

# Staff Report



Corporate Services Department

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**REPORT TO:** Committee of the Whole

**DATE OF MEETING:** January 22, 2024

**SUBMITTED BY:** Dog Designation Appeal Committee

**PREPARED BY:** Marilyn Mills, Committee Coordinator, 519-741-2200 ext. 7275

**WARD(S) INVOLVED:** All

**DATE OF REPORT:** January 16, 2024

**REPORT NO.:** COR-2024-058

**SUBJECT:** Dog Designation Appeal - Adams

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## RECOMMENDATION:

That the decision of the Dog Designation Appeal Committee regarding an appeal filed by J. Adams, wherein the Committee affirms the Potentially Dangerous Dog Designation applied to the dog 'Abercrombie' by the Humane Society of Kitchener-Waterloo and Stratford Perth, be ratified and confirmed with modified conditions, as outlined in Corporate Services Department report COR-2024-058; and further,

That the decision of the Dog Designation Appeal Committee regarding an appeal filed by J. Adams, wherein the Committee affirms the Dangerous Dog Designation applied to the dog 'Billy the Kid' by the Humane Society of Kitchener-Waterloo and Stratford Perth, be ratified and confirmed with modified conditions, as outlined in Corporate Services Department report COR-2024-058.

## REPORT HIGHLIGHTS:

- On October 24, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth designated "Abercrombie" as a Potentially Dangerous Dog and "Billy the Kid" as a Dangerous Dog.
- Officer E. Maciel designated "Abercrombie" as a potentially dangerous dog due to an incident where "Abercrombie" approached a person and domestic animal in a menacing fashion with a lack of mitigating factors.
- Officer E. Maciel designated "Billy the Kid" as a dangerous dog due to an incident where "Billy the Kid" attacked another dog without provocation.
- The City's Dog Designation Appeal Committee affirmed the designation of "Abercrombie" as a Potentially Dangerous Dog and "Billy the Kid" as a Dangerous Dog.
- This report supports the delivery of core services.

## BACKGROUND:

On October 24, 2023, the Humane Society of Kitchener-Waterloo and Stratford Perth designated 'Abercrombie', a dog owned by J. Adams, as a Potentially Dangerous Dog. The designation was

applied after determining that on October 5, 2023, 'Abercrombie' approached a person and their dog in a menacing fashion, in the absence of any mitigating factor, in contravention to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code. In addition, on October 24, 2023, the Humane Society of Kitchener-Waterloo and Stratford Peth designated 'Billy the Kid', another dog owned by J. Adams, as a Dangerous Dog. The Dangerous Dog Designation was applied after determining that on October 5, 2023, 'Billy the Kid' did attack a dog without provocation, in contravention to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code.

On October 23, 2023, the Office of the City Clerk received correspondence from J. Adams appealing both the Potentially Dangerous Dog Designation and the Dangerous Dog Designation laid on their dogs. It should be noted that there was a clerical error in the initial designations that were served, which is the reason for the appeal being received the day prior to the issuance of the designation.

A Notice of Hearing was issued to the Respondent and Appellant, advising on January 12, 2024, a hearing of the Dog Designation Appeal Committee would be held to consider the matter. The Committee heard and considered evidence from all parties and determined that the Potentially Dangerous Dog Designation applied to 'Abercrombie' and the Dangerous Dog Designation applied to 'Billy the Kid' should be confirmed.

#### **REPORT:**

The Dog Designation Appeal Committee established by the Council of the Corporation of the City of Kitchener pursuant to City of Kitchener pursuant to Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code and the Statutory Powers Procedures Act R.S.O 1990 Chapter S.22, sat on January 12, 2024, to consider two appeals filed with the City by J. Adams, and reports as follows:

The Committee considered the following:

- testimony provided on behalf of the Respondent by Officer E. Maciel, Kitchener-Waterloo and North Waterloo Humane Society, which demonstrates 'Abercrombie' was involved in an incident on October 5, 2023, where 'Abercrombie' did approach a person and their dogs in a menacing fashion, in the absence of any mitigating factor, and in this same incident 'Billy the Kid' did attack another dog without provocation.
- testimony and photographic evidence from M. White, Witness for the Respondent and owner of the dog 'Pepper', regarding an incident that occurred on October 5, 2023, where 'Abercrombie' and 'Billy the Kid' approached him, and his dogs in a menacing fashion. During the incident, one of his dogs, 'Pepper' sustained bite wounds.
- testimony of J. Adams, Appellant and owner of the dogs 'Abercrombie' and 'Billy the Kid', acknowledging that an incident did occur on October 5, 2023; and requesting the Committee rescind the designations as the behaviour of her dogs were an isolated incident, and further, it was unclear whether either of her dogs bit 'Pepper' as several dogs were involved in the incident. It was also raised that there may have been mitigating factors that led to the incident.

In addition, the Committee reviewed and considered the provisions of Chapter 420 (Dog Designations) of the City of Kitchener Municipal Code and recommends that having considered

all the evidence and exhibits presented during the Hearing regarding the incident, the Potentially Dangerous Dog Designation applied to 'Abercrombie' and the Dangerous Dog Designation applied to 'Billy the Kid' **be confirmed** with modified conditions.

The Committee hereby recommends the designation of Potentially Dangerous Dog applied to 'Abercrombie', by the Humane Society of Kitchener-Waterloo and Stratford Perth; and, pursuant to By-law 2014-142 assigns the following modified conditions for the keeping of said Potentially Dangerous Dog:

- a) The owner shall ensure that all conditions pertaining to the dog when it is off the property of the owner including any leashing and muzzling requirements are complied with in any City Off-Leash Park unless specified otherwise in this designation;
- b) The owner shall ensure that the animal services provider is provided with the new address and telephone number of the owner within two working days of moving the designated dog;
- c) The owner shall provide the animal services provider with the name, address and telephone number of the new owner within two working days of selling or giving away the designated dog;
- d) The owner shall advise the animal services provider within two working days of the death of the designated dog;
- e) The owner shall advise the animal services provider forthwith if the designated dog runs at large or has bitten or attacked any person or animal;
- f) The owner shall provide a copy of this designation to any person who keeps or harbors the designated dog;
- g) The owner shall provide a copy of this designation to any veterinarian treating the designated dog and within the veterinarian's premises shall be exempt from the requirements of this designation to the extent necessary to secure veterinary treatment for the dog at the discretion of the veterinarian;
- h) The owner shall ensure that the designated dog has a current City dog license;
- i) The owner shall ensure that the designated dog wears the tag or tags provided by the animal services provider at all times and shall pay the reasonable cost for such tag or tags;
- j) The owner shall ensure that the designated dog is kept, when it is on the lands and premises of the owner, confined:
  - a. within the dwelling;
  - b. in an outdoor pen that is both secure and provides humane shelter to the satisfaction of the animal services provider;
  - c. in an area with a secure and adequate fence to the satisfaction of the animal services provider however the animal services provider may refuse to approve any fenced area if, in the sole discretion of the animal services provider, a fenced area would provide insufficient protection to members of the public including unsupervised children who may wander into the area; or
  - d. when outside of the dwelling and the approved pen or fenced area contemplated by subsections (b) and (c), under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 meters (6 feet) in length and to be approved by the animal services provider, and, where the dog is

required to wear a muzzle off its property by this designation shall also wear a muzzle when confined in accordance with this subsection (d);

- k) The owner shall ensure that the designated dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen is in the owner's dwelling;
- l) The owner shall ensure that the designated dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen who does not habitually reside in the owner's dwelling is present;
- m) The owner shall ensure that the designated dog is kept caged penned, in a locked room not accessible to children or through inadvertence, or under the control of an occupant of the dwelling who is at least 18 years of age when any person who does not habitually reside in the owner's dwelling is present;
- n) The owner shall ensure that the designated dog is kept under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 meters (6 feet) in length and to be approved by the animal services provider, at all times when the designated dog is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal services provider;
- o) The owner shall ensure that the designated dog is microchipped by a licensed veterinarian and supply the microchip information to the animal services provider. The owner shall also permit the animal services provider to verify the implantation of such microchip.
- p) The owner shall ensure that the designated dog wears a securely attached muzzle that is satisfactory to the animal services provider at all times when it is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal services provider;

Further, the Committee hereby recommends the designation of Dangerous Dog applied to 'Billy the Kid', by the Humane Society of Kitchener-Waterloo and Stratford Perth; and, pursuant to By-law 2014-142 assigns the following modified conditions for the keeping of said Dangerous Dog:

- a) The owner shall ensure that all conditions pertaining to the dog when it is off the property of the owner including any leashing and muzzling requirements are complied with in any City Off-Leash Park unless specified otherwise in this designation;
- b) The owner shall ensure that the animal services provider is provided with the new address and telephone number of the owner within two working days of moving the designated dog;
- c) The owner shall provide the animal services provider with the name, address and telephone number of the new owner within two working days of selling or giving away the designated dog;
- d) The owner shall advise the animal services provider within two working days of the death of the designated dog;

- e) The owner shall advise the animal services provider forthwith if the designated dog runs at large or has bitten or attacked any person or animal;
- f) The owner shall provide a copy of this designation to any person who keeps or harbors the designated dog;
- g) The owner shall provide a copy of this designation to any veterinarian treating the designated dog and within the veterinarian's premises shall be exempt from the requirements of this designation to the extent necessary to secure veterinary treatment for the dog at the discretion of the veterinarian;
- h) The owner shall ensure that the designated dog has a current City dog license;
- i) The owner shall ensure that the designated dog wears the tag or tags provided by the animal services provider at all times and shall pay the reasonable cost for such tag or tags;
- j) The owner shall ensure that the designated dog is kept, when it is on the lands and premises of the owner, confined:
  - a. within the dwelling;
  - b. in an outdoor pen that is both secure and provides humane shelter to the satisfaction of the animal services provider;
  - c. in an area with a secure and adequate fence to the satisfaction of the animal services provider however the animal services provider may refuse to approve any fenced area if, in the sole discretion of the animal services provider, a fenced area would provide insufficient protection to members of the public including unsupervised children who may wander into the area; or
  - d. when outside of the dwelling and the approved pen or fenced area contemplated by subsections (b) and (c), under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 meters (6 feet) in length and to be approved by the animal services provider, and, where the dog is required to wear a muzzle off its property by this designation shall also wear a muzzle when confined in accordance with this subsection (d);
- k) The owner shall ensure that the designated dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen is in the owner's dwelling;
- l) The owner shall ensure that the designated dog is kept caged, penned, or under the control of a person of at least sixteen years of age when any child under the age of fourteen who does not habitually reside in the owner's dwelling is present;
- m) The owner shall ensure that the designated dog is kept caged penned, in a locked room not accessible to children or through inadvertence, or under the control of an occupant of the dwelling who is at least 18 years of age when any person who does not habitually reside in the owner's dwelling is present;
- n) The owner shall ensure that the designated dog is kept under the effective control of a person of at least sixteen years of age and under leash, such leash not to exceed 1.8 meters (6 feet) in length and to be approved by the animal services provider, at all times

when the designated dog is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal services provider;

- o) The owner shall ensure that the designated dog wears a securely attached muzzle that is satisfactory to the animal services provider at all times when it is off the owner's property and not caged or otherwise penned or confined to the satisfaction of the animal service provider.
- p) The owner shall ensure that the designated dog is microchipped by a licensed veterinarian and supply the microchip information to the animal services provider. The owner shall also permit the animal services provider to verify the implantation of such microchip.

**STRATEGIC PLAN ALIGNMENT:**

The recommendation of this report supports the achievement of the city's strategic vision through the delivery of core service.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this report.

**COMMUNITY ENGAGEMENT:**

INFORM – All those in attendance at the January 12, 2024, Hearing were advised of the Committee's decision and that it would be considered at the January 22, 2024 Council meeting as required in the By-law. In addition, a Notice of Decision was sent to the Appellant and the Respondents via email and registered mail on January 16, 2024; thereby, further notifying both parties of when the Committee's decision would be considered by Council and the process for registering as a delegation.

**PREVIOUS REPORTS/AUTHORITIES:**

There are no previous reports/authorities related to this matter.

**APPROVED BY:** Victoria Raab, General Manager, Corporate Services