



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

NOTICE OF MOTION

Request for Notice of Motion, Pursuant to Sections 37 and 38, Council Procedure Bylaw No. 2715, 2009.

INTRODUCED: Council Meeting – March 21, 2016
FROM: Councillor Meagan Brame
SUBJECT: Dangerous Dog Legislation Amendments

WHEREAS:

Local governments protect the public from dangerous dogs and incur significant costs and uncertainty in court due to narrowly drafted provisions under s. 49 of the Community Charter;

WHEREAS:

Case law interpretation from Judges has expanded judicial discretion and oversight beyond the Court's statutory jurisdiction and at the full expense, continuing cost and liability to local government;

WHEREAS:

Such interpretation of s. 49 undermines public safety to persons, dog owners and their victim dogs or domestic animals and adds increased and unnecessary costs and liability to local government;

THEREFORE BE IT RESOLVED: That the Council of the Corporation of the Township of Esquimalt endorse that the Hugo's and Charley's Law Amendments to s. 49 of the Community Charter (as attached) be adopted to protect the public and their dogs from dangerous dogs.

AND THEREFORE BE IT FURTHER RESOLVED: That Council direct staff to send this resolution to UBCM for discussion and endorsement.

STRATEGIC RELEVANCE:

These amendments, that I am hoping will be endorsed and recommended to the Province by Council, will work to further the over arching strategic priority which is that we would continue to enhance the health and liveability of the community. It allows the Township to recoup possible costs of court and offers stronger wording to keep residents safe with regards to dangerous dogs.

BACKGROUND:

See attached for suggested amendments to the *Community Charter*.

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Hugo's & Charley's Law

Community Charter, SBC 2003, Chapter 26 with suggested amendments (noted in red)

Section 49. (1) In this section:

...

“dangerous dog” means a dog that

- (a) has killed or seriously injured a person,
- (b) has killed or seriously injured a domestic animal, while in a public place or ~~while~~ on private property, other than property owned or occupied by the person responsible for the dog, ~~or~~
- (b.1) has killed a dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

...

(140) A dog that has been seized under this section may not be impounded and detained for more than 21 days unless court proceedings for a ~~destruction~~ humane euthanization order are commenced within that time.

(101) ~~In addition to any other authority, if~~ an animal control officer has reasonable grounds to believe that a dog is a dangerous dog, the officer may apply to the Provincial Court for an order that the dog be ~~destroyed~~ humanely euthanized ~~in the manner specified in the order.~~

(12) Prior to trial and as an alternative to humane euthanization, the local government and dangerous dog owner may agree to enter into a Consent Order subsequently approved by a Provincial Court Judge that outlines terms and conditions for the release of the dangerous dog.

(13) Such Consent Order may include but not be limited to the following:

- (a) a declaration that the dog is dangerous under this Act along with an accompanying photo and detailed description of the dog to be made public;
- (b) a requirement that the owner and his or her dog to receive training, a behavioural assessment and pass a rehabilitation program;
- (c) owner compliance with dangerous, aggressive or vicious dog provisions of the applicable local government animal control bylaw;

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- (d) a last chance clause where if the dangerous dog kills or seriously injures another person or domestic animal as determined by the local government, then such dangerous dog will be seized and humanely euthanized without further order of the court.
- (14) If the matter proceeds to trial and upon conclusion of the hearing, a Provincial Court Judge must determine whether the dog is a dangerous dog under the Act, and if so, must order its humane euthanization.
- (15) If the court finds a dog to be a dangerous dog, the court may also make the following orders against the owner:
 - (a) award out-of-pocket expenses to the victim(s) who testified at trial to a maximum of \$5,000 with such sum not to limit a separate civil claim made by the victims except where there is a duplication of expenses; and
 - (b) prohibit the owner from owning or possessing a dangerous dog under the Act or a vicious or aggressive dog under applicable bylaws for a period ranging from 3 to 5 years with such prohibition to be made public.
- (16) Upon a court declaring the dog dangerous, the local government shall be awarded costs to be fixed at \$5,000 per day of trial plus impoundment fees and costs for the care and upkeep of the dog from the date of lawful seizure to the final day of trial.
- 17) If a court does not declare the dog dangerous, the dog owner shall be reimbursed for legal costs and disbursements incurred to a maximum of \$5,000 per day subject to providing proof of such costs incurred by way of legal statements or invoices.