



CITY OF
ST. CATHARINES

Corporate Report

Report from Corporate Support Services, Legal Services

Date of Report: February 15, 2013

Date of Meeting: March 4, 2013

Report Number: CSS-057-2013

File: 68.29.1

Subject: Amendment to the Canine Control By-law regarding maximum number of dogs - Setting Public Meeting

Recommendation

That Council refer the report from Corporate Support Services, Legal Services, dated February 15, 2013 regarding an amendment to the Canine Control By-law for consideration by City Council after the public meeting scheduled for March 18, 2013.
FORTHWITH

Staff Recommendation

That Council pass an amendment to the Canine Control By-law to allow Council to grant exemptions to the three (3) dog maximum in circumstances where the owner houses working or service dogs; and

That the City Solicitor be directed to prepare the necessary by-law amendment.

Background

On February 11, 2013, Council directed staff to initiate the process for an amendment to the Canine Control By-law to include a provision which would allow Council to grant exemptions to the three (3) dog maximum in circumstances where the owner houses working or service dogs (General Committee Minutes, Item No. 3.3).

Report

There is no new information to be provided. The direction of Council is reflected in the Staff Recommendation. The original report dated January 25, 2013 has been included as Appendix 1.

Financial Implications

Not Applicable.

Notification

It is in order to notify Melodi Doiron-Bennett, Sparkwatch Dog Training.

Submitted by:

Stacey E. Wells, Assistant City Solicitor II

Prepared by:

Stacey E. Wells, Assistant City Solicitor II

Approved by:

Christopher C. Cooper, Director of Legal Services (Acting)



CITY OF
ST. CATHARINES

Corporate Report

Report from Corporate Support Services, Legal Services

Date of Report: January 25, 2013

Date of Meeting: February 11, 2013

Report Number: CSS-039-2013

File: 68.29.1

Subject: By-law to Provide for Licencing and Regulating Keeping of Dogs

Recommendation

That the report from Corporate Support Services, Legal Services be received for information purposes. FORTHWITH

Summary

The City of St. Catharines currently restricts the number of dogs in or about a dwelling unit which is located within the urban boundary to three (3). The By-law currently provides no mechanism for Council to permit exemptions from this provision in unique circumstances. Amending the Canine Control By-law to include a general exemption provision would allow Council to grant exemptions in circumstances it deems appropriate.

Background

On December 10, 2012 the Legal Services Department received a complaint which alleged that a total of eight (8) dogs were residing at 12 Crown Street, where only three (3) dogs are permitted. A check of City records revealed that no licences had been issued in relation to any dogs at this address. In addition, it was confirmed that a kennel licence had not been issued in relation to this address. In accordance with standard practice, the Lincoln County Humane Society (hereinafter "LCHS") was contacted to investigate the complaint, as well as to address with the owners the requirement for the licencing of the dogs.

An Animal Control Officer with the LCHS attended at 12 Crown Street and confirmed that eight (8) dogs reside at the property. Following the attendance of the LCHS, licences for three (3) of the dogs were obtained by the dog owners.

At its meeting on January 21, 2013, Council received correspondence from Shawn Bennett of 12 Crown Street with respect to his request for an exemption to the keeping of dogs by-law. Councillor Phillips requested a report from Staff with respect to an exemption. Melodi Doiron-Bennett of 12 Crown Street will appear as a delegate before Council on February 11, 2013.

Report

By-law No. 95-302 being “A By-law to provide for licensing and regulating the keeping of dogs”

The City of St. Catharines passed By-law No. 95-302 on September 11, 1995 (hereinafter the “Canine Control By-law”).

Part IV of the Canine Control By-law addresses Licencing and Registration of dogs. This section requires a dog owner to pay a licence fee for every dog the owner owns, possesses or harbours in the City of St. Catharines, and provides that, upon payment of the licence fee, a licence will be issued by the City Treasurer.

Where a kennel licence is issued, the owner of the kennel is entitled to a tag for each dog and is not required to pay the individual licence fees. According to the Canine Control By-law, a kennel licence may only be issued to the owner of a kennel of pure-bred dogs registered in the Register of the Canadian Kennel Club Incorporated, or a class designated as pure-bred as may be determined by regulation or the Canadian Kennel Club Incorporated.

The definition of “kennel” is found in the applicable zoning by-laws for the City and, pursuant to this definition, a kennel means “any premises upon which four or more dogs or cats are maintained, boarded, bred, trained or cared for in return for remuneration or kept for the purposes of sale.” Pursuant to the applicable zoning by-laws, kennels are only permitted in the Agricultural (A) zones of the City.

Pursuant to the Canine Control By-law, if an owner was unable to obtain a kennel licence because the above noted criteria were not met, the owner was required to obtain an individual licence for each dog. Initially there was no upper limit on the number of dog licences any owner could obtain.

On November 14, 2005, Council received a report from the Corporate Support Services Department dated November 7, 2005, with respect to Increases to the Dog Licencing Fees and Other Amendments to the Canine Control By-law. This report is attached as Appendix “1”. The report addressed the issue of kennel licences and confirmed that the definition of kennel was found in the City’s zoning by-laws and that kennels were only permitted in Agricultural “A” zones in the City. Given the stipulations associated with kennel licences (and the limiting of such to the Agricultural (A) zones), Staff proposed that the number of dogs per dwelling unit within the urban boundary of the City be limited to a maximum of three (3), subject to grandfathering for dwelling units where more than three (3) dogs were licenced at the time of the passage of the amendment to the Canine Control By-law. In these circumstances, owners would continue to obtain a licence for each dog until they no longer owned the dogs either by transfer of ownership or the dogs’ death.

On November 21, 2005, following a public meeting, Council approved the November 7, 2005 report and directed that an amendment to the Canine Control By-law be prepared.

On December 5, 2005, By-law No. 2005-310 was passed. This By-law amended the provisions of the Canine Control by-law, in part, by adding the following section:

“23.1 No person shall keep in or about a dwelling unit more than three (3) dogs except on any lands located outside the urban boundary of the City of St. Catharines.”

It should be noted that while the amendment to the Canine Control By-law did not expressly include a grandfathering provision, grandfathering did take place and there continues to be instances where more than three (3) licences are issued in respect of dwelling units which housed more than three (3) dogs prior to the passage of the amendment.

Apart from grandfathering, the Canine Control By-law does not currently contain provisions which would permit an exemption from the three (3) dog maximum within the urban boundary, nor is there any process outlined within the Canine Control By-law to allow Council to consider making such an exemption.

The Bennett's Request

The Bennetts have requested that a kennel licence be granted to them in order that they may be legally permitted to retain all eight (8) dogs at their residence at 12 Crown Street. In accordance with the current regulatory scheme, it would not be possible to grant a kennel licence in relation to 12 Crown Street as this is not the location of the dog kennel/training facility that the Bennetts own and operate, and because 12 Crown Street is not zoned Agricultural (A) and, therefore, the current zoning does not permit a kennel. Moreover, it would not be possible to grant a kennel licence in relation to the kennel/training business which is operated out of 165 Cushman Road (municipally known as 612 Welland Avenue), because this property is also not zoned Agricultural (A) and, therefore, the current zoning does not permit a kennel.

In order to permit the establishment of a kennel at either location a site specific zoning by-law amendment would have to be applied for and obtained. Alternatively, the provisions of the zoning by-law would have to be amended such that kennels were permitted in a zone other than Agricultural (A).

However, even if a kennel were a permitted use at either of the above noted locations, and a kennel licence could be issued, the current provisions of the Canine Control By-law still prohibit the keeping of more than three (3) dogs per dwelling unit within the urban boundary. At this time, the Canine Control By-law contains no mechanism for an exemption to this provision.

Review of Dog Regulation By-laws within the Niagara Region

All municipalities within the Niagara Region have regulatory by-laws similar in purpose to the City of St. Catharines' Canine Control By-law.

Of the 11 other area municipalities, all but Pelham and Wainfleet have a restriction on the number of dogs permitted at any premises. The most common maximum imposed is

three (3) dogs; however, the Township of West Lincoln permits a maximum of four (4) dogs.

All of these municipalities have a system in place for the issuance of dog licences and all municipalities also have a method for, and stipulate the criteria under which, a kennel licence may be obtained. Where a kennel licence is obtained, individual dog licences are not required.

Fort Erie, Port Colborne, Welland, West Lincoln, Niagara-on-the-Lake, Grimsby, Lincoln and Thorold all provide for an exemption from the maximum number of dog provisions for premises for which a kennel licence has been obtained.

Several municipalities also provide exemptions from the maximum number of dog provisions for pet shops, premises used by the LCHS/SPCA and for accredited veterinary facilities.

Niagara Falls, Port Colborne, Thorold and Fort Erie also have unique exemptions in place from the maximum number of dog provisions.

Niagara Falls limits the number of dogs kept in or about any dwelling unit to three (3), but it provides for the following exemptions to that prohibition:

- i) "an owner may keep more than three (3) dogs upon filing with the Clerk satisfactory documentation proving that the owner is a breeder registered with an association incorporated under The Animal Pedigree Act and that all dogs are, or are eligible to be, registered with an association incorporated under The Animal Pedigree Act";
- ii) "a dog rescue group may keep more than three (3) dogs upon filing with the Clerk satisfactory documentation proving that the group is a bonafide [sic] dog rescue organization."

Port Colborne limits the number of dogs owned or possessed or housed within a premise to three (3), but it provides for the following exemption:

- i) "A temporary exemption to own or possess or house more than three (3) dogs may be provided, upon Council approval, for compassionate reasons, working dogs or farming/herding dogs and must be applied for in writing to the Clerk."

Thorold limits the number of dogs a person may keep on his or her premises to three (3), but provides for the following exemption:

- i) "The person has registered and been granted an exemption."

Fort Erie limits the number of dogs a person may own, possess or harbour in any one (1) household or on any premises to three (3), but provides for the following exemptions:

- i) "The license agent may issue more than three (3) licenses where the dogs are used as guard dogs (defined to mean any dog trained and used for security purposes on land used for industrial or commercial use)";
- ii) "For the purpose of fostering rescue dogs" (in accordance with the provisions of the by-law)

Amendment to the Canine Control By-law for exemptions to the three (3) dog maximum

In accordance with the Public Notice By-law, prior to the passage of any amendment to the Canine Control By-law, notice would be required and persons wishing to be heard would be provided an opportunity to comment at a public meeting.

In the event that Council wishes to create an exemption to permit instances where the three (3) dog maximum could be exceeded within the urban boundary, Staff would recommend it be accomplished by virtue of a further amendment to the Canine Control By-law. This would allow any person whose circumstance fit within the scope of the exemption to attend before Council to request that they be granted an exemption from the three (3) dog maximum.

An amendment could be prepared for giving Council the discretion to grant an exemption to the three (3) dog maximum where in Council's opinion the dog(s) are being utilized as working dogs or service dogs.

It is anticipated that such a request would be made in writing to the Clerks Division and be forwarded to Council for its consideration. This would allow for an open and transparent process, which would include the opportunity for residents to address Council either in support of, or in opposition to, any such request. It would be recommended that, where any such exemption is permitted, an individual licence fee be paid for every dog. Staff would also suggest that, upon receipt of such a request, the LCHS be contacted to inspect the premises in question in order to verify whether, in its view, the premises are suitable to house the proposed number of dogs.

Conclusion

The creation of an exemption to the maximum number of dogs permitted within the urban boundary would provide flexibility in circumstances deemed appropriate by Council.

Notification

It is in order to notify Shawn and Melodi-Doiron Bennett.

Submitted and Prepared by: Stacey E. Wells

Approved by: Christopher C. Cooper

Programme	Previously Approved for 2005	Recommended For Funding from Sept 2005 Applicants	Total
Sustaining	39000	30000	69000
Cultural Development	4500	52427	56927
Artist in the Community	4073		4073
Totals	47573	82427	130000
Total Available in Budget		\$82,427	
Balance remaining in budget		0	

RECOMMENDATION:

That the recommendations of the Selection Committee for investment in the cultural community through the St. Catharines Cultural Investment Policy, as outlined in the report from the Recreation and Community Services Department, dated November 3, 2005, be approved.

MOVED BY COUNCILLOR DORSEY:

That the recommendation contained in the report from the Recreation and Community Services Department, Item Number 533 of the General Committee Minutes, November 14, 2005, be approved.

CARRIED.

ITEM NO. 534

**Report from the Corporate Support Services
Department, Dated November 7, 2005,
Re: Increase to Dog Licencing Fees and
Amendments to Canine Control By-law
File: 68.29.1**

Dog licencing fees have remained unchanged since 2003. In order to keep pace with other municipalities, staff have surveyed the dog licencing fees, set fines, and by-laws of area municipalities. Staff have also met with the Lincoln County Humane Society for its comments and recommendations on these matters with a view to providing better service to the public in enforcement of canine control and humane services. The goal of these recommendations is to promote responsible pet ownership, assist with the issue of pet over population, and to increase revenues to offset the increased cost of canine control and humane services. The amount budgeted for canine control in 2005 was \$235,750.00. To date, the 2005 revenues received from dog licence sales is \$116,169.00.

Dog Licence Fees

The current licence fee for a male or female dog is \$35.00 and a neutered or spayed dog is \$25.00. A discount of \$3.00 is given upon proof of a valid rabies certificate, and an additional \$2.00 discount if the tag for the upcoming year is purchased by December 31. The intention of this discount schedule is to encourage dog owners to voluntarily purchase a dog tag.

The purpose of dog licencing is to ensure that dogs living in the municipality can be identified. This is important from the stand point of dealing with problem dogs who may have been involved in a biting situation, found running at large or causing a disturbance in any other way. Through the dog tag system, the dog's owner can be identified, contacted and measures taken to resolve the problem. Tag identification is also important in lost and found situations where dogs have accidentally escaped from their home or the care of their owner. Licenced dogs can be returned to their owner due to the ability to trace the ownership from the dog tag.

Dog tags can be purchased from the Financial Management Services Department or from the Lincoln County Humane Society. Presently, the Humane Society receives a 30% commission on tags sold as a result of a door-to-door licence check, however, no commission is paid on tags sold at the shelter. The Humane Society incurs costs in staff time and use of their debit machine in selling tags and it is therefore recommended that the Humane Society receive a 30% commission on the tags sold at the shelter on behalf of the City.

In order to promote responsible pet ownership and the spaying/neutering of dogs, staff would recommend that the fee for spayed/neutered dogs remain at \$25 and eliminate the existing discounts. A grace period would be in effect until January 31. Staff also recommend that a \$10 late fee be charged for licences purchased after January 31. The late fee would not apply to new resident dog owners who moved to the City after January 31, nor to dogs acquired after the grace period.

Staff also propose that the fee for a non-altered male/female dog be increased to \$45. This increase would provide a greater differential between spayed/neutered dogs and non spayed/neutered female/male dogs, thereby offering a considerable discount to those who have had their pet altered. This may encourage more owners to have their dogs spayed/neutered.

It is anticipated that these increases will generate an additional \$35,000 in revenues to help offset the increased cost of canine control services.

Kennel Licences

The definition of a kennel licence pursuant to the City's zoning by-laws states that a kennel means any premise upon which four or more dogs are maintained, boarded, bred, trained or cared for in return for remuneration or kept for the purpose of sale. Kennels are only permitted in Agricultural 'A' zones in the City.

Accordingly, staff propose that the number of dogs per household in the urban area of the City be limited to a maximum of three. Anyone currently owning more than three dogs that are not eligible for a kennel licence would be 'grandfathered' and permitted to obtain licences until they no longer own the dogs either by transfer of ownership or the dogs' death. Under a new proposed rate structure, the licence fee for the first male/female dog would be \$45 and it is proposed that the fee for the 2nd and 3rd male/female dogs be \$50 each.

When comparing kennel licencing fees with other municipalities, St. Catharines is at the lower end of the scale. It is staff's recommendation that the kennel licencing fee be increased to \$100 to better reflect the actual costs associated with the administration of licencing.

Mr. Mike Toews has requested an amendment to By-law Number 95-302 entitled, "A By-law to provide for the licencing and regulating the keeping of dogs", to expand the kennel licencing provisions. Mr. Toews presently breeds Alaskan Huskies within the urban boundary for the purpose of dog sled racing. Since this breed is not recognized by the Canadian Kennel Club, he is not eligible for a kennel licence pursuant to the canine control by-law. Mr. Toews currently owns 15 dogs.

Mr Toews has requested that the canine control by-law be amended to extend kennel licencing for dogs bred as working or competition dogs or for other rare breed dogs recognized by clubs or associations in addition to the Canadian Kennel Club. In Mr. Toews' case, his competition dogs are recognized, regulated and licenced by the Ontario Federation of Sled Dog Sports. This organization is responsible for sled dog racing in Ontario.

Staff have contacted the Lincoln County Humane Society for their input on the matter of kennel licencing and have reviewed the canine control by-laws of other municipalities. While a change to the current by-law to expand the breeds of dogs eligible for a kennel licence may encourage owners of multiple dogs to purchase a kennel license, it could also be seen as an endorsement and lead to the legitimizing of puppy mills. Some breeders or kennel operators may take the opportunity to register breeds which are not recognized by reputable organizations, and may be potentially dangerous to public safety. Therefore, staff are not prepared to recommend any change to the current by-law to expand the breeds of dogs eligible for a kennel licence.

Set Fines

St. Catharines currently has the following set fines for canine control ticketing and enforcement purposes:

- dog running at large \$55.00
- failure to remove feces \$55.00
- failure to muzzle dangerous dog \$105.00
- failure to obtain dog licence \$55.00

Based on discussions with the Lincoln County Humane Society and a review of other set fines for area municipalities, staff would recommend that the current fines be increased and an expanded list of set fines be added to assist canine control officers to carry out their mandate in enforcing humane and control services and to bring the set fines in St. Catharines more in line with other municipalities.

The following are the recommended changes to the set fines. These fines are subject to approval by the Chief Judge of the Ontario Court of Justice (Provincial Division).

<u>Type</u>	<u>Existing Set Fine</u>	<u>Proposed Set Fine</u>
Dog running at large	\$55.00	\$90.00
Failure to remove feces	\$55.00	\$150.00
Failure to muzzle dangerous dog	\$105.00	\$150.00
Failure to obtain dog licence	\$55.00	\$90.00
Failure to affix tag	-	\$90.00
Failure to provide water	-	\$150.00
Failure to provide shade	-	\$150.00
Failure to provide shelter	-	\$150.00
Dog kept in car without proper ventilation	-	\$150.00
Obstruction of canine control officer	-	\$150.00
Untethered dog in back of a vehicle	-	\$150.00

The following are the recommended changes to the 2006 dog licencing fees:

<u>Type</u>	<u>Existing Rate</u>	<u>Proposed Rate</u>
Male/Female	\$35.00	\$45.00
Spayed/Neutered	\$25.00	\$25.00
Each additional male/female dog (maximum 3 per household)	-	\$50.00
Rabies Discount	\$3.00	eliminate discount
Purchase before Dec. 31	\$2.00	eliminate discount
Late Fee (purchase after Jan. 31)	-	\$10.00
Kennel Licence	\$55.00	\$100.00

Licences for new residents (after June 30)
and dogs acquired after June 30 (proof required)

Spayed or Neutered	\$12.00	\$12.00
Male/Female Dog	\$17.00	\$22.00
-each additional dog	\$17.00	\$25.00

Staff Recommendation:

That the report from the Corporate Support Services Department, dated November 7, 2005, be approved;

and that the Lincoln County Humane Society receive a 30% commission on dog tags sold at the shelter on behalf of the City;

and that the request from Mr. Mike Toews for an amendment to the canine control by-law to expand the kennel licencing provisions, be denied;

and further, that the City Solicitor be directed to prepared the necessary by-law pursuant to the provisions in the report and be directed to apply for the approval of set fines.

RECOMMENDATION:

That the report from the Corporate Support Services Department dated November 7, 2005, regarding an Increase to Dog Licencing Fees, be referred to City Council for consideration after the public meeting scheduled for November 21, 2005. FORTHWITH

MOVED BY COUNCILLOR ERSKINE:

That the recommendation contained in the report from the Corporate Support Services Department, Item Number 534 of the General Committee Minutes, November 14, 2005, be approved.

CARRIED FORTHWITH.