or occupier of the place,
- (b) in any case, in accordance with a warrant under subsection (5) or (6), or
- (c) if the circumstances referred to in subsection (8) apply, in accordance with that subsection.

(5) If satisfied by evidence given under oath or affirmation that there are reasonable grounds to believe that there is a dangerous dog in a place, a justice may, by warrant, authorize an animal control officer to enter and search the place and to seize the dog.

(6) If

- (a) it is impracticable for an animal control officer to appear personally before a justice to apply for a warrant in accordance with subsection (5), and
- (b) the officer believes on reasonable grounds that there is a dangerous dog in a place,

the officer may apply for a warrant in accordance with the regulations under subsection (7).

(7) The Lieutenant Governor in Council may make regulations respecting the authority and procedure for warrants under subsection (6).

(8) Subject to subsection (9), an animal control officer may, without a warrant, enter and search any place, except a place that is occupied as a private dwelling, and seize a dog, if the officer believes on reasonable grounds that

- (a) the dog is a dangerous dog,

- (b) the dog presents an imminent danger to the public, and
- (c) the purpose of seizing the dog cannot reasonably be accomplished if the officer is required to obtain a warrant.

(9) For the purposes of subsection (8), an animal control officer who is not a police officer must be accompanied by a police officer.

(10) In addition to any other authority, if an animal control officer has reasonable grounds to believe that a dog is a dangerous dog, the officer may apply to the Provincial Court for an order that the dog be destroyed in the manner specified in the order.

(11) A dog that has been seized under this section may not be impounded and detained for more than 21 days unless court proceedings for a destruction order are commenced within that time.

## **Division 7 — Authority in Relation to Trees**

### **Restrictions in relation to authority**

**50** (1) A bylaw under section 8 (3) (c) [*spheres of authority — trees*] that is in relation to the protection of trees does not apply to the following:

- (a) land and the trees on it if forestry practices on the land are governed by a tree farm licence, permit or other authority or tenure under the *Forest Act*;
- (b) land and trees on it if section 21 of the *Private Managed Forest Land Act* applies to the land;
- (c) tree cutting or removal that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure.

(2) Subject to subsection (3), if a bylaw under section 8 (3) (c) would have the effect on a parcel of land of

- (a) preventing all uses permitted under the applicable zoning bylaw, or
- (b) preventing the development to the density permitted under the applicable zoning bylaw,

the bylaw does not apply to the parcel to the extent necessary to allow a permitted use or the permitted density.

(3) A bylaw referred to in subsection (2) applies without limit to a parcel if the council, by resolution, commits the municipality to

- (a) pay compensation to the owner of the parcel for any reduction in the market value caused by the prohibition, or

(b) provide, by development permit, development variance permit or otherwise, alternative means for the parcel to be used for a permitted use or developed to the permitted density.

(4) For the purposes of subsection (3),

(a) the compensation must be as determined and paid as soon as reasonably possible in an amount set by agreement between the owner and the municipality or, if no agreement is reached, by the Supreme Court, and

(b) the council may issue a development permit or development variance permit on its own initiative without an application from the owner.

### **Compensation not payable**

**51** Except as provided in section 50 (3), no compensation is payable to any person for a reduction in the value of any interest in land that results from

- (a) a bylaw under section 8 (3) (c) [*spheres of authority — trees*], or
- (b) the issue or refusal of a permit required under such a bylaw.

### **Right to reconsideration by council**

**52** If a council delegates powers, duties or functions in relation to its authority under section 8 (3) (c) [*spheres of authority — trees*], the owner or occupier of real property that is subject to a decision of a delegate is entitled to have the council reconsider the matter.