

Amendment to Licence and Community Standards Appeal Board Jurisdiction

RECOMMENDATION:

That the Community Development Committee recommend that Council give three readings to proposed Bylaw (Attachment 1), to grant the Licence and Community Standards Appeal Board authority to hear and decide appeals of enforcement decisions made under the *Agricultural Pests Act*, and authority to make decisions on appeals about professional dog walker permits made under the Responsible Pet Ownership Bylaw 47M2021.

RECOMMENDATION OF THE COMMUNITY DEVELOPMENT COMMITTEE, 2022 MARCH 17:

That Council give three readings to **Proposed Bylaw 17M2022 (Attachment 1)**, to grant the Licence and Community Standards Appeal Board authority to hear and decide appeals of enforcement decisions made under the *Agricultural Pests Act*, and authority to make decisions on appeals about professional dog walker permits made under the Responsible Pet Ownership Bylaw 47M2021.

HIGHLIGHTS:

- Changes to City bylaws are required to provide for the effective adjudication of appeals about agricultural pest enforcement matters and appeals of decisions made about professional dog walker permits.
- **What does this mean to Calgarians?** The Licence and Community Standards Appeal Board (LCSAB) would hear appeals of agricultural pest enforcement decisions and professional dog walker permit decisions, allowing businesses and the public to access timely and independent consideration of appeals.
- **Why does this matter?** Establishing clear authority for agricultural pest enforcement appeals will support timely responses to agricultural pest concerns and mitigate possible environmental and economic impacts. Establishing an appeal authority for professional dog walker permit decisions will allow businesses and the public to seek recourse should they disagree with decisions made by City Administration.
- The proposed amending bylaw would repeal the existing Agricultural Pests Bylaw, Bylaw 5M94 as amended, and delegate Council's authority to consider appeals under the *Agricultural Pest Act* ("the Act") to the LCSAB, which is an independent tribunal with members who have subject-matter expertise and represent community interests.
- Having the LCSAB consider appeals of City Administration decisions on professional dog walker permits would allow a permit holder or applicant to seek recourse for their concerns when they disagree with those decisions.
- At its 2021 December 20 Combined Meeting, Council considered report CD2021-1664 and amended the Responsible Pet Ownership Bylaw to allow qualified professional dog walkers with an appropriate permit to walk more than six dogs off-leash at a time.
- Strategic Alignment to Council's Citizen Priorities: a City of Safe and Inspiring Neighbourhoods, a Well-Run City.
- Background and Previous Council Direction is included as Attachment 2

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DISCUSSION:

Agricultural Pest Act Appeals

The Act requires that a local authority annually appoint a committee to hear and determine appeals of enforcement actions taken under the Act. The City's Agricultural Pests Bylaw, Bylaw 5M94 as amended, requires that Council appoint a committee to hear and determine these appeals; that the appeals committee shall be composed of five members of Council; and, that the appeals committee adopt rules of procedure for hearing appeals used by the "License Appeal Board." Both the Act and the Bylaw require that such an appeals committee hear and determine appeals within five days of receipt of a notice of appeal. In working with Calgary Community Standards (CCS) to conceptualize an appeal process for decisions made under the Responsible Pet Ownership bylaw, the City Clerk's Office became aware that there is a lack of an existing committee to hear appeals under the Act. Further, on reviewing the Agricultural Pest Bylaw with representatives from CCS and the Law Department, the regime established in the Bylaw was found to be out of date with The City's current operating context and needs.

Council has established the LCSAB as an independent and impartial tribunal to hear appeals from citizens and businesses of a variety of decisions made by City Administration, including about permits, licences and enforcement orders. The LCSAB has established governance, operating and hearing processes to support the hearing and adjudication of a broad variety of appeals. Tribunal members are appointed for their skills and experience in administrative justice, community representation, or other specific subject matter (e.g. animal health, animal behaviour and behaviour modification). While the LCSAB Bylaw, Bylaw 50M2011, establishes the LCSAB as a committee of Council (section 15), it also prohibits the appointment of members of Council to the Board [section 16(3)].

Section 203(1) of the *Municipal Government Act* allows that "a council may by bylaw delegate any of its powers, duties or functions under this or any other enactment or a bylaw to a council committee or any person unless an enactment or bylaw provides otherwise." Section 203(2)(e) states that "a council may not delegate (e) a duty to decide appeals imposed on it by this or another enactment or bylaw, whether generally or on a case-by-case basis, unless the delegation is to a council committee and authorized by bylaw."

Council delegating authority to the LCSAB for it to hear appeals of enforcement decisions made under the Act would close a legal process gap and ensure that appeals from the public are managed properly and in compliance with governing legislation. Minimizing delays in resolving appeals would support timely access to justice and mitigate the possible environmental and economic harm that could arise in the absence of a timely and accessible process to consider appeals of enforcement under the Act.

To achieve the transition of this appeal authority to the LCSAB, the Agricultural Pests Bylaw needs to be repealed and the LCSAB Bylaw amended to allow these appeals to be heard by the LCSAB.

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Professional Dog Walker Permit Appeals

Recent amendments to the Responsible Pet Ownership Bylaw that were directed by Council allow City Administration to grant permits to professional dog walkers to walk more than six dogs off-leash at one time. This program allows professional dog walkers with adequate skills and knowledge to continue to walk large numbers of dogs in off-leash parks throughout the city.

The proposed permit system allows City Administration to limit the number of dogs that a permitted dog walker can walk off leash should safety concerns arise, and a solution cannot be found through education. CCS anticipates that there may be instances where permit owners are not following the terms of their permits, which could lead to the alteration, denial or revocation of permits.

Amendments made to the LCSAB Bylaw by Council at its 2021 May 31 meeting allow businesses and individuals to appeal a variety of decisions made under the Responsible Pet Ownership Bylaw. To continue the alignment of appeal processes for other decisions made under the Responsible Pet Ownership Bylaw with the opportunity for professional dog walker permit decisions to be appealed, the LCSAB Bylaw must be amended accordingly.

The proposed bylaw amendment would allow professional dog walkers the ability to appeal Administration decisions to refuse to issue a permit, to revoke a permit, or to impose a condition on a permit, by appealing those decisions to an independent and impartial tribunal comprised of subject-matter experts and citizen representatives.

STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL):

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

The LCSAB Board Chair, Vice-Chair and Legal Counsel were consulted about additions to the mandate of the LCSAB and they have no concerns with the proposed changes. The volume of anticipated appeals is expected to be manageable within the resources currently available to the LCSAB. Further, the City Clerk's Office worked with CCS and the Law Department to ensure that the repeal of the Agricultural Pests Bylaw would not cause unintended consequences for enforcement under the *Agricultural Pests Act*.

IMPLICATIONS

Social

Not applicable

Environmental

**City Manager's Office Report to
Community Development Committee
2022 March 17**

**ISC: UNRESTRICTED
CD2022-0285
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A delegation by Council of its authority to hear and decide agricultural pest appeals to the LCSAB will allow for timely resolution of appeals and help ensure both access to justice and/or timely remediation of pests that are determined under the Act to be a threat to land, livestock or property.

Economic

Not applicable

Service and Financial Implications

No anticipated financial impact

RISK

There is currently no committee established under the terms of the Act or the Agricultural Pests Bylaw to consider appeals of enforcement action. If Council does not pass the proposed Bylaw, Council will be obligated to establish a committee comprised of five of its members to hear and decide agricultural pest appeals within five days of receipt. Further, there is currently no mechanism at The City for businesses or individuals who wish to appeal decisions of City Administration respecting professional dog walker permits.

ATTACHMENTS

1. **Proposed Bylaw 17M2022**
2. Background and Previous Council Direction

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
David Duckworth	City Manager's Office	Approve
Katarzyna Martin	City Clerk's Office	Approve
Jill Floen	City Manager's Office	Consult
Katie Black	Community Services	Inform
Iain Bushell	Calgary Community Standards	Inform