

POLICY		CAT-SUB-####	
Dog Designation Appeal Committee and Animal Designation Appeal Committee – Terms of Reference		Category GOV - Governance	Sub-category BOA - Board & Committee
Approval Type COUNCIL	Department/Division Corporate Services/Legislated Services/Council/Committee Services	Author and Position Mariah Blake, Committee Coordinator	
Date Approved Click here to enter a date.	Last Reviewed/Amended Click here to enter a date.	Next Review Date Click here to enter a date.	

Related Policies or Procedures

- [Title with embedded link]
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1. Policy Purpose

The purpose of this policy is to establish the Terms of Reference for the Dog Designation and Animal Designation Appeal Committees.

The Animal Designation Appeal Committee considers appeals to add or change the classification of animal species as permitted, restricted, or prohibited under Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code, and makes recommendations to Council based on criteria related to public health and safety, animal welfare, and environmental impact.

The Dog Designation Appeal Committee considers an appeal (s) by a dog owner who has been designated under Chapter 420 (Dog-Designations) of the City of Kitchener Municipal Code as potentially dangerous, dangerous, restricted, or prohibited by the Animal Services Provider as per the City of Kitchener Dog Designation By-laws.

The Animal Designation Appeal Committee and Dog Designation Appeal Committee operate as quasi-judicial committees of Council and all decisions arising from the hearing are ratified at a subsequent Council meeting.

2. Definitions

Agent: An individual authorized prior to the hearing, by signature of the dog owner/appellant to address the Dog Designation Appeal Committee or Animal Designation Appeal Committee on behalf of the appellant.

Appellant: A dog owner that has been served with a dog designation from the animal services provider and who has submitted a Notice of Appeal to the Committee

Secretary within the five (5) working days of being served with the designation, or a resident who has submitted an appeal to add or change the classification of animal species as permitted, restricted or prohibited.

Animal Services Officer: Animal Service Officers are staff from the animal services provider responsible for responding to animal complaints, issuing dog designations, and ensuring the designations and conditions have been complied with. Responding animal service officers attend Committee meetings as the Respondent to provide evidence, and are represented by the City Solicitor or their delegate.

Chair: The Chair moves forward business outlined on the meeting agenda, ensures decorum is maintained at meetings, and the rules of procedure and conduct are observed.

Secretary Treasurer: The Secretary Treasurer is a staff member appointed by the Committee and is a non-voting member. They provide administrative support to the Committee, and procedural advice within hearings. The Secretary Treasurer may also be referred to as *Committee Coordinator*.

Vice Chair: The Vice Chair acts in the absence of the Chair and assumes the roles and responsibilities of the Chair.

Quorum: The minimum number of Committee members that must be in attendance to conduct hearings.

3. Policy Scope

POLICY APPLIES TO THE FOLLOWING:	
<input type="checkbox"/> <i>All Employees</i>	
<input type="checkbox"/> <i>All Full-Time Employees</i>	<input type="checkbox"/> <i>All Union</i>
<input type="checkbox"/> <i>Management</i>	<input type="checkbox"/> <i>C.U.P.E. 68 Civic</i>
<input type="checkbox"/> <i>Non Union</i>	<input type="checkbox"/> <i>C.U.P.E. 68 Mechanics</i>
<input type="checkbox"/> <i>Temporary</i>	<input type="checkbox"/> <i>C.U.P.E. 791</i>
<input type="checkbox"/> <i>Student</i>	<input type="checkbox"/> <i>I.B.E.W. 636</i>
<input type="checkbox"/> <i>Part-Time Employees</i>	<input type="checkbox"/> <i>K.P.F.F.A.</i>
<input type="checkbox"/> <i>Specified Positions only:</i>	<input type="checkbox"/> <i>Other:</i>
<input type="checkbox"/> <i>Council</i>	<input checked="" type="checkbox"/> <i>Local Boards & Advisory Committees</i>

Application

☐ **Employees** *(Indicate below which categories apply: All employees, Permanent full-time, Temporary full-time, Continuous part-time, Casual, Probationary, Student, Management, Non-union)*

☐ **Unions** *(Indicate below which categories apply: All Unions, CUPE 68 Civic, CUPE 68 Mechanics, CUPE 791, IATSE, IBEW, KPFFA)*

☐ **Council**

☐ **Specified Positions:**

☒ Other: Local Boards and Advisory Committees

4. Policy Content

4.1 Purpose of the Committee

The Animal Designation Appeal Committee hears appeals to add or change the classification of animal species as permitted, restricted, or prohibited under Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code, and makes recommendations to Council based on criteria related to public health and safety, animal welfare, and environmental impact.

The Dog Designation Appeal Committee hears the appeal of any dog owner who has been served with a dog designation issued Chapter 420 (Dog-Designations) of the City of Kitchener Municipal Code of the City of Kitchener Municipal Code and who is not satisfied with the terms or conditions of the designation.

4.2 Roles and Responsibilities

The Animal Designation Appeal Committee and Dog Designation Appeal Committee are governed by procedures detailed in the *Municipal Act, 2001*, the *Statutory Powers Procedures Act*, the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.

The Animal Designation Appeal Committee and Dog Designation Appeal Committee are guided by regulations established by Council within Chapter 420 (Dog-Designations) and Chapter 421 (Responsible Dog Ownership) of the City of Kitchener Municipal Code and Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code.

The Animal Designation Appeal Committee considers appeals submitted under Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code and has the authority to recommend to Council any of the following actions:

- i. Recommend that a mammal species be designated as a permitted or restricted animal, based on an assessment of captive breeding history, the general public's ability to provide appropriate care, the minimal danger to public health and safety, and the minimal risk to the local ecosystem;
- ii. Recommend that a bird species be designated as a restricted or prohibited animal, where captive breeding history is insufficient, appropriate care by the general public cannot be ensured, or where there is a more than minimal risk to public health, safety, or the local ecosystem;
- iii. Recommend that a reptile, amphibian, fish, or invertebrate species be designated as a restricted or prohibited animal, where appropriate care cannot be ensured, or where there is a more than minimal risk to public health, safety, or the local ecosystem; and
- iv. Render a deferral or an adjournment.

The Dog Designation Appeal Committee considers appeals to designations applied by the animal services provider and has the ability to decide any of the following:

- i. Affirm or rescind the animal services provider's designation of the dog;
- ii. Substitute its own designation of the dog as potentially dangerous, dangerous, restricted, or prohibited; and
- iii. Substitute its own requirements of the owner of the dog including requirements the Dog Designation Appeal Committee may tailor to the specific circumstances before it or uphold or vary the requirements imposed by the Animal Services Provider; and,
- iv. Render a deferral or an adjournment.

4.3 Governance

The Animal Designation Appeal Committee and Dog Designation Appeal Committee shall adhere to the City policies and procedures, the *Statutory Powers Procedure Act*, *Municipal Conflict of Interest Act*, Chapter 420 (Dog-Designations), Chapter 421 (Responsible Dog Ownership) of the City of Kitchener Municipal Code, Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code and the *Municipal Freedom of Information and Protection Act*.

The Committee shall use the guidance of Chapter 25 (Procedure) of the City of Kitchener Municipal Code to ensure a fair and unbiased hearing.

5. GENERAL

5.1 Composition

The Animal Designation Appeal Committee and Dog Designation Appeal Committee shall be comprised of a minimum of five (5) members. The Chair shall be selected by the committee on an ad hoc basis at each hearing.

The Dog Designation Appeal Committee shall be composed of:

- Up to two (2) members of Council; and,
- Up to three (3) citizen members appointed by Council.

In the event of scheduling challenges, members of the Property Standards Appeal Committee and the Animal/Dog Designation Appeal Committee may serve as ex officio members of each other's Committees, as necessary, to ensure timely and efficient scheduling of hearings.

5.2 Qualifications

Consideration of the following criteria will be given for the appointments to the Dog Designation Appeal Committee and Animal Designation Appeal Committee:

- Will comply with the criteria outlined in Council Policy GOV-BOA-063 (Appointment to Boards & Committees);
- Demonstrated interest, academic qualification, work experience,

- knowledge or professional expertise.
- Availability to attend meetings shall also be considered;
- Knowledge and/or understanding of Chapter 420 (Dog-Designations), Chapter 421 (Responsible Dog Ownership) and Chapter 408 (Animals-Regulation) of the City of Kitchener Municipal Code would be considered an asset;
- Knowledge/Experience in one or more areas would be considered an asset:
 - Legal tribunal governance
 - Municipal Policy
 - Veterinarian Studies
 - Dog Training
 - Animal control or animal behaviour
 - Involvement in a local kennel club
- Ensuring a balance between experience and new membership;
- Demonstrated decision-making, communication, and mediation skills to facilitate an open and fair hearing process.

5.3 Term of Appointment

The Committee shall serve for a two-year term or, another term determined by the Council that appointed them and, they shall remain members of the Committee until their successors are appointed. Where a member ceases to be a member before the expiration of their term, Council will appoint another person for the unexpired term.

5.4 Remuneration

The Chair, if they are a member of the public, shall be compensated \$125 for each meeting they attend; and, Committee members, who are members of the public, shall be compensated \$100 for each meeting they attend. Honorariums will be paid following participation in each Animal Designation Appeal Committee and/or Dog Designation Appeal Committee meeting and will not be subject to income tax deductions by the City.

5.5 Code of Conduct

The Animal Designation Appeal Committee and/or Dog Designation Appeal Committee members shall comply with any applicable legislation and regulations under the *Statutory Powers Procedure Act* and shall abide by the Code of Conduct adopted by Council.

5.6 Conflict of Interest

The *Municipal Conflict of Interest Act* sets out a primary set of ethical rules for Council, Committee and local board members. These rules apply if members have a pecuniary (financial) interest in a matter that is before them at a meeting. The legislation requires a member with a pecuniary interest to:

- disclose the interest and its general nature before the matter is considered at the meeting;
- complete any required form (s) to necessary by the municipal conflict of interest act;

- not take part in the discussion or voting on any question in respect of the matter;
- not attempt to influence the voting, during or after the meeting; and
- immediately leave the meeting, if the meeting is closed to the public.

Regarding procedural fairness, members of the Animal Designation Appeal Committee and Dog Designation Appeal Committee should consider taking the above-noted steps where they believe they have an actual bias or where a reasonable apprehension of bias may exist which could impact their ability to decide fairly on a particular matter before them at a meeting.

In determining whether there is a reasonable apprehension of bias, the member should consider whether a reasonable and informed person, with knowledge of all relevant circumstances, viewing the matter realistically and practically, would think that it is more likely than not that the member, whether consciously or not, would not decide the matter fairly.

5.7 Resources to the Committee

The Secretary-Treasurer/Committee Coordinator is a City of Kitchener staff and is a non-voting member. They provide administrative support to the Committee and, procedural advice within hearings.

The Secretary Treasurer/Committee Coordinator will provide or arrange for the provision of orientation and training to Committee members following their appointments relating to the role of the Animal Designation Appeal Committee and/or Dog Designation Appeal Committee to ensure awareness of Chapter 420 (Dog-Designations), Chapter 421 (Responsible Dog Ownership), Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code, and all related policies and procedures necessary for rendering decisions. The Secretary Treasurer will arrange for additional training and educational sessions for the Committee or individual members as requested by the Committee or a member of the Committee.

The City of Kitchener Legal Staff who are not parties to the hearing are available to provide subject matter information related to the Chapter 420 (Responsible Dog Ownership) of the City of Kitchener Municipal Code), Chapter 408 (Animals – Regulation) of the City of Kitchener Municipal Code upon request, should the Committee choose to recess, deliberate and consult a lawyer.

6. HEARINGS

6.1 Conduct of Hearing

The Animal Designation Appeal Committee and/or Dog Designation Appeal Committee shall adhere to City policies and procedures, the *Statutory Powers Procedure Act*, *Municipal Conflict of Interest Act*, the Kitchener Municipal By-law 2014-138 (Responsible Dog Ownership), the Kitchener Municipal By-law 2014-142 (Designation of Potential Dangerous, Dangerous, Prohibited and Restricted Dogs), the Kitchener Municipal Code Chapter 420 (Responsible Dog Ownership) and Chapter 408 (Animals – Regulation), and use the guidance of

the Procedural By-law to ensure a fair and unbiased hearing. Where the above noted laws and policies do not speak to an issue, Robert's Rules of Order will be the default guide for meeting procedures.

The Animal Designation Appeal Committee and Dog Designation Appeal Committee shall provide and conduct fair hearings by:

- Allowing both the Appellant and Respondents and their witnesses as necessary, speak to an appeal;
- Giving due diligence to the consideration of each appeal;
- Reviewing the merits of the appeal, the documentation and evidence put forward and, rendering decisions on applications, in accordance with the requirements of the municipal by-law standards.
- Making rational decisions with appropriate, well-thought-out conditions; and,
- Each member including the Chair clearly identifying support or opposition when voting; and,
- Clearly stating the reasons for their decisions.

6.2 Meeting Schedule and Location

The Animal Designation Appeal Committee and Dog Designation Appeal Committee shall meet when an appeal is filed. The Committee Coordinator who also acts as the Secretary to the Committee, shall prepare an annual schedule of hearing dates and if a hearing is scheduled, it shall be advertised on the City's website a minimum of 10 days in advance of the hearing. The date, time, and location of meetings can be modified at the discretion of the Secretary to the Committee and the City Solicitor or their delegate. Notice of any modified meeting details shall be published on the City's website.

6.3 Notice of Hearing

Upon receipt of the Dog Designation, the dog owner must file an appeal using the prescribed Dog Designation Notice of Appeal form to Legislated Services within five (5) working days from the date they receive the designation from the Animal Services Officer. The Animal Services provider and the City Solicitor and/or their delegate shall be informed of this appeal via email by the Secretary Treasurer.

The Secretary Treasurer shall endeavour to schedule an Animal Designation Appeal Committee and/or Dog Designation Appeal Committee hearing within 45 working days of the Clerk's receipt of the request for an appeal hearing or as soon thereafter as possible.

Notice of the Hearing shall be issued a minimum of 14 days prior to the hearing. Notice can be issued less than 14 days prior to the hearing at the discretion of the dog owner, Secretary-Treasurer and City Solicitor or their delegate.

6.4 Open Meetings

All Animal Designation Appeal Committee and Dog Designation Appeal Committee meetings shall be open to the public in accordance with the City of Kitchener's Procedural By-law and the *Municipal Act, 2001*. After all

submissions have been made, the Committee may retire to another room to deliberate before rendering its decision as outlined under the *Statutory Powers Procedure Act*.

6.5 Quorum

Quorum for the Animal Designation Appeal Committee and the Dog Designation Appeal Committee is the minimum number of Committee members that must be in attendance to conduct hearings. At the time of this policy, two (2) members shall constitute a quorum. All members are requested to attend every meeting, according to the schedule. Members of the Committee shall notify the Secretary-Treasurer when they will be absent from any meeting

6.6 Voting

Every Animal Designation Appeal Committee and Dog Designation Appeal Committee member is required to vote, including the Chair. Those members who are present at a Committee Meeting when a decision is rendered shall vote by show of hands, except where they are disqualified from voting by reason of a pecuniary interest or is absent from the meeting during the vote. Any member who refuses to vote will be recorded as voting in the negative (opposed). In the event of equality of votes, the motion being voted on is deemed to be lost.

6.7 Hearing Procedures

Where possible, the hearing procedure should abide by the following:

- The Chair shall call the meeting to order;
- Committee Members shall declare any pecuniary interests that they may have in applications before the Committee, and the provisions of the *Municipal Conflict Interest Act* shall apply.
 - If a conflict of interest is declared, it is suggested that the member leave the meeting room for the duration of the hearing of the application and until a decision is rendered.
- Chair welcomes those in attendance and provides and explanation of the procedures:
 - The City Solicitor or their delegate and their witnesses shall be given the opportunity to present their evidence;
 - The Appellant and their representatives shall be given the opportunity to present their evidence;
 - Comments and questions are to be addressed through the Chair;
 - All those in attendance at the meeting shall be encouraged not to:
 - speak disrespectfully of any person;
 - use offensive words;
 - disobey the decision of the Chair or Committee; and,
 - enter into cross debate with other persons present, City staff, Members, or the Chair.
 - The City Solicitor or their delegate, Appellant and their representatives shall be given the opportunity to present their evidence.
 - Members of the Committee may retire, if necessary, to deliberate on the matter before them prior to rendering a decision;

- Members will render the decision verbally in the meeting;
 - In the event the Committee needs more time to consider its decision, the Committee can reserve their decision, whereby the decision would be communicated to staff and the appellant in writing through the issuance of a Notice of Decision. However, if possible, it is preferable for the Committee to render its decision on the date of the hearing while the parties are present.
- Adjournment of the meeting.

Staff reserve the right to amend hearing procedures as they are administrative in nature and are required to reflect legislative changes. Please see appendix 'A', Administrative Hearing Procedures for comprehensive hearing procedures for the Dog Designation Appeal Committee.

6.8 Notice of Decision

The Secretary Treasurer will endeavor to notify the Appellant, in writing of the Committee's decision within five (5) working days. The Animal Services Agency shall also receive a copy of the decision.

The Decision will be forwarded to the first available City Council meeting for ratification.

The decision once ratified by Council can be appealed by the City or the Appellant to the Divisional Court within 30 days of the decision being issued. Such an appeal would be heard by a panel of Judges by way of judicial review.

6.9 Policy History

None at this time.

Results of Review

- ☐ No Edits Required
- ☐ Housekeeping Edits
- ☐ Substantial Edits
- ☐ Repeal/Replace