



OFFICE OF THE MAYOR

March 14, 2008

The Honourable Chris Bentley
Ministry of The Attorney General
McMurtry-Scott Building
720 Bay Street
11th Floor
Toronto, Ontario
M5G 2K1

Dear Mr. Minister:

Re: The Sale of Birds and Animals in a Flea Market and Farmers Market

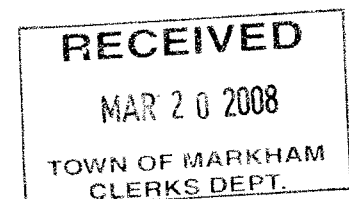
The Council of the Corporation of the City of Mississauga at its meeting of February 27, 2008 considered a report dated February 15, 2008 regarding the above matter and adopted the attached Resolution # 0038-2008 which is self-explanatory. By-law 0066-2008 was also enacted in this regard.

Grave concern has been expressed with respect to the recent public health scare in the City of Toronto in January 2008 in which a dog sold at a flea market was found to be rabid. This incident raises the issue of the need for the prohibition of the sale of birds and animals in flea markets and farmers markets. In addition, the recent issue of a pit bull which is a prohibited animal under the *Dog Owners' Liability Act*, was also sold/purchased at a flea market. This example of a known sale of a prohibited animal further reinforces the need for the prohibition of the sale of animals at flea markets and farmers markets.

By a copy of this letter and resolution to the Association of Municipalities of Ontario and all 905 area municipalities, the Council of the Corporation of the City of Mississauga requests their support of this resolution.

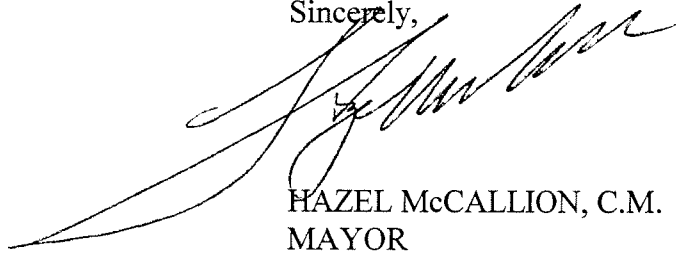


THE CORPORATION OF THE CITY OF MISSISSAUGA
300 CITY CENTRE DRIVE, MISSISSAUGA, ON L5B 3C1
TEL: 905-896-5555 FAX: 905-896-5879
mayor@mississauga.ca



Your consideration and response to the concerns raised in the enclosed Corporate Report dated February 15, 2008 would be most appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hazel McCallion', is written over the printed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

HAZEL McCALLION, C.M.
MAYOR

cc: Members of Council
Martin Powell, Commissioner, Transportation and Works
Elaine Buckstein, Director, Enforcement
Mary Ellen Bench, City Solicitor
Association of Municipalities of Ontario
All 905 municipalities

Enc.

RESOLUTION 0038-2008
adopted by the Council of
The Corporation of the City of Mississauga
February 27, 2008

Moved by: C. Parrish

Seconded by: C. Corbasson

1. That the sale of birds and animals in a Flea Market be prohibited under Business Licensing By-law 1-06 by amending the By-law to add a definition for the term "Flea Market" and "Farmers Market", and to add a prohibition to Schedule 20 - Owners of Pet Shops, as set out in this Report (dated February 15, 2008 from the Commissioner of Transportation and Works).
2. That the necessary by-law be enacted in a form satisfactory to Legal Services.
3. That the appropriate set fine be prepared by Legal Services for approval by the Ministry of the Attorney General.
4. That the report be circulated to AMO, FCM, all 905 municipalities.



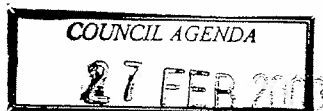
Corporate Report

Clerk's Files

BL. 08. BUS

Originator's
Files

R-3



DATE: February 15, 2008

TO: Mayor and Members of Council
Meeting Date: February 27, 2008

FROM: Martin Powell, P.Eng.
Commissioner of Transportation and Works

SUBJECT: **Amendment to Business Licensing By-law 1-06**

- RECOMMENDATION:**
1. That the sale of birds and animals in a Flea Market be prohibited under Business Licensing By-law 1-06 by amending the By-law to add a definition for the term "Flea Market", and to add a prohibition to Schedule 20 - Owners of Pet Shops, as set out in this Report.
 2. That the necessary by-law be enacted in a form satisfactory to Legal Services.
 3. That the appropriate set fine be prepared by Legal Services for approval by the Ministry of the Attorney General.

BACKGROUND: City Council at its meeting of January 30, 2008, discussed the issue of prohibiting the sale of animals in Flea Markets in the City of Mississauga. Councillors Parrish and Corbasson indicated they were concerned about the issue and a request was made of staff to review the matter and report back at the next Council meeting. The Council discussion and the recommendations in this Report came about as a result of a public health scare in the City of Toronto in January, 2008, in which a dog sold at an Etobicoke flea market was found to be infected with rabies. The dog became sick following its sale and was

R.30

taken to the Humane Society where it bit a Humane Society worker who required treatment. The dog subsequently died and the family to whom the dog was sold required immunization. A number of dogs from the infected dog's litter were sold at the flea market on the same day, some to residents of Mississauga. Given the number of persons that were potentially exposed to the virus, Toronto Public Health and the Regional Peel Health Unit were required to conduct a broad investigation to try to identify and prevent the spread of any further infection. The City of Mississauga Animal Shelter provided the quarantine facility for the Region of Peel.

This incident raises the issue of the need for the prohibition of the sale of birds and animals in flea markets, where the potential for exposure to a large number of people is high, thereby creating a public health risk.

In addition to this incident, the sale of the pit bull known as "Rambo", a prohibited animal under the *Dog Owners' Liability Act*, is known to have been sold at a flea market somewhere in the Greater Toronto Area (GTA). This example of a known sale of a prohibited animal further reinforces the need for the prohibition of the sale of animals at flea markets.

COMMENTS:

Currently the City of Mississauga's Business Licensing By-law 1-06 does not regulate the activities of flea markets. The By-law does require that any person who owns or operates a "Pet Shop" be licensed. A "Pet Shop" is defined in the By-law as "a building, structure or part thereof where animals or birds for use as pets are sold or kept for sale". Schedule 20 to the By-law sets out the requirements for persons licensed to sell pets. It is proposed that Schedule 20 be amended to include a specific prohibition against the sale of animals in flea markets.

The *Municipal Act, 2001* provides a number of grounds upon which Council may rely to prohibit the sale of animals at flea markets. Section 11 of the Act provides lower-tier municipalities with the broad authority to pass by-laws respecting the "health and safety and well-being of persons" (11.2.6) and "the protection of persons and property, including consumer protection" (11.2.8).

Section 113 of the Act provides that:

113. Markets- Without limiting sections 9, 10 and 11 a local municipality may,

- a) establish, maintain and operate a farmers market, a flea market and other similar types of markets; and*
- b) regulate a farmers market, a flea market and other similar types of markets or any person including regulating the hours of operation of a market.*

Section 151(1) of the Act provides municipalities with the power to provide for a system of business licenses. Included among these powers are the ability to:

- (a) prohibit the carrying on or engaging in the business without a license;*
- (b) refuse to grant a license or to revoke or suspend a license;*
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a license;*
- (d) license, regulate or govern real and personal property used for the business and the person carrying it on or engaging in it.*

It is therefore appropriate that Council amend Business Licensing By-law 1-06 to add a definition for the term "Flea Market" to Section 1 of the By-law as follows:

"Flea Market" means that area, whether enclosed by a building or not, in which individual stalls are rented to vendors other than those who own the premises, for the purpose of individually exposing new or used goods for sale.

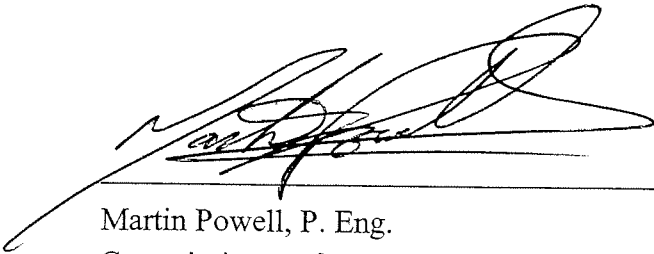
Council should also amend Business Licensing By-law 1-06 to add the following prohibition to Schedule 20 - Owners of Pet Shops:

"6. No license shall be issued for the sale or keeping for sale of animals or birds in a Flea Market, and the sale or keeping for sale of animals or birds by any vendor in a Flea Market, is prohibited."

FINANCIAL IMPACT: The financial impact of the proposed amendment will be negligible but may include some increased workload for the municipal law enforcement officers who would attend at the City's Flea Markets to ensure compliance with the by-law is achieved.

CONCLUSION:

Following recent incidents in Mississauga and the GTA which have raised issues of public health and safety, Council has indicated a desire to prohibit the sale of animals in flea markets. Given Council's broad powers under the *Municipal Act, 2001*, such action is appropriate by way of amendment to the City's Business Licensing By-law 1-06.



Martin Powell, P. Eng.
Commissioner of Transportation and Works

Prepared By: Jamie Hinton, Manager, Compliance and Licensing

EB:JH:jmk

