



## Staff Report

**Report Title: Animal Control By-law Requests for Hearing**

**Prepared By: Jennifer White, Manager of Legislative Services/Clerk**

**Department: Legislative Services**

**Date: Mar. 4, 2024**

**Report Number: CLK-2024-03-14**

**File Number: C11 CLK 24**

**Attachments: Dangerous Dog Order Requirements**

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### **Recommendation:**

THAT the Township of Huron-Kinloss Committee of the Whole hereby receive for information Report CLK-2024-03-14 as prepared by Jennifer White, Manager of Legislative Services/Clerk;

AND FURTHER THAT the guidelines outlined in the report be used to facilitate the required Hearing and provided to the appellants in advance of the meeting.

### **Background:**

The Township's By-law Enforcement Officer has issued two "Dangerous Dog" orders in relation to the Township's Animal Control By-law No. 2017-116.

<https://www.huronkinloss.com/media/n3bnka0a/2017-116-animal-control-by-law.pdf>

Both dog owners have requested an appeal to Council as per Section 10.5 of the Animal Control By-law. This report provides information to Council on the Hearing process and requirements for Council to consider and issue a decision on the appeal of the order.

### **Discussion:**

The Township's Animal Control By-law (Section 10.1) requires that the owner of a dog exercise:

"all reasonable precautions to prevent the Dog from: (a) biting or attacking a Person or domestic animal; or (b) behaving in a manner that threatens or poses a menace to the safety of Persons or domestic animals."

A "Dangerous Dog" as defined for the purposes of the By-law is "a Dog that has bitten or injured a Person or domestic animal or a Dog that has shown the disposition or tendency to be threatening or aggressive towards Persons or animals."

A dog who has been identified as a "Dangerous Dog" may be issued a muzzle or leash order. The requirements of such order are included on the attached document.

Section 105 of the Municipal Act, 2001 provides for an appeal process to owner's who have been issued a muzzle order :

"If a municipality requires the muzzling of a dog under any circumstances, the council of the municipality shall, upon the request of the owner of the dog, hold a hearing to determine whether or not to exempt the owner in whole or in part from the requirement."

The Township's animal control by-law (Section 10.5) extends that appeal right to dog owner's who have been issued a leashing order as well.

This report is intended to provide Council with an awareness of the Hearing requirements, process, and timing.

### Hearing Requirements & Timing

The Township's Procedural By-law permits Hearings to be conducted as required during a meeting of Council. For the Hearing portion of the Council meeting, Council would have quasi-judicial tribunal powers, and as such have certain obligations to ensure due process and maintain the rights of the appellant to a fair, open and transparent hearing.

Township staff have scheduled the appeal for the March 11, 2024, meeting of Council and provided the required notice to appellants.

### Process

Information on how the Hearing process is to be conducted is not included within the Animal Control By-law or within the Procedural By-law of the Township. The Hearing will therefore be conducted in accordance with the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22* (the Act) and in accordance with regularly established Township Practices for Hearings.

In the absence of specific written procedures for this type of Hearing and considering the requirements of the Act Township Staff are recommending the following guidelines be used at the Hearing to consider these two appeals, and that these guidelines be provided to the appellants prior to the Hearing.

- The Hearing shall be open to the public except in certain circumstances.
- The Mayor or in the absence of the Mayor, the Deputy Mayor shall be the Chair of the Hearing.
- The Clerk, or in the absence of the Clerk, the Deputy Clerk shall be the secretary of the Hearing, and shall compile a record of the proceedings as required by the Act.
- A party to the Hearing may be represented by a representative.
- A party may at the hearing
  - Call and examine witnesses and present evidence and submissions; and

- Conduct cross examinations of witnesses as reasonably required for a full and fair disclosure.
- Council shall conduct the hearing in a manner that they deem appropriate to ensure a fair and just Hearing is conducted.
- The appellant will be provided an opportunity to provide evidence as applicable, as will the Township's representative in this matter, the By-law Enforcement Officer.
- Council may ask questions, clarify evidence and otherwise ensure that Council has the information required to ensure a fair and just Hearing.
- No person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations at the Hearing.
- An adjournment may take place, by motion of Council, if required to permit an adequate hearing to be held.
- After due consideration by Council, the decision must be provided in writing to the appellant.

**Financial Impacts:**

The costs associated with conducting the Hearing are included in the operating budget.

**Strategic Alignment / Link:**

We are an accessible community that offers opportunities for everyone, by being open and transparent.

**Respectfully Submitted By:**

Jennifer White, Manager of Legislative Services/Clerk

**Report Approved By:**

Mary Rose Walden, Chief Administrative Officer