

DATE: March 11, 2003

TO: Chairman and Members of the General Committee
Meeting Date: April 2, 2003

FROM: Janice M. Baker, CA
Commissioner of Corporate Services and Treasurer

SUBJECT: **Feasibility and Implications of a Breed Specific
Animal Services By-law**

ORIGIN: Enforcement Division

BACKGROUND: Area residents have forwarded correspondence requesting Council to consider the possibility of a City-wide ban on the Pit Bull, Rottweilers and Bull Mastiff breeds of dogs which were referred to staff. This report seeks to review municipal reaction regarding measures to control vicious dogs and what the City of Mississauga should consider.

COMMENTS: Council has received complaints regarding the so-called 'Pit Bull' breed and vicious dogs in general. In one instance, it was stated: ' ... banning breeds of dogs who are most likely to cause death to a victim makes a lot of sense, especially if it will keep children safe.'¹

Current Legislation - *Dog Owners Liability Act*

City of Mississauga Council has enacted By-laws 948-80 and 601-98 under the authority of provincial legislation which holds the dog owner accountable and liable for damages resulting from bite or attack by a dog on another person or domestic animal. The *Dog Owner's Liability Act* RSO 1990, c.D.16 governs dog bites and attacks to people or pets. This is applied to all breeds of dogs without specification. For example, there have been reported bites by the poodle breed which is largely not considered as being a dangerous dog. However, recourse under the *Dog Owner's Liability Act* is

available no matter which breed of dog has attacked. Charges under this Act can result in a maximum fine of \$5,000 and/or a Court Order to control the dog. In the case of serious or repeat offences, a Court Order may be issued to have the dog destroyed.

An owner is still liable for damages caused by their dog even if the attack or bite occurred on the property of the dog owner. An "owner" when used in relation to a dog, includes a person who possesses or harbours the dog and if the owner is a minor, the person responsible for the minor is held responsible. Where there is more than one owner of the dog, they are jointly and severally liable under the *Dog Owner's Liability Act*.

Currently, the *Dog Owner's Liability Act* is enforced by Animal Services and where assistance is required, by the Peel Regional Police. Mississauga Animal Services is proactive in advising local dog owners that all dogs, no matter which breed, must be licensed, kept leashed at all times and under the control of the owner.

Each reported dog bite case is investigated on an individual basis to ascertain which steps are necessary to ensure public safety. Options include charges under the *Dog Owner's Liability Act*; charges under the Mississauga Muzzling By-law; or in some cases, extensive education for the dog owner. The dog may also be impounded. Recourse is also available through private civil action.

Muzzling of Vicious Dogs - By-law 948-80

In December 1998, this City By-law was amended to allow the Manager of Animal Services to declare a dog "vicious." The Manager can impose a Muzzle Order on a dog within seventy-two hours upon receipt of a sworn affidavit from a witness or victim that a dog has bitten or attacked a person or domestic pet. The dog owner will then be issued with an Order requiring that the dog be muzzled and restrained pursuant to the provisions of the By-law. The By-law states that the dog must be muzzled in a manner that prevents the dog from biting a person or a domestic animal.

"Muzzle" is defined as a humane fastening device over the mouth of the dog of sufficient strength to prevent the dog from biting. The Muzzle Order will specify that the dog does not bite or attack a person or domestic animal on any property including that of the owner. The dog must also be chained or tethered to the dog owner's

property at all times. When off the dog owner's property, the dog must be under control of a person of at least sixteen (16) years of age and be securely leashed and muzzled. Failure to muzzle the dog can result in additional charges and penalties. Fines, muzzle orders and violations along with orders to destroy a dog all come into force once an offence has been committed.

Under By-law 948-80, when a dog has been declared as vicious by the Manager of Animal Services, the owner of the dog may apply for a public hearing before the Appeal Committee. Throughout this appeal process, the Manager's Order is effective.

Where a dog is seized and impounded pursuant to By-law 948-80 or should be destroyed without delay for humane reasons or for reasons of public safety to persons or animals, the Animal Control Officer may kill the dog in a humane manner as soon after seizure as he or she thinks fit. This is without permitting any person to re-claim the dog or without offering it for sale, and in that event, no damages or compensation shall be recoverable on account of its killing.

Proceedings under the *Dog Owner's Liability Act* can also order the dog destroyed or place under certain controls as laid out by the Justice of Peace.

The Municipal Experience of Breed Specific Legislation

The Cities of Vancouver, Edmonton and Winnipeg have passed breed specific legislation regarding 'pit bulls.' Some of the municipalities which have breed-specific legislation have different classifications of the pit bull dog including² the City of Vancouver which defines a pit bull as a Pit Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, or any dog of mixed breeding which included any of the aforementioned breeds.

The City of Winnipeg defines a 'Pit Bull' as Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, American Bull Terrier or any dog which has the appearance and physical characteristics to the standards for any of the above breeds.

In April 1997, the Cities of Kitchener and Waterloo combined their

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Please refer to Appendix A for complete Municipal Analysis.

Animal Control By-law to govern both cities. They define a 'Pit Bull' as a Pit Bull Terrier, American Pit Bull or Pit Bull. A Pit Bull dog does not include a dog which is registered or registrable as a Staffordshire Bull Terrier or an American Staffordshire Terrier with the Canadian Kennel Club.

Since then, these cities have sent out approximately 250 notices to potential 'pit bull' owners (including registrable Canadian Kennel Club dogs). These municipalities have become entangled in a number of lengthy appeals. Of the 250 notices which Kitchener and Waterloo have sent out, 20% have appealed with many claiming that physical characteristics of their dog is not part 'pit bull'; 10% have moved their dogs outside of the Kitchener/Waterloo area; 10% have complied; 30%+ are registrable with the Canadian Kennel Club.³

Some other municipalities require existing pit bulls to be insured however, insurance is relatively impossible to obtain for this particular breed/cross breed. Although insurance companies do not have a written policy for breeds of dogs, staff were advised that companies will not insure this type of dog or any cross breed. Five other Greater Toronto Area municipalities canvassed do not have breed specific legislation. Instead, many such departments are currently working on a universal by-law which has a specific section regarding Potentially Dangerous Dogs.

Most American communities that have enacted breed-specific legislation have repealed the laws. A six year study of fatal dog bites from 1989 to 1994 found that more than half of the attacks occurred on the dog owners property.⁴

The Impact of Introducing Breed Specific Legislation

Breed-specific by-laws raise several practical issues. For optimum enforcement, there would need to be an objective method of determining the breed of a particular dog. Pedigree analysis (potentially time consuming) combined with DNA testing (also expensive) is the closest to an objective standard for conclusively identifying a dog's breed.

The Canadian Kennel Club does not recognize a breed called the "Pit Bull" which often includes the American Pit Bull Terrier and the

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'A Ban on "Pit Bulls," in York,' Coopersmith, Barry, City Manager, April 14, 1997, pg. 4

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'Breeds of Dogs involved in Fatal Human Attacks in the United States - 1979 - 1998,' Special Report, Jeffery Sacks et al, Vet Med Today, September 15, 2000.

American Bull Dog. What is commonly referred to as a "Pit Bull" is one or any dog of mixed breeding which includes any of the following breeds: American Staffordshire Terriers, Staffordshire Bull Terriers, American Bull Terriers, American Bull Dog and American Pit Bull Terriers. Defining what constitutes as a pit bull, or any breed for that matter, can be difficult. Some ordinances analysed ban "pit bulls and any dogs with similar characteristics, a description which the courts have ruled to be overly broad and unconstitutional.⁵ Even dog-breed experts have difficulty identifying mixes and DNA testing may not be able to effectively label dog breeds.

Thus, law enforcement personnel have few means of positively identifying a dog's breed and deciding whether an owner is in compliance or violation of the law. The problem with banning specific breeds of dog is that identifying particular dogs has become increasingly difficult as there are increasingly more dogs of a mix breed. In the event that a specific breed is banned the legislation will prove to be too broad due to the exhaustive list of dogs which will need to be banned.

In the event that breed specific legislation was to come into force, staff would most likely find, as other municipalities have reported, that ownership of particular breeds will go underground. In some instances, owners have simply moved their dogs out of the municipality. Therefore, instead of remedying the situation, it may be pushed out further to the wider region where the breed specific by-law may not be in effect. Furthermore, there is no central database of information available where Animal Services could assess and track where vicious dogs are being kept across different municipalities. Owners who wish to keep dogs for malicious purposes can simply switch to another type of dog and continue to jeopardize public safety, according to the experience of the American Dog Owners Association.

Banning a particular breed of dog does not stop people from obtaining that particular kind of dog but it does force them to buy their dogs from irresponsible sources - which prevents them from obtaining the proper socialization, training and medical care for their dog.

Effective Action

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'Punish the Deed, not the Breed.' Coile, Caroline, The Baltimore Sun, May 27, 2001.

It is clear that the *Dog Owner's Liability Act* requires an owner to take reasonable precautions to prevent a dog from biting or attacking a person or domestic animal. However, reliance on municipal by-laws banning specific breeds may not, in itself, safeguard the public; neither will enforcement efforts alone of the *Dog Owner's Liability Act* suffice. Should the owner choose to ignore the penalty or consequence resulting from the violation of the by-law and *Dog Owner's Liability Act*, and the public involved are not aware of appropriate responses (in the event where a dog may potentially attack them), there may be no adequate safeguard to prevent dog bites or attacks.

To this end, staff are of the opinion that emphasis should be placed on prevention through education to ensure the public is aware of how to react appropriately in the event that a dog is acting viciously towards them and how to prevent a possible attack. Certain dog breeds often become the focus rather than the irresponsibility or negligence of the people involved. In Mississauga, Animal Services and Peel Regional Police investigate hundreds of reported dog attacks when most of these bites or attacks could have been prevented with a better understanding of dog behaviour. The emphasis is therefore placed on dog owners to take responsibility to take care of their dog, understand its behaviour and to recognize that any dog has the potential to harm another person or pet regardless of its good nature.

Present Services of Mississauga Animal Services

To this end, Animal Services had identified that the key to the dog bite issue is a thorough educational campaign in order to raise the public and owners awareness of dog bites and dog bite related issues. Animal Services already has in place a number of comprehensive education and awareness tools:

- One full time Animal Control Officer is designated as the Public Education/Wildlife Officer. Providing services since 1995, this position was made official in 1998. Packages were mailed to the various school boards highlighting the programs and services offered. Dog bite prevention and safety are regularly included in these presentations. These programs as well as Shelter tours are also offered to a variety of other community groups. In 2002, sixty-four educational presentations were made.
- As well, since 2001, one full time officer is dedicated to dog bite investigations. In 2002, over 186 investigations were

conducted.

- The Animal Control Web page contains a comprehensive section including ‘Dog Bites - We Still have a lot to Learn,’ Safety Tips for Children, Animal Safety for Adults, ‘Dog Bites, The Law and You.’ These include information regarding Muzzle Orders and the *Dog Owner’s Liability Act*; details of the Golden Rules of Safety; and how to deal with a stray dog running loose; what to do if a dog attacks; how to recognize aggressive or nervous dog behaviour; and a message to parents, what to do in the event that someone is bitten finally, and how to make a dog bite report.
- All dogs adopted from the Animal Shelter include information to the owner that deals specifically with responsible pet ownership. This includes information on obedience training, by-laws, dog bites and liabilities. Information is also provided concerning Animal Services expanded authority and involvement with the enforcement of the *Dog Owner’s Liability Act*.
- The May 2002 Pet Fair Week included a Dog Bite Awareness segment which was the most popular event of the week, attracting over 150 attendees including Girl Guides, Scouts and Sparks, their leaders and parents.
- On a large scale, dog bite awareness needs to be an ongoing focus rather than targeted sporadically or to be simply responsive to the latest media panic. The issue should be in the public conscience as is the case with impaired driving, smoking and other public health/safety concerns.

CONCLUSION:

To either permit restrictions or prohibit the keeping or harbouring of certain classes and breeds of dogs affects all breeds of dogs. In some of the current municipalities with Breed Specific by-laws, they have encountered residents asking for other breeds to be banned as well. For example, the City of Vancouver has been requested to ban poodle dogs on account of biting incidents recorded involving poodles. This request was first made in 1995 and is still being dealt with through the court appeal process.

Research has shown Breed Specific by-laws do not solve the inherent problems of vicious or aggressive dogs as they are apparent in all types of breeds. Instead, staff believe that the remedy to dog bite issues and aggressive dogs is to further promote responsible pet

ownership and raise public awareness of how to deal with vicious dogs through continuous education programs.

- RECOMMENDATIONS:**
1. That the report entitled "Feasibility and Implications of a Breed Specific Animal Services By-law, dated March 11, 2003 from the Commissioner of Corporate Services and Treasurer be received.
 2. That Animal Services staff continue to address dog bite prevention through enforcement of existing by-laws, the Dog Owners Liability Act and continued public education programs.

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