

The Animal Welfare Advisory Committee to the City of London

Recommendation to Council March 2022:

1. Council affirm that the exemption in the Animal Control By-law for animals licensed by the province is limited to the animals held under their provincial license, (i.e. those listed as specially protected or game animals under the Ontario Fish and Wildlife Conservation Act), and that all other animals will be subject to the municipal animal control by-law.
2. Council direct staff to send a clarification to the owner of Reptilia Zoo regarding the exemption limitation and a copy of the by-law highlighting that many animals within the Reptilia Zoo collection may be prohibited or restricted in the City of London pursuant to the by-law.

Reasons for Recommendation

On February 16, 2022, the president of Reptilia Zoo, Brian Child, is quoted in a CBC News article by Colin Butler as saying that “It almost looks like the left hand and the right hand don’t know what’s going on” in the city of London.

The Animal Welfare Advisory Committee believes that clarification would be beneficial to Reptilia Zoo, the City, and to the welfare of any reptiles or other animals that may be transported in anticipation of a reptile zoo opening at Westmount Mall.

Analysis

1. What by-law applies to reptiles?

Animals are regulated by the City of London’s Animal Control By-law (PH-3), which

- (a) restricts the keeping of Class 5 animals (non-venomous snakes, lizards and spiders) and
- (b) prohibits the keeping of Class 7 animals (any animal of a type that is normally found in a wild and natural state, whether or not it has been bred and/or raised in captivity and includes but is not limited to bear, wolf, coyote, *crocodile*, *alligator*, bobcat, lynx, mountain lion, cougar, tiger, lion, monkey, fox, skunk, kangaroo, eagle, hawk, elephant, weasel, racoon, *venomous lizard*, *venomous snake*, *venomous spider*, all birds the keeping of which is prohibited in the Migratory Birds Convention Act, S.C. 1985, C.M-7, and regulations thereto and all animals the keeping of which is prohibited in the Fish and Wildlife Conservation Act, 1997 and regulations thereto.) [emphasis added]

2. Are zoos exempt from the Animal Control By-law?

The Animal Control By-law section 3.6 states that the by-law “shall not apply to animals maintained in a public park, zoo, fair, exhibition or circus *operated or licensed by a municipal or other governmental authority.*” [emphasis added]

There is no Province of Ontario “zoo license”, i.e., a license to own or operate a zoo. Nor is there a municipal license to keep animals in a zoo in London. At the December 2018 city council meeting,

council rejected Reptilia Zoo's proposal to open a facility in London. Council declined to amend the Business Licensing By-law to regulate private and mobile zoos. Accordingly, a zoo cannot be exempted from the by-law on the basis that it is *licensed by* a municipal or other governmental authority. A zoo can only be exempted on the basis that it is *operated by* a municipal or other governmental authority. The same applies to animals "maintained in a public park". This section of the by-law accommodated the former zoo that the City operated at Storeybook Gardens years ago.

3. Is there a Provincial law or license that trumps the municipal by-law?

The only license available is one issued by the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR) under the Fish and Wildlife Conservation Act (FWCA) section 40(1), which states that "A person shall not keep live game wildlife or live specially protected wildlife in captivity except under the authority of a license and in accordance with the regulations."

For purposes of the FWCA, Ontario Regulation 668/98 Wildlife in Captivity (WIC) provides that "A person who owns or operates a zoo may, in accordance with a licence issued under the Act, (a) keep or propagate game wildlife and specially protected wildlife; and

(b) buy or sell game wildlife and specially protected wildlife" (WIC 3).

The license applies to "game wildlife and specially protected wildlife". All other animals are not covered under the license. These animals continue to be regulated and/or prohibited by municipal by-laws.

4. What's the difference between a zoo and a "place of entertainment"?

The Provincial regulations define a "zoo" to mean "a place where game wildlife or specially protected wildlife is kept in captivity for display to the public and for conservation, educational or scientific purposes". (WIC 1(1))

Neither the FWCA nor the Regulations define or make any provisions for licensing a "place of entertainment". London's Animal Control By-law also does not exempt a "place of entertainment".

5. Will this decision set a precedent?

Failure to uphold Council's 2011 and 2018 Council decisions as they relate to Private Zoos such as Reptilia Zoo and London's current Bylaw, Zoning, and Business License Prohibitions sets a precedent for other like private zoos and mobile zoo programs to operate in the City of London. Private zoos and mobile live animal programs and other activities that take place off-site, which are key components of Reptilia Zoo's operations brings exotic and potentially dangerous animals to London and offsite, posing significant health and safety risks such as the potential for an animal to escape, increased incidence of handling the animals and exposure to infectious disease, and a lack of municipal and provincial oversight, and other safety features that are contained in the facility itself.

6. What other consequences are there?

The potential increase in exotic animal businesses seeking exceptions and expansion in the number of these animals kept in the city could undermine:

- deliberate past improvements to animal welfare.
- municipal oversight
- the environment in terms of exotic animals entering the City and threatening native wildlife species, and undermines the City's reputation as a national leader in this space.
- concerns regarding the ability to properly care for such animals.
- the intention of the current bylaw and zoning prohibitions pertaining to private zoos and mobile zoos, as it relates to animal welfare as well as the City's leadership in this space.
- efforts to reduce the commercialization of wildlife, expansion of reptile pet keeping and trade, and escalate an undue burden to city staff and to public health and safety.

7. What does zoo association membership/accreditation mean?

Association membership or accreditation does not guarantee optimal animal welfare and public safety standards. For instance, CAZA (Canadian Association of Zoos and Aquariums) is a private charitable organization representing the zoo industry in Canada. They conduct pre-announced inspections of their member zoos not more than once every 5 years. Some CAZA accredited zoos have been issued orders and even charged under animal cruelty legislation.

In a Report by the City of Toronto (written in consultation with Economic Development and Culture, Toronto Public Health, and Corporate Real Estate Management) in 2021 with regards to Reptilia Zoo's request for an exemption to the Bylaw to allow its operations, the report noted:

“As part of this review, staff requested information from the Ontario Ministry of the Solicitor General's Provincial Animal Welfare Services (PAWS) regarding any animal welfare concerns associated with Reptilia's operations in other jurisdictions. Based on the information received, staff have significant concerns regarding the outcomes of past investigation and inspections by PAWS.”

Conclusion:

- Reptilia Zoo is anticipating opening a reptile zoo in London's Westmount Mall in the next few months.
- The City's Animal Control By-law prohibits the keeping of many of the animals in Reptilia Zoo's collection.
- There is no Provincial or municipal “zoo license”. Zoos are exempted from London's Animal Control By-law only if they are operated by a municipal or other governmental authority.

- The license issued by the NDMNRF permits the owner of a zoo to keep, propagate, buy, or sell “game wildlife and specially protected wildlife”. The license does not extend to allow the license holder to keep any other animal they choose, for example, a tiger or an alligator, despite local laws. These animals continue to be regulated and/or prohibited by the municipal by-law. The majority of species in Reptilia Zoo’s collection are prohibited or restricted in London.
- Clarification on the limitation of the animal control By-law exemption is essential to avoid unnecessary waste of time and other city resources, as well as implications and concerns outlined in the Analysis section of this recommendation report.