

**BEFORE THE ADMINISTRATIVE HEARING OFFICE
FOR THE MUNICIPALITY OF ANCHORAGE**

MUNICIPALITY OF ANCHORAGE,)
(ANIMAL CARE AND CONTROL))
Plaintiff,)
)
v.)
)
BENJAMIN BROWN,)
Appellant.)

July 28, 2025

Administrative Hearing Office No.: 25-012
Animal Control Case No: A25-078956

FINAL DECISION AND ORDER

I. Summary of Proceedings

On July 7, 2025, the Municipality of Anchorage Animal Care and Control (Animal Control) classified a dog belonging to Benjamin Brown as a level five animal pursuant to Anchorage Municipal Code (hereinafter “AMC” or “Code”) 17.40.020(A)(5). On July 18, 2025, Mr. Brown requested an administrative hearing to appeal the classification.

The administrative hearing was held on July 23, 2025. Mr. Brown was advised of his rights at the hearing, including his right to counsel, and elected to proceed without counsel. Animal Control Sergeant Wyatt, two complainants,¹ and Mr. Brown all testified under oath. The hearing was recorded, and all evidence was presented on the record.

Animal Control submitted the following exhibits, which were admitted as evidence without objection:

- Exhibit 1: Animal Control Investigation Report for #A25-078956
- Exhibit 2: Animal Control Activity History for #A25-078956
- Exhibit 3: Receipt for Animal
- Exhibit 4: Email and photographs from Complainant #1
- Exhibit 5: Email and photographs from Complainant #2
- Exhibit 6: Notice of Level 5 classification letter

¹ The name of the complainants are redacted pursuant to AMC 3.90.040(D). Complainant #1 testified via Microsoft Teams and complainant #2 testified via telephone.

Exhibit 7: Notice of Violation issued to Benjamin Brown on November 14, 2024, and Level 4 classification of the dog Roman

Mr. Brown offered a letter of support from Ms. Reneè Silook, which was admitted as Exhibit A.

II. Findings of Fact

The following findings of fact are supported by a preponderance of the evidence in the record:

1. The Municipality of Anchorage Animal Care and Control is charged with enforcing Title 17 concerning animals.
2. Mr. Brown lives in Anchorage and owns a male Belgian Malinois / German Shepherd mix named Roman.
3. Mr. Brown testified that he has owned Roman for about a year and a half. He said that this is his first time owning a dog and he is still learning how to train a dog.
4. He said that he used to work on a boat in the Bering Sea and was gone for months at a time.
5. He believes Roman became more aggressive when he was gone for long periods.
6. He said that the woman who was taking care of Roman was using drugs and was not responsible enough to care for the dog.
7. On November 14, 2024, Animal Control classified Roman as a level four animal based on Roman causing physical injury to a human while being unrestrained.
8. Mr. Brown signed the classification document, which informed him that he was required to keep Roman muzzled and on a substantial leash not longer than six feet anytime the animal was not on the owner's property.
9. Mr. Brown was also required to provide animal control with written verification that Roman had been neutered.
10. Mr. Brown said that he could not get Roman neutered because he was not working at the time and did not have a vehicle to transport Roman to a veterinarian and did not have funds to pay for the procedure.

11. Mr. Brown was also issued a notice of violation for not restraining Roman during this prior incident. He did not appeal either the notice of violation or the level four classification.
12. Complainant #1 lives near Mr. Brown.
13. On July 2, 2025, she was getting out of her car on her own property.
14. She saw Roman running loose in the neighborhood with a woman chasing after the dog.
15. Roman charged towards the complainant's vehicle growling and barking at the complainant.
16. The complainant said she did not have time to react or escape. She said she normally has a good rapport with dogs and she stood still, thinking that Roman would smell her and leave.
17. Instead, Roman attacked her, biting her on her calf, backside, and stomach. The bites broke the skin and caused bleeding. Complainant #1 later took photos of her injuries, which are pages 2 and 3 of Exhibit 4.
18. After Roman bit the complainant he ran off towards a cul-de-sac in the neighborhood. The woman chasing Roman apologized to the complainant and then continuing chasing him, trying to get him under control. The complainant heard screaming and barking from the cul-de-sac and called animal control.
19. Complainant #1 testified that she would not feel safe in the neighborhood with Roman remaining there. She also said that there are lots of children in this neighborhood, and she would be worried about their safety in the future.
20. Complainant #2 lives on a cul-de-sac near Mr. Brown's house.
21. On July 2, 2025, she returned home and was parked in her driveway. Several of her children were buckled in car seats in her vehicle.
22. She saw a woman chasing Roman around the neighborhood. She is familiar with this animal and has seen it running loose in the past. She was worried for her children's safety and waited for the dog to leave.

23. When she saw the dog run off, she decided that she would try to get her children out of her vehicle one at a time, carrying them into the house to keep them safe from the dog. She opened the backdoor to her car and started to unbuckle a child from the child's car seat.
24. She then heard growling and barking right behind her and realized that Roman had returned to her property. Roman lunged at her and bit her on her calf. The bite caused severe bleeding.
25. Complainant #2 was worried Roman would jump inside the vehicle and attack her children. She was able to slam the car door into him to get him to stop biting her, and then she jumped inside her vehicle.
26. Blood was gushing out of the complainant's leg and she called 911 for an ambulance.
27. An ambulance arrived and took complainant #2 to the hospital, where she received stitches to her leg to stop the bleeding. She said the injury is healing, although she still has some loss of feeling in her ankle.
28. Complainant #2 has seen various people chasing after Roman in the past when the dog is loose. She testified that Roman previously bit a little girl in the neighborhood. She said that her children cannot go outside with Roman in the neighborhood because it is unsafe. She said eight children under the age of ten live in the immediate neighborhood around the cul-de-sac.
29. Animal Control Sergeant Wyatt testified that she responded to the scene, interviewed persons involved, and determined that Roman displayed level five behavior under AMC 17.20.020.A.5.d because Roman had previously been classified as a level four animal, Mr. Brown had received notice of that classification, and Roman once again displayed level four behavior by causing physical injury to two humans while unrestrained.
30. Sergeant Wyatt testified that animal control considered all the exceptions to classification and determined none applied.

31. Sergeant Wyatt said she went to Mr. Brown's house on July 2, 2025, to impound Roman and take him to the animal control shelter. She said that a female in the house had Roman on a leash, but Roman slipped out of the leash and attacked another animal control officer.

32. Mr. Brown testified that he understood the complainant's testimony and was not contesting anything that happened. He said he was very concerned himself that Roman did not just bite the complainants but seemed to attack them. He said Roman is becoming progressively more aggressive.

33. Mr. Brown believes Roman's aggression has been getting worse when he was away from the dog for long periods. He said he has a new job where he is not out at sea for months at a time.

34. He asked that Roman not be classified as level five. He believes that if he were able to get Roman neutered, that would improve his behavior. He said there is a female dog in the area that is Roman's "girlfriend" that is causing Roman to behave more aggressively and try to escape. He testified that he would move out of the neighborhood to keep Roman away from the neighborhood children, and he would enroll Roman in obedience classes.

III. Conclusions of Law

A. Jurisdiction and Burden of Proof

The Administrative Hearing Officer has jurisdiction over this appeal pursuant to AMC 17.05.100, which affords the right to an administrative hearing on decisions of Animal Control, including animal classifications.

The issue in this case is whether Animal Control properly classified Roman as a level five animal due to Roman inflicting serious physical injury on a human. Animal Control bears the burden of proving that its classification decision was proper by a

preponderance of the evidence,² which is the equivalent of showing that something is “probable” -i.e., more likely than not.³

For most issues, administrative hearings are quasi-judicial proceedings in which the administrative hearing officer may hear and decide *de novo* all matters appealed and may exercise independent judgment as to the weight of evidence supporting the decision that is being appealed.⁴ Thus, whether Roman engaged in level five animal behavior is a factual issue that is reviewed *de novo*, with no deference given to Animal Control’s determination.

However, once level five behavior is established, the standard of review for whether an exception to classification applies is more complex. AMC 17.40.020(B) gives Animal Control “discretionary authority to refrain from classifying an animal” if one of the exceptions to classification applies. Because the code gives animal control discretion to determine whether an exception to classification applies, Animal Control’s determination should be given deference, so long as it is reasonable, supported by the evidence in the record as a whole, and there is no abuse of discretion.⁵ Therefore, while the ultimate issue of whether the animal was properly classified is reviewed *de novo*, decisions by animal control that are based on expertise or specialized knowledge in animal behavior — such as whether an animal’s behavior creates a risk to public safety, or whether restrictions promote the humane treatment of animals — receive deference if there is a reasonable basis for the decisions.

B. Roman Displayed Level Five Behavior

AMC 17.40.020(A)(5) establishes the standard for classifying an animal based on level five behavior. Pursuant to that section, level five behavior is established if any of several sets of circumstances exist. Relevant to this case, subparagraph d reads: “An animal previously classified as a level three or four, or as a potentially dangerous animal

² See AMC 14.30.090C; *West v. Municipality of Anchorage*, 174 P.3d 224, 227-28 (Alaska 2007).

³ See AMC 14.30.090C; *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007); *Holton v. States*, 602 P. 2d 1228, 1238 & n. 17 (Alaska 1979); see also Alaska Civil Pattern Jury Instruction §2.04.

⁴ AMC 3.60.050.

under a prior enactment of this Code, commits a level three or four behavior described in subsection A.3. or A.4. above after the owner receives notice of the prior level three or four classification.” Level four behavior is proven when an unrestrained animal causes physical injury to any human.⁶ *Physical injury* means an impairment of physical condition or pain either of which is accompanied by visible scrapes, cuts, punctures, bruising, or other evidence of similar injuries.⁷ AMC 17.10.020 requires the owner of an animal to restrain it all times. Restrain or restraint means to confine or control an animal.⁸ Animals may be under control by any of the five methods listed in the definition of “control” in AMC 17.05.010. Relevant to this case, a dog under control by command must respond promptly and accurately to verbal or visual commands; a dog under control by confinement in an enclosure such as a house must not be able to exit the confined space on the animal’s own volition; and a dog under control by leash requires the leash to be in the secure possession of a person physically capable of monitoring, directing, and restricting the animals movements.⁹ Regardless of the method of control used, the control of an animal must “simultaneously monitor, direct, and restrain an animal’s movements and activities, in a humane manner, so as to prevent violations of title 17.”¹⁰

Therefore, based on those definitions, animal control was required to prove in this case that (1) Roman was previously classified as a level four animal; (2) Roman’s owner received notice of the classification; (3) after receiving notice, Roman again committed level four behavior by causing physical injury to a human while unrestrained.

Here, Mr. Brown did not dispute any of those elements or that Roman engaged in level five behavior. Roman was classified as a level four animal on November 2, 2024. (Page 2 of Ex. 7). The owner’s signature on exhibit 7 appears to be the same as Mr. Brown’s signature on his request for hearing form. Mr. Brown did not contest that he had

⁵ See *Cook Inlet Pipe Line Co. v. Alaska Public Utilities Com’n*, 836 P.2d 343, 348 (Alaska 1992) (applying reasonable basis standard to issues involving agency expertise and specialized knowledge.).

⁶ AMC 17.40.020(A)(4).a

⁷ AMC 17.05.010 (Definition of physical injury)

⁸ AMC 17.05.010 (Definition of restraint)

⁹ AMC 17.05.010 (Definition of control)

¹⁰ *Id.*

received notice of the level four classification. For example, he testified that he was aware of the requirement to have Roman neutered, but he was unable to do so for financial reasons. Animal control also proved that Roman again displayed level four behavior on July 2, 2025, when he caused physical injury to two humans while unrestrained. Again, it was undisputed that Roman was running loose in the neighborhood and attacked complainant #1 and complainant #2, causing physical injury to both. Therefore, animal control proved by a preponderance of the evidence that Roman displayed level five behavior as described in AMC 17.40.020(A)(5)(d).

C. Animal Control correctly determined that no exceptions to classification applied.

Even if an animal displays behavior that would support a classification, Animal Control has the discretion under AMC 17.40.020(B) to not classify an animal if the Chief Animal Control Officer determines that an exception to classification applies. The code gives Animal Control broad discretionary authority in the classification of animals¹¹ in recognition of the specialized expertise that Animal Control has in animal behavior.

The nine exceptions to classification are listed in AMC 17.40.020(B)(1)-(9). Sergeant Wyatt testified that animal control considered them and determined none applied, which I believe is reasonable, supported by the evidence, and is the correct decision.

Most concerning to me is that Roman attacked both complainants when the complainants were on their own property and were not doing anything to threaten the animal. Roman simply attacked and bit them for no reason. The bite to the second complainant caused severe bleeding and could have been fatal if it had been inflicted on a young child. The risk to public health and safety is simply too great.

I do not believe that moving to a location with less children in the neighborhood would be a solution. First, there is no practical way to enforce this requirement and second, it would simply shift the risk Roman poses to other individuals, not eliminate the risk. The evidence proved that Roman is a vicious and dangerous animal who poses a

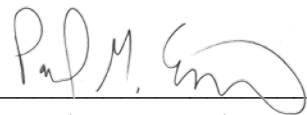
threat to the safety of other people. After Roman injured one person last November, Mr. Brown was required to keep Roman muzzled and on a six-foot leash anytime Roman was not on Mr. Brown's property. Mr. Brown did not comply with that requirement and two more people were injured by this dog as a result.

The risk that this animal poses to other people is simply too great. While classifying an animal as a level five animal is always a last resort, and should not be taken lightly, I do believe it is the only safe option in this case.

FINAL ORDER

The undersigned hereby orders, based on the evidence presented, that the Level Five Classification of the dog Roman is AFFIRMED. Pursuant to AMC 17.40.040(B)(4), the animal shall be euthanized.

DATED and effective as of this 28th day of July, 2025, Anchorage, Alaska.

By: 
Paul M. Ervasti
Administrative Hearing Officer


APPEAL RIGHTS

This decision is final. Persons may appeal this order to the Alaska Superior Court, Third Judicial District in Anchorage, Alaska within thirty (30) days of issuance pursuant to Alaska Rules of Appellate Procedure. Any person seeking reconsideration shall serve all parties with a copy of same and with proof of that service.

¹¹ AMC 17.40.020B(9)

Certificate of Service

I, Kathi Flanders, hereby certify that I mailed a true and correct copy of the foregoing to:

Benjamin Brown


Animal Care and Control

on this 28th day of July, 2025
