

NO: **R148**

COUNCIL DATE: **July 22, 2013**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **July 15, 2013**

FROM: **City Solicitor**

FILE: **3900-01/#11**

SUBJECT: **Proposed Surrey Trapping By-law**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Receive this report as information;
2. Endorse-in-principle the "Surrey Trapping By-law" (the "By-law") as documented in Appendix "A" of this report;
3. Endorse-in-principle the amendments to the Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, as amended (the "MTI By-law"), as documented in Appendix "B" of this report, which if adopted will allow for enforcement of the By-law by means of MTI ticketing;
4. Direct staff to forward to the Minister of Environment a copy of the proposed By-law for approval and a copy of this report as information; and
5. Subject to the Minister of Environment approving the proposed By-law, direct staff to bring forward for the required readings and consideration of adoption the proposed By-law and the related amendments to the MTI By-law.

INTENT

The purpose of this report is to bring forward for consideration a proposed Surrey Trapping By-law that, if adopted, will prohibit the use of leg-hold traps, conibear traps and snares (collectively referred to as "Body Gripping Traps") in Surrey and related amendments to the Surrey Municipal Ticket Information Utilization By-law (the "MTI By-law") to allow for the use of MTI tickets in enforcing the provisions of the Surrey Trapping By-law.

BACKGROUND

On October 3, 2011, a delegation from The Association for the Protection of Fur-Bearing Animals presented its request for Surrey to adopt a by-law banning the use of Body Gripping Traps. The delegation cited a variety of reasons including the cruelty of such

traps to animals and their impact on public safety. It also cited several cases of domestic animals being injured and/or killed by such traps.

On April 23, 2012, a delegation from the BC Trapper's Association presented to Council its position that most of the issues associated with trapping raised in the media and by animal activist organizations are the result of property owners attempting to deal with animal issues without using sanctioned traps or proper methods. They advised that trapping is already regulated by the Province and any municipal by-law would be a duplication of that legislation.

Currently, trapping is regulated under the Province's *Wildlife Act*, R.S.B.C. 1996, c. 488 and its regulations (the "*Wildlife Act*"). The *Wildlife Act* regulates the use of traps and the areas where traps may be set, and provides a system of licensing for trappers. A person who contravenes the provisions of the *Wildlife Act* may be prosecuted and, if convicted, may be liable to monetary fines and/or imprisonment. The *Wildlife Act* does not prohibit the use of all Body Gripping Traps. The proposed By-law intends to further limit the use of such traps in Surrey.

DISCUSSION

Although trapping is regulated under the *Wildlife Act*, Surrey may enact a by-law that addresses traps, provided that compliance with the proposed By-law does not result in a contravention of the *Wildlife Act* and provided it meets the requirements of the *Community Charter*, S.B.C. 2003, c. 26, (the "*Community Charter*").

In view of the concerns raised by the public about Body Gripping Traps, staff has drafted a proposed By-law to prohibit the use of all body-gripping traps in Surrey. The proposed by-law is attached to this report as Appendix "A".

Pursuant to Section 8(3)(k) of the *Community Charter*, Council may, by by-law, regulate, prohibit, and impose requirements in relation to animals; however, the *Community Charter* provides that a by-law that relates to wildlife must not be adopted unless it is either approved by the Minister of Environment, in accordance with a regulation, or in accordance with an agreement with the Minister of Environment. There is currently no regulation or agreement which permits the proposed By-law.

The Government of British Columbia is exempted from the application of the proposed By-law so that its work to capture animals under its mandate is not impeded; however, the By-law Enforcement & Licensing Section intends to work with the Province's Conservation Officer Service such that the City is informed when and where Body Gripping Traps are being used by the Conservation Officer Service; to have the Service post signs at locations where traps are being used to warn the public of the traps; and to have Body Gripping Traps identified as belonging to the Conservation Officer Service.

In relation to the City's own operations from time to time animals need to be captured that are causing nuisance in relation to City infrastructure. In those circumstances staff hires licensed trappers to trap such animals in a humane manner with cage-type traps that are designed to not injure animals or people. Once such animals are captured typically they are relocated so as to eliminate the nuisance. The By-law exempts the City from its

provisions but this is being done out of an abundance of caution and not with any intention of using body-gripping traps.

After adoption of the proposed By-law, staff of the By-law Enforcement & Licensing Section will work with and communicate to the public the requirements of the By-law and the dangers of using Body Gripping Traps.

Amendments are proposed to the Surrey MTI By-law, as documented in Appendix "B" attached to this report that will allow for enforcement of the provisions of the proposed By-law using MTI tickets. The provisions of the By-law can also be enforced by means of long form charges through the Courts.

CONCLUSION

Based on the above discussion, the Legal Services Division recommends that Council:

- Endorse-in-principle the "Surrey Trapping By-law" (the "By-law") as documented in Appendix "A" of this report and as generally described in this report;
- Endorse-in-principle the amendments to the Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, as amended (the "MTI By-law"), as documented in Appendix "B" of this report, which if adopted will allow for enforcement of the By-law by means of MTI ticketing;
- Direct staff to forward to the Minister of Environment a copy of the proposed By-law for approval and a copy of this report as information; and
- Subject to the Minister of Environment approving the proposed By-law, direct staff to bring forward for the required readings and consideration of adoption the proposed By-law and the related amendments to the MTI By-law.

CRAIG MacFARLANE
City Solicitor

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Appendix "A" – Proposed Surrey Trapping By-law

Appendix "B" – Proposed Amendments to the Surrey Municipal Ticket Information By-law

APPENDIX "A"

CITY OF SURREY

BY-LAW NO. _____

A by-law to regulate, prohibit and impose requirements respecting the use of body gripping traps or devices.

.....

- a) WHEREAS the Council of the City of Surrey wishes to enact a by-law to regulate, prohibit and impose requirements respecting body gripping traps or devices for animals and wildlife;
- b) AND WHERAS body gripping traps may pose a risk to the safety of animals not intended to be caught by such traps and devices and to humans;

Under its statutory powers, including Section 8(3)(k) of the *Community Charter*, S.B.C. 2003, c. 26, as amended, the Council of the City of Surrey enacts as follows:

- 1. This By-law may be cited for all purposes as "Surrey Trapping By-law, 2013, No. _____."
- 2. In this By-law:

"Animal" includes any wildlife or animal;

"Body Gripping Trap" means a trap or device that is designed or used to capture an animal by its body or body parts, including but not limited to, leg-hold traps, conibear traps, and snares, except cage traps, box traps, nets, suitcase type traps and mouse and rat traps;

"City" means the City of Surrey;

"Government of British Columbia" has the same meaning as in the *Interpretation Act*, R.S.B.C. 1996, c. 238, as amended;

"Person" includes an individual, association, corporation, firm, body politic, co-partnership, or similar organization and their heirs, executors, successors and assigns or other legal representatives, whether acting alone or by a servant, agent or employee;

"Wildlife" has the same meaning as in the Definition of "Wildlife" Regulation, B.C. Reg. 427/2003, as amended; and

"*Wildlife Act*" means the *Wildlife Act*, R.S.B.C. 1996, c. 488, as amended.

- 3. No Person shall use or suffer or permit to be used a body gripping trap within the City.
- 4. Section 3 of this By-law shall not apply to the use of body gripping traps by the City and the Government of British Columbia or their employees, agents, or officers.
- 5. Every person who violates any of the provisions of this By-law or who suffers or permits any act or thing to be done in contravention of this By-law or who neglects to do or refrains from doing any act or thing which violates any of the provision of this By-law shall

be liable to the penalties hereby imposed and each day that such violation is permitted to exist shall constitute a separate offence.

- 6. Any person who violates any of the provisions of this By-law shall, upon summary conviction, be liable to a penalty of not less than \$250 and not more than \$10,000 plus the cost of the prosecution, or to a term of imprisonment not exceeding six (6) months, or both.
- 7. This By-law comes into force and takes effect on _____ day of _____ 2013.

PASSED FIRST READING on the _____ day of _____, 2013.

PASSED SECOND READING on the _____ day of _____, 2013.

PASSED THIRD READING on the _____ day of _____, 2013.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2013.

_____MAYOR

_____CLERK

APPENDIX "B"

CITY OF SURREY

BY-LAW NO. _____

A by-law to amend the provisions of "Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508," as amended.

.....

The Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

- 1. "Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508," as amended is hereby further amended as follows:
 - a) By deleting the words "Schedules 2 through 31" and replacing them with the words "Schedules 2 through 32" in Sections 3 and 4.
 - b) By inserting a new Section 31 in Schedule 1 as follows:
 - 31. Surrey Trapping By-law, 2013, - Manager, By-law & Licensing Services
 No. _____ - Senior By-law Enforcement Officer
 - By-law Enforcement Officer
 - Pound Keeper
 - Assistant Pound Keeper
 - Member of the Royal Canadian Mounted Police
 - c) By inserting a new Schedule 32 attached hereto.
- 2. This By-law shall be cited for all purposes as "Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, Amendment By-law, 2013, No. _____."

PASSED FIRST READING on the ____ day of _____, 2013.

PASSED SECOND READING on the ____ day of _____, 2013.

PASSED THIRD READING on the ____ day of _____, 2013.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the ____ day of _____, 2013.

_____MAYOR

_____CLERK

SCHEDULE 32 TO BY-LAW NO. 12508

<u>SURREY TRAPPING BY-LAW, 2013, No.</u>	<u>SECTION</u>	<u>FINE</u>
1. Use of Body Gripping Trap	3	\$500.00