



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 15.1.3
Halifax Regional Council
July 9, 2024

TO: Mayor Savage and Members of Halifax Regional Council

FROM: Cathie O'Toole, Chief Administrative Officer

DATE: May 28, 2024

SUBJECT: Increase of Fines for Animal Attacks and Dangerous Dog Appeal Process

ORIGIN

Regional Council, July 20, 2021, Item 14.1

MOVED by Councillor Morse, seconded by Councillor Kent

THAT Regional Council request a staff report and recommendations with respect to simplifying and streamlining the process for dealing with dangerous dogs as currently set out in By-law A-700, Respecting Animals and Responsible Pet Ownership, HRM's animal control by-law which will include options for a municipal appeal process that could serve as a speedier alternative to the courts for resolving cases where dangerous dogs have been seized or surrendered. The recommendations should consider a municipal appeal process that would involve an independent review panel, similar in structure to HRM's current tax appeals committee.

MOTION PUT AND PASSED UNANIMOUSLY

Regional Council, August 22, 2023, Item 15.8.7

MOVED by Councillor Morse, seconded by Councillor Russell

THAT Halifax Regional Council direct the Chief Administrative Officer (CAO) to provide a staff report and recommendations with respect to increasing the fines for dealing with animals that attack as set out in By-law A-700, Respecting Animals and Responsible Pet Ownership, HRM's animal control by-law. The recommendations for fine increases should be based on a jurisdictional scan of Canadian municipalities and be high enough to serve as a significant deterrent to animal attacks on residents and pets.

MOTION PUT AND PASSED UNANIMOUSLY.

RECOMMENDATION ON PAGE 3

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, sections 21, 192, 193, 194 and 195:

Standing, special and advisory committees

21 (1) The Council may establish standing, special and advisory committees.

192 Without limiting the generality of Section 188, the Council may make by-laws respecting
(f) wild and domestic animals and activities in relation to them.

193 Without limiting the generality of Section 188, the Council may make bylaws
(a) regulating the running at large of dogs, including permitting the running at large of dogs in certain places or at certain times;
(b) imposing a registration fee upon the owner of every dog, the amount to be set by policy, for such length of time as is specified in the by-law with the power to impose a larger fee for female dogs than for male dogs, or for unspoiled or unlettered [unspayed or unneutered] dogs than for spayed or neutered dogs;
(c) requiring tags for the identification of dogs registered under the by-law;
(d) exempting from any registration fee a dog that is a stray dog and is harboured for up to the maximum period of time set by by-law;
(e) defining fierce or dangerous dogs, including defining them by breed, cross-breed, partial breed or type;
(f) regulating the keeping of fierce or dangerous dogs;
(g) prohibiting the keeping of a dog that persistently disturbs the quiet of the neighbourhood by barking, howling, or otherwise;
(h) authorizing the dog control officer to impound, sell, kill or otherwise dispose of dogs
(i) that run at large contrary to the by-law,
(ii) in respect of which the fee or tax imposed by a by-law is not paid,
(iii) that are fierce or dangerous,
(iv) that are rabid or appear to be rabid or exhibiting symptoms of canine madness,
(v) that persistently disturb the quiet of a neighbourhood by barking, howling or otherwise;
(i) requiring the owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, to remove the dog's feces [feces] from public property and from private property other than the owner's;
(j) requiring the owner of a dog to provide a written statement of the number of dogs owned, harboured or that are habitually kept upon the premises occupied by the owner.

Dangerous dogs

194 (1) Where a peace officer believes, on reasonable grounds, that a person is harbouring, keeping or has under care, control or direction a dog that is fierce or dangerous, rabid or appears to be rabid, that exhibits symptoms of canine madness or that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise contrary to a by-law, a justice of the peace may, by warrant, authorize and empower the person named in the warrant to
(a) enter and search the place where the dog is, at any time;
(b) open or remove any obstacle preventing access to the dog; and
(c) seize and deliver the dog to the pound and, for such purpose, break, remove or undo any fastening of the dog to the premises.
(2) Where the person named in the warrant is unable to seize the dog in safety, the person may destroy the dog.

Additional penalty

195 At the trial of a charge laid against the owner of a dog that is fierce or dangerous, that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise or that runs at large, contrary to a by-law, in addition to the penalty, the judge may order that the
(a) dog be destroyed or otherwise dealt with; and
(b) owner pay any costs incurred by the Municipality related to the dog, including costs related to the seizure, impounding, or destruction of the dog,
and it is not necessary to prove that

- (c) the dog previously attacked or injured a domestic animal, person or property;
- (d) the dog had a propensity to injure or to damage a domestic animal, person or property; or
- (e) the defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage.

Animal By-law (A-700)

RECOMMENDATION

It is recommended that Halifax Regional Council maintain the existing Animal By-law, without amendment to the fees for dog attacks, and maintain the current process for dealing with animal seizures.

BACKGROUND

Animal By-law Compliance Process:

The Animal By-law is enforced by Municipal Compliance Officers in the Community Safety Business Unit, who respond to reports from the public of by-law violations, including animal attacks. Compliance Officers are appointed as Special Constables under the Nova Scotia Police Act which gives them the authority to enforce municipal by-laws. If a Compliance Officer, in the course of their investigation, determines that a dog has attacked, they take into consideration the severity of the injuries, the history of the animal and the circumstances of the incident to determine which enforcement action they will pursue. Under the by-law, an officer may take one or more of the following enforcement actions:

- A Violation Notice may be issued to the dog's owner. A violation notice is a written warning that does not include any monetary penalty. A record of violation notices are attached to the dog owner, and may be taken into consideration when determining enforcement actions if there are future violations.
- A Summary Offence Ticket (SOT) may be issued to the dog's owner for one or more violations. A person who has received an SOT has the opportunity to plead not guilty and request a trial or voluntarily pay the fine amount, resulting in a summary conviction.
- A Muzzle Order may be placed on the dog. A muzzle order specifies the times and circumstances when the dog is required to be muzzled. The owner is required to microchip the dog. A muzzle order may be issued upon issuance of an SOT for an attack.
- The officer may seek to designate the dog as a Dangerous Dog in the municipal registry. Upon notification of HRM's intent to designate the dog, the owner has an opportunity to dispute the designation and may provide submissions within seven (7) calendar days as to why they feel the dog should not be designated as dangerous. The supervisor of Animal Services considers the submissions and the reasons why the Compliance Officer feels the dog should be designated as dangerous and makes a final decision on the designation within seven (7) calendar days of receipt of submissions. Where a dog has been designated as a Dangerous Dog, the owner is required to have the animal microchipped and must license the dog as a dangerous dog within ten (10) days of receiving the designation. When a Dangerous Dog is on the property of its owner, the owner must keep the dog securely restrained either indoors or inside an escape-proof enclosure while outdoors. When the dog is off the property of its owner, including while in a motor vehicle, the dog must be muzzled, under the control of a person not less than eighteen (18) years of age, and on a leash or securely restrained indoors or inside an escape-proof enclosure. A dangerous dog designation is accompanied by the issuance of an attack Summary Offense Ticket.
- An officer may seek a warrant to seize the dog through the Provincial Court authorizing the Compliance Officer to remove a dog from the owner's property. Once a Compliance Officer has completed their investigation and decided to seek a warrant to seize an animal, the time to receive a warrant is typically less than a day. A decision to seize is for extreme circumstances where the officer believes it is in the best interest of public safety and that other resolutions are not sufficient to mitigate risk to the public. Once a dog is seized, the dog is impounded until trial where at that time a judge determines if the dog should be destroyed or otherwise dealt with. The dog owner also

has the option to surrender the dog at any point while awaiting trial. If the owner surrenders the dog, the dog is destroyed. Compliance Officers complete a prosecution referral form for charges, requiring the dog owner to attend court to answer to the charges. They do not have the option to pay the fine amount out of court. This allows the court to impose higher fine amounts than a Summary Offence Ticket. The court will make the decision on whether to return the dog to the owner, authorize HRM to destroy the dog, or order the dog to be dealt with in another manner.

Fines:

Between 2008 and 2015, the fines for dog attacks have increased twice. Former By-law D-100, the Dog By-law, had all violations set at the same fine amount of \$100.00 each. On April 1, 2008, By-law D-100 was repealed and replaced with By-law A-300, the Animal By-law, which increased fines to \$200.00. By-law A-300 was repealed on November 10, 2015, and replaced with By-law A-700, the Animal By-law, which placed greater emphasis on safety violations. This is the current Animal By-law in effect in HRM. By-law A-700 sets the fine for dog attacks at \$300.00 and dangerous dog attacks at \$600.00.

Where a Summary Offence Ticket is issued, it is in the amount of the minimum fine prescribed by the by-law. Where a higher fine amount is deemed appropriate, a Compliance Officer can use a prosecution referral form requiring the dog owner to go to court. If found guilty, the court can impose a fine up to the maximum amount prescribed in the by-law of \$5,000. The Crown Prosecutor, in consultation with the Compliance Officer, will recommend a fine amount to the court.

Currently, the summary conviction fines under By-law A-700 are:

Violation	Fine	Ticket Amount*
Animal Attack minimum	\$300.00	\$467.50
Dangerous Dog that Attacks minimum	\$600.00	\$812.50

*Ticket amount is the fine amount plus 15% victim surcharge plus Provincial Court costs, which as of the writing of this report are \$122.50.

DISCUSSION

Dangerous Dog Process:

Staff have conducted a jurisdictional scan of the following 15 municipalities: Victoria, Vancouver, Calgary, Edmonton, Regina, Saskatoon, Winnipeg, Toronto, Hamilton, Kingston, Ottawa, Montreal, Fredericton, Moncton and St. John's. Based on feedback received from these Canadian municipalities, only two, Calgary and Toronto, have a dangerous dog designation appeal process involving a committee. There are 4 municipalities that have a dangerous dog designation review process similar to Halifax, where the final decision is made by municipal staff, and there is no appeal to a committee or council. There are 3 municipalities where a dog is designated as dangerous by the courts as a result of a prosecution. There are 6 municipalities that have no appeal process of any type.

None of the jurisdictions researched have an appeal body which hears appeals of seizures of animals. In Winnipeg, the General Manager of Animal Services has the authority to order a dog euthanized. All other municipalities require the Provincial Court to determine the disposition of a seized animal and make a decision on whether a dog should be destroyed.

Section 193(h) of the HRM Charter enables the municipality to establish a by-law authorizing the "dog control officer" to impound, sell, kill or otherwise dispose of dogs that are fierce or dangerous which are in violation of the by-law. A clause in the former Animal By-law (A-300), enacted under the authority granted by section 193, allowed an Animal Control Officer to destroy a dog. This section of the by-law was ruled invalid by the Supreme Court of Nova Scotia because it did not accord the dog owner procedural fairness.¹

¹ [2009 NSSC 14 \(CanLII\) | Rogier v. Halifax \(Regional Municipality\)](#)

This clause was not included in the current Animal By-law (A-700), resulting in the current process of seeking a warrant to seize a dog. Extreme care must be taken when making changes to the process for dealing with dangerous dogs to ensure a dog owner is not being denied a fair process, which could put future seizures and prosecutions at risk.

Section 21 of the Charter enables Council to create committees, and it may be possible to create a committee which could hear appeals on the designation of dangerous dogs, the seizure of animals, or decide the fate of a seized dog. Should Council wish to pursue this alternative, further analysis would be required in relation to a potential committee's composition, mandate, and responsibilities.

It should be noted that even if an appeal committee were to be established, the initial decision on whether to seize a dog would remain with the Compliance Officer, and having an appeal committee would not affect the compliance officer's decisions or timelines when dealing with dogs. A decision by a Compliance Officer to not seize a dog would not be an appealable decision. An appeals committee could, however, result in a dog which a Compliance Officer has deemed to be dangerous being returned to an owner, which exposes the Municipality and the public to significant risk compared to the current process.

Based on the foregoing research and analysis, staff do not recommend changing the process for dealing with dangerous or seized dogs. The current approach provides the necessary officer discretion to protect public safety while mitigating risk and ensuring procedural fairness. This approach is well established and accepted by the courts.

Fines:

Staff have conducted a jurisdictional scan (Attachment A) of the following 15 municipalities: Victoria, Vancouver, Calgary, Edmonton, Regina, Saskatoon, Winnipeg, Toronto, Hamilton, Kingston, Ottawa, Montreal, Fredericton, Moncton and St. John's. Of the 15 municipalities in our jurisdictional scan, HRM's fine amount of \$300.00 for an animal attack was above the average. Only 6 other municipalities had higher fine amounts. Winnipeg's attack fine is \$350.00, Edmonton, Toronto and Ottawa's attack fine is \$500.00, Montreal's attack fine is \$1,000.00, and Calgary's fines range from \$350.00 to \$2,000.00, depending on the severity of the incident. Only 2 other municipalities besides Halifax have a higher fine amount for dog attacks by a dog designated as dangerous. In Edmonton, if a Restricted dog attacks, the fine amount is \$2,500.00. In Calgary, the fine amounts range from \$1,500.00 to \$3,000.00 if a dog designated as Nuisance or Vicious attacks, depending on the severity of the attack.

In discussion with other municipalities, all have seen an increase of attacks since the COVID 19 pandemic. During the pandemic, there was an influx of dog adoptions, mostly to first time dog owners.² With the stay-at-home orders, professional dog training services and veterinarian visits for spaying and neutering animals were often not available. There was a lack of socialization opportunities due to the lockdowns and with the disrupted routines of people working from home and then returning to work, which could all be factors to the increase of dog attacks.³

Since the fine amounts for attacks were increased in 2015, staff have not seen a decrease in attacks. Based on the jurisdictional scan, Halifax is above the average for attack fine amounts. The data does not show a correlation between higher fine amounts and frequency of dog attacks.

Year	# of Attack SOT's	# of Prosecution Referral Attack Charges	Total
2023	47	5	52
2022	32	0	32

² [Canada has seen a significant increase in pet owners since the start of the COVID-19 pandemic. - Narrative Research](#)

³ [Current Rise in Dog Bites Linked to COVID-19 Pandemic - Dogtime.com](#)

2021	54	16	70
2020 *	35	4	39
2019	32	3	35
2018	31	0	31
2017	27	4	31
2016	35	3	38
2015**	35	4	39
2014	33	1	34
2013	36	3	39
2012	47	1	48

* COVID-19 started in Nova Scotia in March 2020

** November 2015, attack fines were increased

The existing by-law and prosecution referral process gives compliance officers the necessary discretion to seek higher penalties through the courts when necessary, which does not require amendment to the existing by-law.

Based on the foregoing research and analysis, staff do not recommend amending the by-law to increase fine amounts.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the recommendation in this report. Should Council pursue one of the alternatives, there may be financial implications associated with creating new committees and review processes, which will be explored in a subsequent staff report.

RISK CONSIDERATION

The recommendation in this report provides the greatest mitigation of risks both to the municipality and to public safety. There are significant liability and procedural risks associated with the alternatives, which may include seized dogs being returned to an owner.

COMMUNITY ENGAGEMENT

No community engagement was required.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

That Halifax Regional Council:

1. Direct the Chief Administrative Officer to direct staff to prepare amendments to By-law A-700 to increase the fine amounts for animal attacks.
2. Direct the Chief Administrative Officer to direct staff to perform further analysis on an appeal

committee and prepare amendments to By-law A-700 to grant compliance officers the authority to seize and destroy dogs and establish an appeal committee for reviewing seizures.

ATTACHMENTS

Attachment A: Jurisdictional scan of animal attack fines

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Lori Scolaro, Supervisor Regional Compliance, 902-490-1790

Attachment A: Jurisdictional Scan of Fines

Municipality	Fine Amount	Additional Charges	Ticket Amount
St John's	\$50 for first offense, \$100 for second offense, \$250 for third offense	no extra charges	varies
Moncton	\$0	\$0	\$0
Fredericton	\$50 - only on person, \$0 for attack on animal	no extra charges	\$50
Montreal	\$1,000	\$576	\$1,576
Ottawa	\$500	\$115	\$615
Toronto	\$500	\$115	\$615
Hamilton	\$300	\$0	\$300
Halifax	\$300	\$167.50	\$467.50
Kingston	\$300	\$150	\$450
Winnipeg	\$350	\$225	\$575
Saskatoon	\$0	\$0	\$0
Regina	\$0	\$0	\$0
Edmonton	\$100 for small injury (i.e. scratch). \$500 for physical injury	no extra charges	\$500
Calgary	Animal Bite a person \$500 Animal attack a person \$1,000 Animal attack another animal causing severe injury \$1,000 Cause death to an animal \$1,750 Animal attack a person causing severe injury \$2,000 <u>Dogs designated Nuisance or Vicious</u> Vicious animal – chase (threaten) \$1,500 Vicious animal – injure \$2,000 Vicious animal – Bite - \$2,500 Vicious animal – Attack \$3,000	no extra charges	varies
Vancouver	\$250	no extra charges	\$250
Victoria	\$300	no extra charges	\$300