

Amendments to Chapter 349, Animals - Dangerous Dogs

Date: November 16, 2016

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report proposes amendments to Toronto Municipal Code, Chapter 349, Animals to better prevent dog bites, mitigate risks associated with dangerous dogs and hold owners responsible for their dog.

Specifically, the report proposes:

- New definitions for dangerous dog, dangerous act, attack and extreme weather
- Requirements for owners of a dangerous dog of muzzling, microchipping, special dog tags, warning signage, prohibition from off-leash parks and training
- An extreme weather provision to ensure that the dog is adequately protected from the elements
- Time limit of three consecutive hours that a dog can be tethered
- A prohibition on the use of choke collars, choke chains, pronged collars or any similar device on dogs for tethering
- No person shall walk and have control over more than three dogs unless authorized by a commercial dog walker permit
- The owner of the dog may appeal the order to comply with the dangerous dog requirements and the Executive Director, Municipal Licensing and Standards may consider whether the dog was acting in self-defence when the dangerous act occurred
- Increased and continuing fines for those who do not comply

These proposed amendments were presented to Licensing and Standards Committee at its meeting of September 21, 2016, and received support from the Committee.

Since that meeting, staff posted a survey online for the public to comment on the proposed changes. There were over 5,000 respondents to the survey with a majority supporting the amendments.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council approve amendments to Chapter 349, Animals as described in Attachment 1 of this report.
2. City Council direct that the changes come into force on March 1, 2017.

FINANCIAL IMPACT

There are no financial impacts beyond what has already been approved in the current year's budget.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of September 21, 2016, Licensing and Standards Committee received the report "Responsible Dog Ownership - Mitigating Risks of Dangerous Dogs" and expressed support for the changes. This report outlined a multi-phased approach, proposed amendments to Chapter 349, Animals and included recommendations for additional public consultation and feedback on the proposed amendments.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS13.4>

At its meeting of November 26, 2015, Licensing and Standards Committee received the report headed "Responsible Dog Ownership - Results of Consultation". This report provided the initial research, data and consultation findings and proposed that next steps would include by-law amendments.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS8.2>

At its meeting of March 31, 2015, City Council requested the Executive Director, Municipal Licensing and Standards to report to Licensing and Standards Committee with recommendations on how the City can effectively respond to incidents of dog bites and dangerous and/or vicious dogs. The report was to include: a review of the Dog Owners' Liability Act (DOLA), a jurisdictional scan including the City of Calgary's approach to vicious dogs, the impact of insurance claims, incidents of dog on dog violence and enforcement of muzzle orders.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC5.4>

COMMENTS

At the Licensing and Standards Committee meeting of September 21, 2016, Municipal Licensing and Standards (ML&S) reported on proposed amendments to Chapter 349, Animals to increase responsibility and accountability of dog owners, increase public safety and decrease the risk of dog bites. The proposed amendments are intended to complement the existing provincial *Dog Owners Liability Act* (DOLA) and provide additional tools to help the City of Toronto more effectively deal with dangerous dogs and mitigate the risks to public safety.

Results of Survey on Proposed By-law Changes

Following the September 21, 2016 Licensing and Standards Committee meeting, ML&S developed and posted a comprehensive survey about its proposed changes to provide an additional opportunity to the public to provide comments.

Within the survey, ML&S also included questions that addressed additional information requested by Committee at their September 21, 2016 meeting. The public were asked for their thoughts on:

- One, two, or three hour time limits on tethering
- Completely banning choke collars, chain or pronged collars
- Options to require mandatory obedience training and microchipping at the cost of the owner
- Options for mandatory microchipping for all dogs and cats

The survey was circulated through the City's social media accounts (including Strategic Communications, Parks, Forestry and Recreation, and Animal Services), Councillor's offices, dog owner associations and their social media groups, neighbourhood and resident associations, Canadian Kennel Club, and Woofstock to circulate through their networks.

The survey was open from September 26 to October 26, 2016 and ML&S received over 5,000 responses. Approximately, 67% of respondents identified as residents that are dog owners. Of those who responded to the survey, 97% were aware that the owner of a dog is responsible if their dog bites another domestic animal (pet) or person.

The proposed by-law changes received support from the respondents. In addition, the survey also solicited feedback from participants and based on this feedback, additional proposed amendments are being recommended.

Attachment 1 contains the amendments to Chapter 349, Animals for dangerous dogs and removes provisions that are no longer necessary.

Determination of dangerous dog

Currently, there is no definition of dangerous dog in the by-law. ML&S proposes the following definition of a dangerous dog:

- A dog that has severely bitten a person or domestic animal (pet); or
- A dog that has bitten or attacked a person or domestic animal (pet) and it is the second or subsequent bite or attack on record; or
- A dog that is the subject of a muzzle order under this by-law or any of its predecessors or a control order under the *Dog Owner's Liability Act* (DOLA).

Of those who responded, 92% support a definition of dangerous dog and 57% agreed with the proposed definition. The other 35% would like to see a definition of dangerous dog in the by-law, but were concerned about the circumstances within which the bite occurred (e.g., was the dog threatened or acting in self-defence?). There were also some concerns about how staff might interpret the definition (e.g., how would ML&S interpret severity?).

During public consultations, some respondents had identified that ML&S interpretation of severity was not clear. ML&S currently uses the Dunbar scale to determine severity of the dog bite. This scale is well known and broadly used by animal enforcement agencies. ML&S will post this scale on its website for the public and include in educational materials.

Proposed definition of dangerous act

While there is a definition of bite in the current bylaw, there is no definition broadly of other dangerous acts, such as, attack or menace. In September 2016, ML&S staff proposed the following definitions:

- Attack as an act of aggression towards a person or domestic animal (pet) causing injury.
- Menace as a threat or possible danger to persons or domestic animals (pet).

Of those who responded, 94% agreed that additional definitions are needed to explain broadly a dangerous act; such as a bite, attack and menace.

Of those respondents who would like to see additional definitions, 56% agreed with the proposed definition of attack identified by ML&S. Similarly, of those who responded, 55% agreed with the proposed definition of menace.

ML&S is still proposing a definition of attack as identified above and also proposes a new definition of dangerous act meaning any bite, attack, act of menacing behaviour or combination thereof.

Appeal process

Where a dog is determined to be a dangerous dog and the owner is served with an order to comply, the owner may apply for a hearing to appeal the decision. The Executive Director, ML&S may consider whether the dog was acting in self-defence when the dangerous act occurred. The Executive Director may then confirm the determination of a dangerous dog; or rescind the determination of a dangerous dog and exempt the owner from compliance with the order.

Proposed Requirements for Owners of Dangerous Dogs

Currently, Chapter 349, Animals includes Notice to Caution and Order to Muzzle provisions for dogs that have severely bitten or have two or more bites on record. ML&S is proposing to delete the existing provisions for Notice to Caution and Notice to Muzzle for dogs that have bitten and is proposing to replace these provisions with new requirements for owners of dangerous dogs to promote public safety and protect the well-being of people and domestic animals.

1. Muzzling and Leashing

ML&S is proposing that the owner of a dangerous dog will be required to ensure that the dog is muzzled and leashed at all times when the dog is off the owner's property.

Muzzling and leashing have been identified in the jurisdictional scan as best practices for dealing with dangerous dogs. The Ontario Veterinary Medical Association recommends that dangerous dogs be muzzled and leashed when off the owner's property.

The survey shows that 96% of respondents agree that muzzling and/or leashing is an important requirement for public safety.

2. Prohibited in dogs off-leash parks

ML&S is proposing that a dangerous dog will not be permitted in designated off-leash areas in parks.

This follows from the muzzle and leash requirements above. This requirement also helps prevent future bites, attacks or incidents from occurring.

During the consultations, a number of dog owners indicated that dangerous dogs should not be allowed to interact with other dogs in designated off-leash parks and they were fearful that their dog would be attacked.

The survey results indicate that 94% of respondents agreed at least in part with this requirement. The majority, 79% of respondents, agreed with ML&S's proposed requirement to prohibit dangerous dogs from designated dogs off-leash areas of a park as written. The other 15% of respondents saw the need for this requirement, but had concerns about the circumstances surrounding the previous incident that led to the dog being deemed dangerous.

3. Warning signs on owner's property

The public may not be aware of the risk that a dog may pose to their personal safety. Without a sign, people may approach the dog on private property without knowing of the dangers. Proactively, dog owners may purchase a sign, such as a "beware of dog" sign to ensure that children, other residents or workers visiting their property are aware to not approach the dog without the owner present.

To protect the public, ML&S is proposing that owners of a dangerous dog will be required to post a warning sign on their private property in a conspicuous location in the form and manner prescribed by ML&S. This requirement to post signage will help ensure the public is aware of the dangerous dog and possible risks associated with the dog.

The survey shows that 70% of respondents agreed with a requirement to have a warning sign posted.

4. Dangerous dog tag

Owners of a dangerous dog will be required to have their dog wear a dangerous dog tag. This will identify a dangerous dog and ensure the public is aware of the dangerous dog and possible risks associated with the dog.

The survey shows that 50% of respondents agreed with the proposed requirement. Another 15% understand the need for the requirement, but had some concerns about the visibility of the dangerous dog tag and noted that many dog owners don't have licences or ensure their dogs wear their tags.

Some thought this requirement may be more useful for bylaw officers than for the public, as officers investigating incidents would note the tag and apply the specific requirements for owners' of dangerous dogs.

5. Microchipping and recent photo

One of the key issues that has arisen is the potential for a dog to be separated from the owner and become a public safety concern. Currently, there is no requirement in Chapter 349, Animals that requires an owner to have their dog microchipped.

Compulsory microchipping for dangerous dogs encourages responsible pet ownership, by assisting with the identification of owners of dangerous dogs, and increasing owner accountability. Since a dog tag is not embedded in the dog, it can be easily removed by the owner. If the dog is microchipped, it can be traced back to the owner more easily.

ML&S is proposing that all owners of a dangerous dog will be required to provide proof of microchipping and a recent photo of the dog. The microchip and the recent photo will help to ensure quick identification of the dog should it be separated from its owner.

The survey shows that 77% agreed with the proposed requirement.

6. Training

In addition to the proposed requirements above, owners of a dangerous dog will be required to provide to ML&S, proof of training for the dog and the owner.

Training is an important tool as it helps the owner be in control of the dog, and the dog to obey the commands of the owner. It also helps to increase the dog's sociability and reduce problem behaviours. Training leads to a better, well-behaved dog. Each owner

of a dangerous dog will provide proof that the dog has undergone training in the form required by the City.

Of those surveyed, 87% supported a requirement for training. Of those respondents, the majority (71%) agreed with this requirement as proposed by ML&S. The other 16% agreed but shared certain concerns. For example, some were concerned about the quality of the training given that trainers are not regulated. Some indicated that certain trainers won't accept dangerous dogs. Some had questions about the length of the training and proof of completion that would be required. Some had specific suggestions about organizations and others were concerned about whether the owner would apply the techniques learned after training.

As part of its implementation plan, ML&S will identify the criteria acceptable to meet this requirement.

Together, these requirements will help the public identify a dangerous dog, reduce the risk to public safety of a dangerous dog and reduce the likelihood of dog bite incidents.

Tethering

One of the directives from Licensing and Standards Committee from September 21, 2016 was for ML&S to review one, two or three hour time limits for tethering.

All owners can reduce the potential for future aggressive behaviour of their dog by limiting the amount of time their dog is tethered. Currently, Chapter 349, Animals does not set a limit on the number of hours a dog can be tethered.

Research shows that tethering dogs for long periods of time can influence a dog's behaviour. According to a study in the Journal of Pediatrics, dogs that are tethered are nearly three times more likely to bite than untethered dogs. Similarly, the Toronto Humane Society notes that when dogs are chained and isolated from their families they have a greater likelihood of developing psychological and behavioural problems including anxiety and aggression. In addition to increasing the likelihood of biting incidents, tethered dogs may bark or destroy property out of boredom and frustration.

For these reasons, ML&S proposes that dogs must not be tethered for more than three consecutive hours.

The survey showed that only 9% preferred two hour limits, 19% preferred one hour time limits and the majority (55%) agreed with the proposed three hour limit for tethering.

Extreme weather provision

ML&S had not proposed an extreme weather provision in its September 21, 2016 report. Some survey respondents confirmed in their comments that weather should be a factor for determining the appropriate length of time for a dog to be tethered. As a result

of this, ML&S has proposed an additional provision to account for extreme weather where tethering a dog for longer periods of time may be stressful to the dog's health.

ML&S proposes to add a definition of extreme weather as "a cold warning, heat warning or other weather warning issued by either or both the City of Toronto's Medical Officer of Health or Environment Canada for weather in the City of Toronto". ML&S also proposes adding in a new provision that will address conditions of extreme weather. ML&S proposes to include a provision that indicates "No person shall allow an animal to remain outdoors during Extreme Weather unless the animal has access to an enclosure that will adequately protect the animal from the elements". This means no tethering for any amount of time during extreme weather unless the dog has access to an enclosure that will adequately protect it from the elements.

Not permitting tethering using a choke collar, chain or pronged collar

The Ontario Society for the Prevention of Cruelty to Animals (OSPCA) indicates that tethering a dog using choke collars, chains or pronged collars can bring physical harm to the dog and can be dangerous if the tether becomes tangled on other objects. It also leads to increased stress levels in dogs and dogs becoming more aggressive.

ML&S is proposing that owners are no longer permitted to use choke collars, chains or pronged collars to tether their dogs. These amendments improve the standard of care and mitigate the potential for aggressive dog behaviour.

The survey shows that 81% support the proposed change to prohibit tethering using a choke collar, chain or pronged collar. Another 6% had concerns that these types of collars inflict pain on dogs and considered them to be a form of animal abuse even when used to correct a dog's behaviour. Others saw the value in using them for leashed dogs for correction purposes.

Banning the use of a choke collar, chain or pronged collar completely

Another directive from September 21, 2016 was to report back to Committee on banning the use of a choke collar, chain or pronged collar completely. Of those who responded, 45% agreed with a complete ban, 22% disagreed with the ban and 33% supported banning choke collar, chain or pronged collar for tethering only. Based on the use of the choke collar, chain or pronged collar for leash correction, staff are not recommending a complete ban at this time.

Increasing fines and penalties

ML&S is proposing to increase fines and penalties for owners who do not comply as follows:

349-27. Offences.

- A. Every person who contravenes any provision of this chapter is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
- B. Every person who contravenes any provision of this chapter may be liable, in addition to the fine provided for in Subsections A, D or E or a combination of the foregoing, every person who gains an economic advantage or economic gain from contravening this chapter shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from the contravention.
- C. In addition to offences referred to in Subsection A, every person is guilty of an offence under this chapter who:
- (1) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this chapter;
 - (2) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the *City of Toronto Act, 2006*;
 - (3) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this chapter.
- D. Each offence in Subsection C is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues, a fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.
- E. Where a corporation contravenes any of the provisions of this chapter, every director or officer who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of no more than \$25,000.
- E. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.

Authority for Officers to inspect for compliance on private property

ML&S is also proposing to include a provision to assist Officers in their investigations on private property.

This new addition to the by-law is in accordance with section 376 of the *City of Toronto Act, 2006*, which states that an officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the by-law or a notice or order are being complied with.

Next Steps

ML&S is undertaking a Responsible Dog Ownership public education campaign that includes:

- Dogs Off-Leash Education
- Pet Licensing (including BluePaw Program)
- SNYP Truck (Spay/Neuter your Pet)
- Chip Truck (microchipping)

Upon Council approval of the proposed amendments to the by-law, ML&S will:

- Implement any necessary changes to procedures
- Update the information available to the public online

CONTACT

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SIGNATURE

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ATTACHMENT

Attachment 1: Amendments to Chapter 349, Animals