



STAFF REPORT ACTION REQUIRED

Regulating the Sale of Cats and Dogs in Pet Shops

Date:	January 21, 2013
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2013\Cluster B\MLS\LS13002

SUMMARY

The purpose of this report is to update the Licensing and Standards Committee on the effectiveness of regulating the sale of cats and dogs in pet shops.

This report recommends amendments to Toronto Municipal Code Chapter 545 Licensing Article XX Pet shops and Appendix K Business Licensing Thresholds Schedule B Demerit Point System.

The Legal Services Division was consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards, recommends that:

1. City Council amend Article XX, Pet Shops, of the Toronto Municipal Code, Chapter 545, Licensing, in accordance with Appendix A:
 - a. To define the term “rescue group”;
 - b. To repeal § 545-255C;
 - c. To amend § 545-262 to further restrict the sources from which pet shops may obtain cats and dogs for sale to members of the public; and
 - d. To amend Appendix K, Business Licensing Thresholds, Schedule B, Demerit Point System by adding demerit points for contraventions of §§ 545-255A, 545-255B, 545-256A and 545-262; and

2. City Council direct the City Solicitor to prepare the necessary bill(s) to make such by-law amendments as may be required to give effect to the recommendations in this report.

Public Notice has been given in the manner prescribed in the Toronto Municipal Code, Chapter 162, Notice, Public.

Financial Impact

The recommendations contained in this report will have no financial impact to the City beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of August 13, 2010, The Licensing and Standards Committee requested a report from the Executive Director of Municipal Licensing and Standards respecting the sale of cats and dogs with a request to submit a report to the Committee in the new term of Council.

(<http://www.toronto.ca/legdocs/mmis/2010/ls/bgrd/backgroundfile-32590.pdf>) and (<http://www.toronto.ca/legdocs/mmis/2010/ls/bgrd/backgroundfile-33004.pdf>.)

The Executive Director, Municipal Licensing and Standards reported to the Licensing and Standards Committee at its meeting of May 31, 2011. The Licensing and Standards Report, entitled "Banning the Sale of Cats and Dogs in Pet Shops", responded to more than 30 submissions made to the Chair of the Committee in support of banning the sale of cats and dogs in pet shops in the City of Toronto. The Report recommended amendments to Toronto Municipal Code Chapter 545, Licensing, Article XX, Pet Shops, to restrict pet shops from offering cats and dogs for sale if the cats and dogs were obtained from home breeding operations.

(<http://www.toronto.ca/legdocs/mmis/2011/ls/bgrd/backgroundfile-38291.pdf>)

At its meeting of September 21, 2011 City Council adopted recommendations to amend Toronto Municipal Code Chapter 545, Licensing, Article XX, Pet Shops. City Council further added requirements that pet shops provide health assessment reports from a licensed vet for all cats and dogs kept in the store, and that all retailers, including any person or business that sells more than 10 dogs per year, to obtain animals from specified sources.

City Council also adopted a series of recommendations for implementation of the new provisions, with a request for the Executive Director, Municipal Licensing and Standards to report back in one year of the effectiveness of regulating the sale of cats and dogs in pet shops.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.LS4.3>

ISSUE BACKGROUND

To address public concerns regarding the sale of cats and dogs by pet shops, City Council, at its September 2011 meeting, enacted By-Law No. 1163-2011 to amend Article XX Pet Shops, of the Toronto Municipal Code Chapter 545 Licensing to ensure that cats and dogs sold in pet shops were not obtained from illegal home breeding operations.

City Council additionally adopted recommendations directing the Executive Director, Municipal Licensing and Standards (ML&S) to:

- a. Encourage the public to report the existence of puppy/kitten mills;
- b. Work with the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) on a continual basis to determine the existence of puppy/kitten mills;
- c. Investigate sales of cats and dogs through home based operations;
- d. Take appropriate action regarding pet shops found to have obtained cats and dogs from an unspecified source, including revocation of licence; and
- e. Undertake all appropriate and necessary enforcement action.

City Council also directed the Executive Director, Municipal Licensing and Standards to report on the implementation of these recommendations in one year.

COMMENTS

Public Awareness

Both the 311 and Animal Services websites provide information to the public on reporting concerns affecting animal care and well-being. TAS also uses public outreach opportunities to remind the public of the various ways they can report concerns about the health and safety of animals (including those in pet stores, within a residential dwelling or in public). While most calls are directed to 311 and Toronto Animal Services, the public may also contact the Business Licensing Enforcement Unit directly for pet shop concerns and Investigation Services directly for suspected home breeding operations.

To expand awareness regarding illegal home breeding operations, TAS is considering developing a communications strategy that would assist the public in identifying potential illegal home breeding operations and how to report them.

Irrespective of the origin of the complaint, all investigations involve joint efforts with Animal Services to ensure compliance with relevant by-laws (Animals, Licensing, Property Standards and Zoning). Where appropriate, the OSPCA is contacted to assist with rights of entry and the removal of animals in distress.

Pet Shops Enforcement Actions

Seven complaints were received from the public specifically related to pet shops offering kittens for sale and concern regarding where they were obtained. However, interpretation of existing by-law provisions was not clear that kittens/cats sold in pet shops were also required to be obtained from specified sources, leading to ambiguity and confusion.

Licensing Enforcement continually and proactively inspects all businesses, including pet shops. There are currently 29 licensed pet shops operating in Toronto. Since September 2011, there have been 29 inspections initiated by Licensing Enforcement under the Licensing By-law. Nine charges were laid for various violations. No charges were laid for pet shops obtaining animals from sources not specified in the By-law.

Animal Services also initiated nine investigations relating to pet shops for violations under the Animals By-law. No charges were laid relating to concerns for animal care.

In addition to set fines for by-law convictions, the Licensing By-law utilizes a demerit system to assign demerit points related to the convictions. Depending on the nature of the conviction, demerits range from zero (least severe) to three (most severe). For example, a pet shop convicted for failing to feed animals/birds is assigned two demerit points; a pet shop convicted for violating provisions by displaying a bird in the shop window is assigned one demerit point.

Business licensing thresholds establish that licensees (or in this case, a pet shop) who accumulate seven or more by-law demerit points within a 12-month period run the risk of (1) having the licence suspended, (2) having their licence renewal refused by the ML&S, (3) having conditions placed on the licence, or (4) having ML&S recommend a revocation of the business licence to the Licensing Tribunal.

Animal "Home Breeding" Operations

Concerns regarding home breeding activities are forwarded to Investigation Services where joint investigations with TAS are conducted. Since September 2011, Animal Services responded to 154 complaints regarding "too many animals". In all cases, the property is reviewed in respect to a potential illegal home breeding operation.

Puppy/kitten mills operating in a residential property may violate the intended permitted use of the property as determined by the Zoning By-law. In situations where TAS and Investigation Services determine that evidence supports a home breeding operation and where the health and well-being of animals are at risk, ML&S co-ordinates with the OSPCA to gain access to the property.

Since September 2011, only one investigation has been conducted due to a suspected illegal home breeding operation. In this instance, the homeowner was co-operative with ML&S officers, allowing entry into the residence and inspection of the property. ML&S determined that no illegal breeding operations were occurring. There have been no concerns regarding illegal home breeding operations raised by the OSPCA.

By-Law Amendments

The following by-law amendments are recommended to clarify the amendments made in By-Law 1163-2011 and to further prevent and restrict pet shops from selling cats and dogs obtained from home breeding operations:

i) Defining “Rescue Group”

By-Law 1163-2011 added, among others, section 545-262 to Chapter 545, Licensing:

§ 545-262. Retailers to obtain animals from specified sources.

Every retailer, including any person or business that sells more than 10 dogs per year,

must obtain animals from one of the following sources only:

- i. municipal animal shelters;
- ii. registered humane societies;
- iii. registered shelters or rescue groups; or
- iv. from people who have surrendered their pets to them at no charge.

The term "rescue group" in subsection 262iii above is not defined. As a rule, By-laws seek to be as clear as possible. The addition of definition of "rescue group" will help to add additional clarity to the bylaw (that is, without a clear definition, pet shops may be able to use the vagueness in the by-law to expand the types of groups from which they obtain cats and dogs).

ii) Removal of requirement to provide health information for *all* cats and dogs.

It is recommended that 545-255C be deleted. This section requires pet shops to provide individuals who obtain/purchase a cat or dog from a pet shop "a health assessment report from a veterinarian for ALL cats and dogs kept in the store that receive veterinary care".

This current wording implies that for every cat or dog purchased, the purchaser must receive veterinary care information for every cat and dog in the store, in addition to the health information of the purchased cat or dog.

545-255A already requires that pet shops provide individuals purchasing a cat or dog "an up-to-date certificate of health from a veterinarian with respect to such a dog or cat".

iii) 545-262. Retailers to obtain animals from specified sources

It is recommended that this section be amended in three ways: removal of the words “including any person or business that sells more than 10 dogs per year”; deletion of paragraph iv. “people who have surrendered their pets to them at no charge”; and finally, to use the term “Pet Shops” rather than “retailers” in the section. Together, the amendments will clarify the provision, enhance enforcement abilities and further restrict the sources from which pet shops may obtain cats and dogs. The provision will read:

§ 545-262. Pet Shops to obtain animals from specified sources.

Every pet shop must obtain animals from only the follow sources:

- A. municipal animal shelters;
- B. registered humane societies;
- C. registered shelters; or
- D. rescue groups.

The wording of existing provisions led to confusion and ambiguity, creating challenges for enforcement. For instance, “retailers” was an undefined term and inconsistent with the Article, which uses the term “Pet Shops”. The amended removal of the wording, "including any person or business that sells more than 10 dogs per year" is recommended because it has led to confusion about whether the term was meant to exempt certain types of retailers from the restrictions contained within the section.

Additionally, staff recommend the deletion of "people who have surrendered their pets to them at no charge" as specified source (contained in iv of the current section). In our view, this provision may unintentionally allow operators of puppy/kitten mills and home breeding operations to provide cats and dogs to pet shops.

iv) Demerit Point System – Amendments to Appendix K Business Licensing Thresholds; Schedule B

To facilitate and ensure consistency in enforcement, Chapter 545 prescribes a system of demerit points for contraventions of the Chapter. The amendments to Chapter 545 added by By-Law No. 1163-2011 are not currently assigned any demerit points. It is recommended that Appendix K, Schedule B be amended to add the following demerit points:

Type	Short Form Wording	Section	Points
Pet Shop	Pet Shop – Fail to Keep Register	545-256A	1
Pet Shop	Pet Shop – Fail to Provide Receipt or Health Certificate	545-255A	1
Pet Shop	Pet Shop – Fail to Post Notice Advising Customers to the Required Content of the Receipt	545-255B	1
Pet Shop	Pet Shop – Fail to Obtain Animals from Specified Sources	545-262	2

In an attempt to restrict illegal puppy/kitten mills and home breeding operations from flourishing in the City, Municipal Licensing and Standards has developed an enforcement approach through interdivisional and external partnerships that include the public and the OSPCA.

ML&S investigates and enforces animal-based complaints as it pertains to its three main operational units, Animal Services, Business Licensing Unit and Investigation Services, and liaises where appropriate with the OSPCA and other city divisions.

ML&S is also currently undertaking a review of Chapter 349 Animals to enhance animal care and well-being and to consider provisions regarding illegal home breeding operations.

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SIGNATURE

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ATTACHMENTS

Appendix A: Recommended Amendments to Toronto Municipal Code Chapter 545
Licensing, Article XX Pet Shops