



Staff Report

Report To: Dan Best, Chief Administrative Officer
From: **Rebekah Msuya-Collison, Municipal Clerk**
Date: January 21 2019
Report: 5-2019
Subject: Animal Control Tribunal Update

Recommendations:

That South Huron Council receives the report from Rebekah Msuya-Collison, Municipal Clerk re: Animal Control Tribunal Update.

Purpose:

For information.

Background and Analysis:

At the January 7, 2019 Regular Council Meeting, South Huron Council directed a follow up report outlining the impacts of removing a vicious dog designation, the appeal rights for dog owners, the role of the Animal Tribunal and it's authority.

South Huron Animal Control By-Law 21-2018 provides the definition of a "vicious dog" to 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."

It can be quite difficult to proceed with an Order for Vicious Dog as the definition may be quite subjective depending on the enforcement officer. There is no specific criteria that is a constant, no definitive way to measure the temperament. There is also a difficulty in removing the designation as there is no clear definition on what if any determination must take place to remove the designation, ex. confirmation from veterinarian, time since last infraction etc. It would be quite difficult for the Tribunal to be clear on what standards apply to remove the designation and may deny natural procedural fairness.

The By-Law also provides in Section 8 the process of designating a potentially vicious or vicious dogs and outlines the appeal process. This is the only section in the current Animal Control By-Law that references that Council establishes the Animal Control Tribunal.

By-Law 85-2018 establishes the Animal Control Tribunal and includes the terms of reference and Rules of Procedure. The South Huron Animal Control Tribunal is an independent quasi-judicial tribunal that reviews the decisions of the Animal Control Officer and By-Law Enforcement Officer" and has the authority to confirm, rescind the determination of a vicious or potentially vicious dog order.

The Dog Owners' Liability Act, R.S.O. 1990 under Paragraph 4 already provides for proceedings in the Ontario Court of Justice against an owner of a dog if it is alleged that:

- a) the dog has bitten or attacked a person or domestic animal;
- b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
- c) the owner did not exercise reasonable precautions to prevent the dog from,
 - a. biting or attacking a person or domestic animal, or
 - b. behaving in a manner that poses a menace to the safety of persons or domestic animals

In addition, the infractions noted in the Animal Control By-Law "Short Form Wording" has already been approved by the Ministry of the Attorney General and can be appealed to a Justice of the Peace.

Currently, there is a lack of clarity for the Tribunal and a decision whether the Tribunal is required when there is an alternate method to proceeding available. It is recommended that Council consider that the Dog Owners' Liability Act (DOLA) be utilized in lieu of the South Huron Animal Control Tribunal. This would eliminate Municipal enforcement and would rely on the Act to determine which animals need to be designated.

Next Steps:

- a) Remove reference to South Huron Animal Control Tribunal in Animal Control By-Law 21-2018
- b) Amend 21-2018 to Revoke any current designations
- c) Remove Clauses 8 and 9 from By-Law 21-2018
- d) Rescind Animal Control Tribunal By-Law 85-2018
- e) Contact Ministry of Attorney General to provide amendment to By-Law
- f) Update Fees & Charges By-Law to remove licence fee for designation.

Operational Considerations:

The Tribunal's meeting management support is provided through the Clerk's department.

South Huron's Strategic Plan:

Section 6.2.2 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies Strategic Objectives. The following elements are supported by the actions outlined in this report:

- ✓ Transparent, Accountable and Collaborative Governance

Financial Impact:

The Tribunal's operating budget is provided through the Clerk's department.

Legal Impact:

Legal implications as outlined in the report.

Staffing Impact:

Staffing implications as noted in the report.

Policies/Legislation:

Dog Owners Liability Act, 1990

South Huron Animal Control By-law 21-2018

South Huron Animal Control Tribunal By-Law 85-2018

Consultation:

Rachel Anstett, Administrative Assistant

Related Documents:

Respectfully submitted,

Rebekah Msuya-Collison, Municipal Clerk