



Governance and Priorities Committee Report

Date: April 11, 2014 **From:** Robert Woodland, Director
Legislative and Regulatory Services
Subject: Animal Control Bylaw Amendments

Executive Summary

On February 13, 2014, Council directed staff to review and report on proposed amendments to the Animal Control Bylaw that would:

- prescribe the use of basket muzzles for muzzling dangerous dogs
- prohibit persons under 19 years of age from being in control of a dangerous dog, and
- restrict the maximum amount of time that a dog can be tethered to 90 minutes within a 24-hour period.

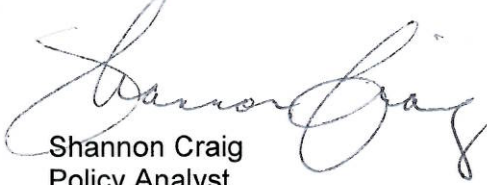
It appears that the welfare of dangerous dogs can be enhanced by an amendment that clarifies the functional requirements of a humane muzzle, without prescribing a particular type. Animal control officers have a broad authority under the *Community Charter* to seize dangerous dogs and this authority should be sufficient to allow them to effectively intervene in a situation where an individual under 19 years of age does not have adequate control over a dangerous dog in a public place. A bylaw prohibition in this regard would create a further offence, but likely not serve as a deterrent.

Indiscriminate tethering can affect the physical and psychological well-being of a dog; however, there is no scientific evidence or professional consensus on the acceptable length of time that a dog may be tethered. This makes it difficult to assess whether the proposed bylaw amendment would have a positive effect on animal welfare. Enforcement of the proposed bylaw amendment may be problematic and require a significant commitment of enforcement time to prove an offence relative to other approaches. For example, an animal control officer would need to observe a tethered dog for the full 90-minute period in order to determine whether a contravention of the bylaw has occurred. Animal control officers have other tools at their disposal that may be more effective in addressing tethering concerns, including education and enforcement of existing Animal Control Bylaw requirements relating to animal care and shelter.

Recommendation

That Council direct staff to bring forward amendments to the Animal Control Bylaw that will clarify that a dangerous dog must be muzzled by a properly fitted humane device that allows the dog to pant and drink.

Respectfully submitted,



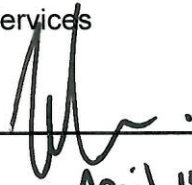
Shannon Craig
Policy Analyst
Corporate Planning and Policy Division



Robert Woodland
Director
Legislative and Regulatory Services

Report accepted and recommended by the City Manager:

Date:



April 15, 2014

Purpose

The purpose of this report is to obtain Council direction regarding proposed amendments to the Animal Control Bylaw that will add requirements relating to:

- the control of dangerous dogs in public places, and
- tethering of animals.

Background

A Special Governance and Priorities Committee meeting was held on February 6, 2014 to review the City's 2013 – 2015 Strategic Plan and Priorities. In advance of that meeting, Councillors were asked to provide the Committee and staff with information regarding any new initiatives that they wanted to propose adding to work plans and budgets for 2014 and 2015. Two animal control-related initiatives were proposed. The information provided in support of these initiatives is attached as Appendix A.

The Committee recommended that Council refer these proposed initiatives to staff for further analysis. The minutes from that discussion are attached as Appendix B. On February 13, 2014, Council instructed staff to review and report on proposed amendments to the Animal Control Bylaw that would:

1. Amend the bylaw provision for Muzzling from “muzzled with a properly fitted humane device” to “properly fitted with a humane basket muzzle and under the immediate control of a competent person at least nineteen years of age”.
2. Amend the bylaw provision for tying Animals from “A person must not hitch, tie or fasten an animal to a fixed object by a rope, chain or cord that is directly tied around the animal's neck or to a choke collar” to “A person shall not keep any animal hitched, tied or fastened to a fixed object for more than 90 minutes in any 24 hour period”.

Relevant excerpts from the current Animal Control Bylaw are included in Appendix C. Staff have reviewed bylaws from other jurisdictions and consulted on these proposed amendments with the BC SPCA and a representative from Victoria Animal Control Services (VACS), the City's animal control contractor.

Issues and Analysis

1. Control of Dangerous Dogs

An Animal Control Officer may designate a dog as “dangerous” if it bites or attacks a person or animal without provocation, or has a known propensity to do so. Section 29 of the Animal Control Bylaw outlines a variety of requirements for the control of dangerous dogs. As outlined in section 29(1), dangerous dogs are not allowed in public places unless they are:

- (a) firmly held by a person competent to restrain the dog on a leash not exceeding 2.4 m in length, and
- (b) muzzled by a properly fitted humane device.

A “humane” muzzle allows a dog to pant and drink. Basket muzzles are recommended by the BC SPCA as the humane choice of muzzle for dogs and the BC SPCA would support a bylaw amendment that specifically prescribes the use of a basket muzzle. While many BC local governments impose requirements for muzzling dangerous dogs in public places, no examples of bylaws that specifically prescribe basket muzzles could be found.

The representative from VACS could recall only one instance where animal control officers had concerns that the type of muzzle used to restrain a dangerous dog was not humane. Some dangerous dog owners in Victoria do not use a basket muzzle because it can be difficult to obtain a proper fit, or because the owner is concerned that the dog will appear threatening if wearing a basket muzzle. It is recommended that section 29(1) (b) of the Animal Control Bylaw be amended to “muzzled by a properly fitted humane device that allows the dog to pant and drink.” This will assist to clarify what is meant by a “humane” muzzle, without limiting dangerous dog owners to a particular type of muzzle.

The representative from VACS indicates that although it is uncommon, individuals under the age of 19 may own, or be in control of, dangerous dogs. Some jurisdictions do not allow individuals less than 19 years of age to buy dog licences or to be in control of dangerous dogs. The concern that prompted the proposed age restriction isn’t apparent from the materials provided in support of the resolution. If the concern relates to liability, individuals under 19 can be held legally responsible for their actions. Municipal tickets can be issued to persons as young as twelve years of age. The other possible concern is that individuals under 19 may not be responsible enough to be in control of a dangerous dog. Ownership of any dog requires a certain level of responsibility. Although there occasionally are concerns or incidents associated with the control of dangerous dogs in public places, these concerns are not specific to individuals under 19. Animal control officers have a broad authority under the *Community Charter* to seize dangerous dogs and this authority is sufficient to allow them to effectively intervene in a situation where an individual under 19 does not have sufficient control over a dangerous dog in a public place. Therefore, no bylaw amendments in this regard are recommended.

2. Tying Animals

Dogs are social animals that crave and thrive on companionship and interaction with people and other animals. Tethered dogs can become aggressive, anxious and neurotic through lack of socialization. Tethering a dog can also bring physical harm to the animal if the chain or collar is too tight and becomes embedded in the neck or if the tether gets tangled around other objects and the dog chokes or is strangled to death. VACS occasionally receives complaints of tethered dogs. In some of these situations, a neighbour will complain of a noisy dog and the animal control officer sent to investigate will discover that the dog has been strangled after trying to jump a fence or otherwise entangling a tether.

The BC SPCA strongly opposes the indiscriminate tethering of dogs, without due regard for their physical and/or psychological well-being and is actively lobbying municipal governments to adopt animal care bylaws that prevent tethering as a primary means of confinement for dogs. Several BC local governments have adopted bylaw restrictions on the tethering of dogs that include:

- maximum tethering time limits ranging from 1 hour to 23 hours in a 24-hour period
- prohibitions against tethering unattended dogs for any length of time, and
- prohibitions against tethering as the primary means of confinement for an extended period of time.

There is no scientific evidence or professional consensus on the acceptable length of time that a dog may be tethered. Without this evidence, it is difficult to assess whether the proposed 90-minute time limit would have a positive effect on animal welfare. Excessive barking or injury may occur even if a dog is tethered for a very short amount of time.

While neighbours are often the source of tethering complaints, they may be either unable to observe a tethered animal for the full 90-minute period, or unwilling to testify in court regarding their observations. This means that, in most circumstances, animal control officers will need to remain on location and observe a tethered animal for the full 90-minute period in order to enforce the proposed amendment. Where a tethered animal is not in danger or causing a nuisance, this may not be the most effective use of the City’s animal control resources. Council should also be aware that animal control officers have

no authority under the *Community Charter* to seize tethered dogs from private property. The BC SPCA does have that authority, if the animal is "in distress." Enforcement action by City animal control officers would be limited to ticketing, which may not provide an immediate resolution to the situation. For these reasons, the proposed bylaw amendment is not recommended.

The lack of a specific bylaw provision regulating dog tethering does not mean that the City has no ability or intention to take action where tethering concerns are identified. The BC SPCA has produced a variety of materials to educate dog owners about the possible dangers of dog tethering. Animal control officers can provide dog owners with copies of these materials when concerns are identified. Animal control officers frequently see associated Animal Control Bylaw violations with tethered dogs, including:

- barking/noise
- accumulation of feces
- lack of water
- lack of shelter, and/or
- unsanitary food or water bowls.

Through education and ticketing for violations of Animal Control Bylaw provisions relating to these issues, animal control officers are sometimes able to also address tethering concerns.

Section 12 of the Animal Control Bylaw relating to the tying of animals was meant to address concerns that a tethered animal could be injured if the tether was tied directly around the animal's neck or to a choke collar. As this is a separate concern from that described in the materials provided in support of Council's resolution, it is recommended that this prohibition remain in the bylaw.

Options and Impacts

Option 1 – Amend the Animal Control Bylaw as proposed

Under this option, the Animal Control Bylaw would be amended to:

- prescribe the use of basket muzzles for muzzling dangerous dogs
- prohibit persons under 19 years of age from being in control of a dangerous dog, and
- restrict the maximum amount of time that a dog can be tethered to 90 minutes within a 24-hour period.

An amendment to the Ticket Bylaw would also be required to reflect the new tethering prohibition. A fine of \$100 would be consistent with Council's 2010 policy on ticket fines and other similar Animal Control Bylaw offences.

Impacts:

- It is uncertain whether these changes would have a positive impact on public safety or animal welfare, although they may provide further evidence of the City's commitment to animal welfare.
- Some dog owners would need to modify their current practices or purchase new equipment in order to comply with these requirements.
- Monitoring compliance with the new tethering requirement may consume limited animal control resources.

Option 2 – Amend the Animal Control Bylaw to specify that muzzles must allow dogs to pant and drink (recommended)

Under this option, the Animal Control Bylaw will be amended to clarify that a dangerous dog must be muzzled by a properly fitted humane device that allows the dog to pant and drink.

Impacts:

- No impact on animal control resources is anticipated.
- May be a useful tool for educating dangerous dog owners about what constitutes a humane muzzle.

Official Community Plan Consistency Statement

Not applicable. The Official Community Plan does not address animal control issues.

Financial and Staff Capacity Assessment

There are no financial impacts associated with the recommendation. Education and enforcement of the bylaw amendment would not add significantly to the current duties of the City's animal control officers.

Public Engagement and Consultation

No additional public engagement or consultation is planned.

Recommendation

That Council direct staff to bring forward amendments to the Animal Control Bylaw that will clarify that a dangerous dog must be muzzled by a properly fitted humane device that allows the dog to pant and drink.

Appendix A – Background Information Submitted

Initiative Summary

1. Name of Initiative Bylaw amendment to our Dangerous Dogs section of the bylaw from “muzzled with a properly fitted humane device” to a “properly fitted with a humane basket muzzled and under the immediate control of a competent person at least nineteen years of age.”
2. What is the problem or issue that the initiative will address? This issue is that other muzzles do not allow the dog to pant, drink or eat. Basket muzzles allow a more humane treatment of the dog and at the same time ensures public safety.
3. What are the objectives of this initiative? • The objective of the bylaw amendment is for animal welfare to be considered when considering public safety.
4. What benefits do you anticipate from this initiative? • The benefits will allow dogs that may deemed or declared dangerous to be in public areas as long as they are properly muzzled but at the same time, that the dog’s welfare is also being considered by allowing it to pant, drink water and eat.
5. How does the initiative link with the 2013–2015 Strategic Plan? • One of our Strategic Goals is that the City of Victoria is safe, caring, inclusive and resilient.
6. What resources will be required (if known)? • Some consultation/discussions with Animal Control, BCSPCA and possibly other municipalities that may have already brought this into effect.
7. What priority would you assign this initiative relative to the approved 22 Key Initiatives – High, Medium, Low? • Animal welfare issues often are considered low priorities. However, I am a strong believer that ensuring public safety can be achieved without compromising the humane treatment of the animal. I believe this assists us in achieving the necessary balance.
8. Why is this initiative a priority over the next two years? • Animal welfare is extremely important. Municipalities have a responsibility to consider bylaws that will ensure animal welfare

Initiative Summary

1. Name of Initiative Updating the Animal Control Bylaw for Tying Animals from “A person must not hitch, tie or fasten an animal to a fixed object by a rope, chain or cord that is directly tied around the animal’s neck or to a choke collar” to “A person shall not keep any animal hitched, tied or fasted to a fixed object more than 90 minutes in any 24 hour period.”
2. What is the problem or issue that the initiative will address? • This initiative will address animal cruelty issues since animals that are confined by tethering often experience stress, can become tangled in the tether and may not have access to water and shelter.
3. What are the objectives of this initiative? • To protect dogs and ensure that they are confined in a humane way.
4. What benefits do you anticipate from this initiative? • Tethered dogs can become injured, and due to stress may bark excessively and become aggressive. This initiative will ensure the humane treatment of dogs, may respond to any noise bylaw concerns due to barking and ensure public safety from dogs that may become aggressive due to tethering.
5. How does the initiative link with the 2013–2015 Strategic Plan? • One of our Strategic Goals is that the City of Victoria is safe, caring, inclusive and resilient.
6. What resources will be required (if known)? • Some consultation/discussions with Animal Control, BCSPCA and possibly other municipalities that may have already brought this into effect.
7. What priority would you assign this initiative relative to the approved 22 Key Initiatives – High, Medium, Low? • Animal welfare issues often are considered low priorities. However, I am a strong believer that ensuring public safety can be achieved without compromising the humane treatment of the animal. I believe this assists us in achieving the necessary balance.
8. Why is this initiative a priority over the next two years? • Animal welfare is extremely important. Municipalities have a responsibility to consider bylaws that will ensure animal welfare

**Appendix B – Excerpts from the Minutes of the February 6, 2014 Special
Governance and Priorities Committee Meeting**

2.2.7 Amendments to the Animal Control Bylaw on the section of Dangerous Dogs and on the section of Tying Animals

The two initiatives are:

1. to amend the section of the Animal Control Bylaw for Muzzling from “muzzled with a properly fitted humane device” to “properly fitted with a humane basket muzzle and under the immediate control of a competent person at least nineteen years of age”.
2. to amend the bylaw provision for tying Animals from “A person must not hitch, tie or fasten an animal to a fixed object by a rope, chain or cord that is directly tied around the animal’s neck or to a choke collar” to “A person shall not keep any animal hitched, tied or fastened to a fixed object for more than 90 minutes in any 24 hour period”.

The two initiatives address the following issues:

1. Basket muzzles are the only muzzles that allow the dogs to eat and drink; and
2. The issue of tethering is to address animal cruelty since animals that are confined by tethering often experience stress, can become tangled in the tether and may not have access to water and shelter.

The objectives are:

1. To consider animal welfare when considering public safety; and
2. To protect animals and ensuring that they are confined in a humane way.

The benefits that are anticipated:

1. This initiative will allow dogs that may be deemed or declared dangerous to be in public areas as long as they are properly muzzled but at the same time, that the dog’s welfare is also being considered by allowing it to pant, drink water and eat.
2. This initiative will ensure the humane treatment of dogs, may respond to any noise bylaw concerns due to barking, and ensure public safety from dogs that may become aggressive due to tethering.

Action: Councillor Thornton-Joe moved that Council instructs staff to review and report on proposed amendments to the *Animal Control Bylaw* that would:

1. Amend the bylaw provision for muzzling from “muzzled with a properly fitted humane device” to “properly fitted with a humane basket muzzle and under the immediate control of a competent person at least nineteen years of age”.
2. Amend the bylaw provision for tying animals from “A person must not hitch, tie or fasten an animal to a fixed object by a rope, chain or cord that is directly tied around the animal’s neck or to a choke collar” to “A person shall not keep any animal hitched, tied or fastened to a fixed object for more than 90 minutes in any 24 hour period”.

Committee discussed the following issues:

- These changes are operational.
- There were issues brought to Council’s attention that effective control and conflicts are seen at the Dallas Road waterfront in the vicinity of the off-leash area. If we are updating the bylaw, is there a wholesale revision to change the bylaw to that effect, of supervision and control? Would a change in wording in the bylaw make the enforcement more effective for someone who feels at risk in the vicinity of the off-leash area?
 - Staff has not heard from Animal Control that this is a problem. The problem is that we have an off-leash area in one of the most frequently visited places in the City by people of all ages. The off-leash area is not delineated by fencing. It is not necessarily a deficiency in the bylaw. It is about people’s expectations, and the owner control of their dogs in the City designated off-leash areas.

- When you say that the potential issue of fencing may arise, does that mean staff is working on the pros and cons in fencing the off-leash area?
 - The City has been experiencing an increased number of reports regarding conflicts between dogs and pedestrians. Once the decision is released with respect to the CRD Sewer Project, we plan to engage our staff and community in discussion around better dog management and rules, so we can manage the use of the off-leash areas.
 - This is an opportunity for the City to install a split rail fencing in that area and making the most out of this situation.

CARRIED UNANIMOUSLY 14/GPC083

Appendix C – Relevant Excerpts from the Current Animal Control Bylaw, No. 11-044

Tying animals

- 12** A person must not hitch, tie or fasten an animal to a fixed object by a rope, chain or cord that is directly tied around the animal's neck or to a choke collar.
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Control of dangerous dogs

- 29** (1) Except as allowed under subsection (2) and subject to subsection (3), the owner of a dangerous dog must not allow the dangerous dog to be in a public place or on any private lands and premises unless the dog is
- (a) firmly held by a person competent to restrain the dog on a leash not exceeding 2.4 m in length, and
 - (b) muzzled by a properly fitted humane device.
- (2) A person may allow a dangerous dog to be in areas of private lands or premises that are exclusively owned or occupied by that person so long as the dog is securely confined
- (a) indoors,
 - (b) on a deck that is no less than 3 m above ground level, or
 - (c) in a rear yard and inside a pen, enclosure or fenced area that
 - (i) is adequately constructed to prevent the dog from escaping,
 - (ii) is locked to prevent casual entry by another person, and
 - (iii) has been inspected and approved by an animal control officer.
- (3) A person must not allow a dangerous dog to be
- (a) on school grounds,
 - (b) within 30 m of any playground apparatus, or
 - (c) in any of the public places listed in section 19(4) during the times specified in that section.