

South Huron Animal Control Tribunal Rules of Procedure

to Govern the Proceedings of the South Huron Animal Control Tribunal

Part 1

Definitions

"Applicant" shall mean the animal owner who submits a notice in writing requesting a hearing for review of an order to comply issued under section Animal Control By-Law 21-2018;

"Animal Control Tribunal" shall mean the Committee of Council called the South Huron Animal Control Tribunal;

"By-law Enforcement Officer/ Animal Control Officer" shall mean a person appointed as such by a by-law of the Municipality of South Huron to enforce this By-law.

"Confirmation of Hearing Request" shall mean an acknowledgement of receipt by the Clerk of the animal owner's notice in writing requesting a hearing.

"Tribunal Secretary" shall mean the Tribunal Secretary or any person under their authority.

"Hearing" shall mean that part of the proceeding before the Tribunal where evidence or submissions are heard:

"Oral hearing" shall mean a hearing or part of a hearing during which the parties or their representative(s) attend in person before the Tribunal.

"Interested person" shall mean a person attending the Tribunal and may include a person who does not have party status before the Tribunal.

"Party" shall mean the applicant and the municipality, as represented.

"Person" shall include a corporation, partnership, agent or trustee, or other legal representatives of a person to whom the context can apply according to law, and the entities included within the meaning of a person in the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended.

"Potentially vicious dog" shall mean any individual dog that, in the absence of any mitigating factor, chases or approaches any person or domestic animal in a menacing

fashion or apparent attitude of attack, including but not limited to behaviour such as growling or snarling.

"Proceeding" shall mean a matter brought before the Tribunal.

"Representative" shall mean legal counsel or agent who is authorized by law to represent a person in the proceeding.

"Respondent" shall mean the Municipality of South Huron, as represented.

"Rules" shall mean the Rules of Procedure as set out in this document, which may be amended from time to time.

"Tribunal" shall mean the Animal Control Tribunal of the Municipality of South Huron.

"Vicious dog" shall mean any individual dog that:

- a) Has, in the absence of any mitigating factor, attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so; or
- b) Has significantly injured or killed a domestic or farm animal; or
- c) Having been previously designated as a potentially vicious dog is kept or permitted to be kept in violation of the requirements for such dog.

Part 2

Application of Rules

General

1. These Rules apply to all Hearings before the South Huron Animal Control Tribunal (the "Tribunal"), subject to the Animal Control By-law, *Statutory Powers Procedure Act*, and any other applicable legislation.
2. The Tribunal may, at any time, as it deems necessary, dispense with compliance with any Rule, save and except those prescribed as mandatory by the *Statutory Powers Procedure Act* and any other legislation governing the Tribunal.
3. These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.
4. Where a party to an appeal has not complied in full with any Rule, the Tribunal may:

- a. adjourn the proceeding until satisfied that such Rule has been complied with; or
 - b. take any other step as it considers just and reasonable.
5. A party to a proceeding may be represented by an Agent.
6. Hearings shall be held at the Municipality of South Huron Town Hall at 322 Main Street South, Exeter unless otherwise specified in the Notice of Hearing.
7. The Tribunal Secretary shall administer oaths and affirmations for the purpose of any of a Hearing.

Part 3

Tribunal Hearings

Record of Tribunal Hearings

8. The Tribunal Secretary shall record the Hearings of the Tribunal.
9. Other than the Tribunal Secretary, no person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations by electronic means or otherwise at a Hearing before the Tribunal that is open to the public, without the Tribunal's consent.

Voting

10. All actions taken by the Tribunal shall be voted on and the decision made by majority vote.
11. Members, including the Chair, may vote on all motions and other questions submitted at a Hearing.
12. In the case of a tie vote, the motion or question shall be deemed to have been lost.

Quorum for Meetings

13. A majority of the Members must be present to achieve quorum for a Hearing.
 - a. If no quorum is present 15 minutes after the time appointed for the commencement of the Hearing, the Tribunal Secretary shall cancel the Hearing and shall reschedule the Hearing in accordance with these Rules.
 - b. Notwithstanding Subsection 13(a), when the number of Members who refrain from participating in debate of a matter, or voting by reason of having declared an interest according to the provisions of the *Municipal Conflict of Interest Act*, leaves a remaining number of Members that does

not make quorum, the remaining Members will be deemed to constitute quorum, provided that not less than two (2) Members to remain present to continue the Hearing.

Part 3

Notice Requesting an Appeal Notice

- 14.** An appeal is commenced by the filing of a Notice of Appeal in the form approved by the Municipal Clerk, in accordance with the provisions of the Animal Control By-law.
- 15.** The Notice of Appeal shall be provided to the Municipal Clerk before close of business on the last day for appeals by personal delivery.
- 16.** A complete Notice of Appeal shall include:
 - a.** a copy of the decision or order giving rise to the appeal;
 - b.** a statement setting out the grounds for the appeal;
 - c.** the name, telephone number, email address and address for service of the Appellant or Agent;
 - d.** the original signature of the Appellant or Agent;
- 17.** Where a Notice of Appeal is not complete, the Municipal Clerk shall refuse the Notice of Appeal and shall inform the Appellant of the documentation required in order to complete the Notice of Appeal.
- 18.** If a Notice of Appeal is received after the appeal deadline the Municipal Clerk shall refuse the Notice of Appeal and shall advise the Appellant in writing that:
 - a.** the appeal is denied based on the late filing; and
 - b.** the decision or order under appeal is final and binding.
- 19.** A person wishing to bring a motion to extend the time for filing an appeal shall make a written request (the "request"), supported by reasons, to the Tribunal Secretary.
- 20.** The Tribunal Secretary may then schedule a time for the hearing of the motion and shall forward a copy of the request to the members of the Tribunal and the Animal Control Officer or By-Law Enforcement Officer
- 21.** The person making the request has a right to attend the motion and further explain the particulars of the request to the Tribunal.

- 22.** The Tribunal also has the right to ask questions of the person bringing the motion.

Part 5

Notice of Hearing Scheduling of Hearing

- 23.** Within sixty (60) days of receipt of a complete Notice of Appeal by the Municipal Clerk:
- a.** the Tribunal Secretary shall contact the Members to advise them of the Appeal and to confirm quorum for the next Hearing date; and
 - b.** the Tribunal Secretary shall schedule a Hearing, and shall give reasonable notice to the required parties.
- 24.** The Notice of Hearing shall contain:
- a.** the time, place and purpose of the Hearing;
 - b.** a reference to the statutory authority under which the hearing will be held; and
 - c.** a statement that if the Appellant or Agent does not attend the Hearing, the Tribunal may proceed in the Appellant's absence and the Appellant will not be entitled to any further notice in the proceeding.
- 25.** The Secretary will send a Notice of Hearing to the Appellant by registered mail at least 21 days prior to the hearing.

Agenda

- 26.** The Tribunal Secretary shall compile an Agenda for each Hearing to include all appeals to be dealt with at that Hearing date.
- 27.** The Tribunal Secretary shall provide a copy of the agenda for each Hearing to the Members at least ninety-six (96) hours prior to the Hearing date.
- 28.** A copy of the Agenda may be posted on the Municipality of South Huron website.

Withdrawal of Appeal

- 29.** An appeal may be withdrawn prior to the Hearing date by filing a letter of withdrawal with the Municipal Clerk as soon as reasonable.

30. If the Municipal Clerk receives a withdrawal of appeal prior to the Hearing date, notice of cancellation of that particular Hearing shall be sent to all persons who received the Notice of Hearing.

Effect of Non-Attendance at a Hearing

31. Where Notice of a Hearing has been given to a party and the party does not attend the Hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

Part 6

Filing Documents

Filing Documents

32. If an Appellant intends to make use of any written or documentary evidence at the Hearing, the Appellant shall bring to the hearing a sufficient number of copies of documents for the Tribunal members, the Tribunal Secretary and the other parties. Documents are to be delivered to the Municipal Clerk no later than seven (7) clear days before the Hearing date.
33. The Tribunal Secretary shall distribute copies of the Appellant's documents to the required parties.
34. The Appellant shall include with the documents a statement of his or her address, telephone number, email address and the name of the proceeding to which the document relates.

Part 7

Disclosure

35. The Animal Control Secretary, who attends the hearing in support of the Order, **may** send a disclosure package to the Appellant, which may include the following:
 - a. A copy of the signed order;
 - b. A copy of the signed courtesy letter sent to the Appellant (if

- applicable);
 - c. A copy of the Animal Control Officer's notes;
 - d. A copy of the photographs taken by the Animal Control Officer;
 - e. A copy of any relevant or other documents;
 - f. A list of any additional material that may be used at the hearing such as additional photographs;
 - g. A request for disclosure from the Appellant including a deadline date.
- 36.** If the Appellant has any material, such as documents or photographs, that he or she wishes to use during the hearing, the Appellant should disclose it to the Animal Control Secretary in advance, as requested in the disclosure package sent by the Animal Control Secretary.
- 37.** If either the Animal Control Secretary or the Appellant brings forward material during the hearing that has not been disclosed to the other party in advance, the Chair of the Tribunal will recess the hearing to allow the other party to review the material. When the hearing resumes, the other party will be given the opportunity to state any objections to the use of the material during the hearing. The Tribunal will decide, based on the submissions of the parties, whether or not the material may be referred to or introduced into evidence.

Part 8

Adjournments

Adjournments

- 38.** A Hearing may be adjourned at the discretion of the Tribunal upon its own motion or upon the motion of a party where that party satisfies to the Tribunal that the adjournment is required to permit an adequate Hearing to be held.
- 39.** In deciding whether to grant an adjournment, the Tribunal may consider one or more of the following factors:
- a. the sufficiency of the reasons advanced for the request to adjourn;
 - b. the timeliness of the request;
 - c. the resources of the Tribunal;
 - d. the prejudice to the parties;
 - e. whether any adjournments have been granted previously;
 - f. the consent of the parties; and
 - g. any other relevant factor.

40. The Tribunal may grant adjournments on such terms and conditions as it considers advisable.
41. The Tribunal may, in its discretion, refuse an adjournment even though the parties consent.

Part 9

Legal Advice to Tribunal Members

42. Members of the Tribunal holding a Hearing shall not have taken part, before the Hearing, in any communication directly or indirectly in relation to the subject-matter of the Hearing, with any person, or with any party or Agent, except upon notice to and with opportunity for all parties to participate, but the Tribunal may seek legal advice from Counsel to the Tribunal and, in such case, the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

PART 10

Witnesses Order for Witness Statements

43. The Tribunal may order a party to the Hearing to provide witness statements or summary of the evidence witnesses will give, including expert witnesses.

Rights Of Parties To Examine Witnesses

44. A party to a proceeding may, at a Hearing:
 - a. call and examine witnesses and present evidence and submissions; and
 - b. conduct cross-examinations of witnesses at the Hearing to the extent reasonably required for a full and fair disclosure of all matters relevant to the issues in the Hearing.

Summons To Witness

45. The Tribunal may issue a summons to a witness on its own initiative or upon request of a party in accordance with the *Statutory Powers Procedures Act*.

Abuse of Process

46. The Tribunal may make such orders or give such directions in proceedings as it considers proper to prevent abuse of its processes.
47. The Tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.
48. The Tribunal may exclude from a Hearing anyone, other than a person licensed under the Law Society Act, appearing on behalf of a party or as an Agent if it finds that such person is not competent to properly represent or to advise the Party or witness or does not understand and comply at the Hearing with the duties and responsibilities of an advocate or adviser.

Part 11

Hearing Procedures Opening Procedures

49. The Chair shall call the Hearing to order and read an opening statement outlining the procedure and format of the Hearing process.
50. The Chair will read out the proceedings listed on the Agenda.

Statements

51. Where a Member has any direct or indirect pecuniary interest pursuant to the *Municipal Conflict of Interest Act*, in any proceeding that is before the Tribunal, the Member,
 - a. shall, prior to any consideration of the Appeal, disclose the interest and the general nature thereof;
 - b. shall recuse him or herself from the Hearing of that Appeal; and
 - c. shall not attempt in any way whether before, during or after the Hearing to influence the decision of the Tribunal.

Motions

52. The Tribunal will hear motions regarding any Hearing listed on the Agenda.

53. The Tribunal will hear motions for adjournment requests prior to the commencement of any Hearing.
54. If a party brings a motion regarding a proceeding not listed on the agenda, the Tribunal may decide to hear the motion at that time or order that it be brought at a later date.

Order of Presentation

55. Subject to any motions previously adopted by the Tribunal, the Chair will indicate that the Tribunal will now hear the first appeal on the agenda.
56. The Chair make an opening address and requests that the Parties to an appeal identify themselves, including any witnesses who intend to give evidence on behalf of the Appellant to the appeal.
57. All Appellants and/or their representatives and witnesses must sign in.
58. The Chair will call the meeting to order and ask Tribunal members to declare any conflicts of interest.
59. The Tribunal Secretary will advise of any changes to the Agenda. The Tribunal will approve the Agenda and adopt the previous meeting minutes.
60. The Chair will ask the Animal Control Secretary, who sits facing the Tribunal, whether there are any requests for adjournment or Orders that have been complied with. The Tribunal will deal with these matters first.
61. The Chair will state the Order for which the appeal is being heard and the Appellant will take a seat facing the Tribunal.
62. The Animal Control Secretary and then the Appellant may make an opening submission;
63. The Animal Control Secretary will call their witnesses. Once called, a witness is seated at the witness table and is sworn in, either under oath or by affirmation.
64. At the conclusion of the testimony of each of the Animal Control Secretary's witnesses, the Appellant and the Tribunal may ask their own questions.
65. After the Animal Control Secretary has called all of their witnesses, the Appellant will call their witnesses who may be the Appellant themselves and/or other

witnesses. Again, once called, a witness is seated at the witness table and is sworn in, either under oath or by affirmation.

66. Information submitted by the Animal Control Secretary and the Appellant shall be limited in speaking to not more than fifteen (15) minutes in total per appeal.
67. At the conclusion of the testimony of each of the Appellant's witnesses, the Animal Control Secretary, the By-Law Enforcement Officer and/or Animal Control Officer and the Tribunal may ask their own questions.
68. The Appellant and then the Animal Control Secretary make final submissions, which should include what they want the Tribunal to do with respect to confirming, modifying or rescinding the Order and/or extending the time for complying with Order.
69. The Tribunal Members may ask questions of any witness, through the Chair.
70. After all the evidence has been presented by all parties to the proceedings, the By-Law Enforcement Officer and/or Animal Control Officer may make a closing address, followed by the closing address of the Appellant, if he or she decides to do so.

Other Representations; Right of Reply

71. After the Appellant's presentation, the Tribunal will hear from anyone else who wishes to make representations before the Tribunal pertaining to the matter.
72. Persons giving evidence are subject to questions by the Tribunal, the Appellant or the Appellant's Agent, and the Agent for the Municipality.
73. The Municipality's Agent has the right of reply on matters which could not have been anticipated prior to hearing the Appellant's evidence.

Closing Statements

74. At the conclusion of all evidence presented, parties are entitled to make final submissions to the Tribunal.

Considerations in Exercising Powers to Make an Order

75. The Tribunal may take into consideration the following:
 - a. The dog's past and present temperament and behaviour;
 - b. The seriousness of the injuries caused by the subject dog;
 - c. Unusual contributing circumstances tending to justify the dog's action;

- d. The improbability that a similar attack will be repeated;
- e. Precautions taken by the owner to preclude similar attacks in the future;
and
- f. Any other circumstances the Tribunal considers to be relevant.

Tribunal Decision

- 76.** The Tribunal may recess any time to consider its final decision or any interim decision during the Hearing.
- 77.** The Tribunal will render its decision on the matter in the presence of the public and the Animal Control Secretary and the Appellant. If Tribunal determines that additional information is required to render a decision, it may adjourn the matter to a future meeting date.
- 78.** If the Tribunal requires, it may move into Closed Session upon adoption of the required motion, to deliberate and/or to draft a Notice of Decision or to consult with Counsel for the Tribunal. The Tribunal shall give a written decision or may reserve its decision.
- 79.** If the decision is reserved the Chair will advise the Appellant that the Appellant will be notified by registered mail of the Tribunal's decision.
- 80.** The decision of the Tribunal is final and binding and include details that include confirming, modifying or rescinding the Order and/or extending the time for complying with Order.
- 81.** The Tribunal's decision or order is effective from the date on which it was made and will be sent to the Appellant within two (2) weeks of the hearing.

Notice Of Decision

- 82.** The Tribunal Secretary shall issue a copy of the Notice of Decision or order, including the reasons if any have been given, to each party who participated in the proceeding, or the party's representative or agent, if any, within five (5) days of the making of the decision.
- 83.** The Tribunal shall issue a copy of the Notice of Decision or order, including the reasons if any have been given, to each party who participated in the proceeding, or the party's representative or agent, if any,
 - i. in person
 - ii. by regular mail;
 - iii. by electronic transmission;

- iv. by some other method that allows proof of receipt.
 - a. If the copy of the decision or order is sent by mail, it shall be sent to the party's most recent address known to the Tribunal, and shall be deemed to have been received by the party on the fifth (5) day after the day it is mailed.
 - b. If the copy of the decision or order is sent by electronic transmission, it shall be deemed to be received on the date it was sent.
 - c. If the copy of the decision or order is sent by a method referred to in 80 (iv), it shall be deemed to be received on the date contained in the proof of receipt.
- 84.** The written decision set out in the Notice of Decision shall be signed by all Members of the Tribunal that took part in the Hearing and shall contain written reasons to support the decision.
- 85.** The Notice of Decision shall contain a record of the proceedings, compiled by the Tribunal Secretary, which shall include:
 - a. list of persons present;
 - b. list of witnesses and for whom they testified;
 - c. any interlocutory orders made by the Tribunal; and
 - d. all documentary evidence filed with the Tribunal, subject to any limitations expressly imposed by any other Act.

Accessibility and Accommodation

- 86.** Parties requiring accommodation of a disability in order to participate in Tribunal proceedings, whether as an Appellant, witness, or agent representing the Appellant, must notify the Tribunal as early as possible in order that accommodation requests can be addressed in advance of the Hearing date.