

THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2011-04

A BYLAW TO PROVIDE FOR THE LICENCING AND CONTROL OF DOGS
WITHIN THE CORPORATION OF THE CITY OF PENTICTON

WHEREAS pursuant to the *Community Charter*, Council is empowered to regulate, prohibit and impose requirements in relation to animals within the City of Penticton;

AND WHEREAS it is deemed expedient to provide for the licensing and control of dogs within The Corporation of the City of Penticton;

NOW THEREFORE the Council of The Corporation of the City of Penticton in open meeting assembled, hereby ENACTS AS FOLLOWS:

PART I - GENERAL

1. Title

This Bylaw may be cited as the “City of Penticton Dog Control Bylaw 2011-04”

2. Definitions

All words or phrases shall have their normal or common meaning except where this is changed, modified or expanded by the definitions set forth in this section.

“aggressive dog” means any dog that has been the subject of an owner’s conviction of an offence against Subsection 17.5 or 17.6 of this bylaw.

“Animal Clinic” means those premises where domestic pets, animals and birds are treated inside a building and kept for medical or surgical purposes and are directly or indirectly under the care of a veterinarian, but does not include Animal Shelter.

“Animal Daycare and Grooming” means an establishment intended to provide care and grooming for domesticated animals, excluding livestock, during the day or evening but not overnight, to a maximum limit of (6) six animals.

“Animal Shelter” means a lot and/or building or part thereof, used for the temporary care of lost, abandoned or neglected animals.

“Certified Guide Animal” means an animal that is used by a person with a disability to avoid hazards or to otherwise compensate for a disability as defined in the Guide Animal Act [RSBC 1996] CHAPTER 177.

“CFO” means the Chief Financial Officer of the City.

“City” means The Corporation of the City of Penticton.

“dangerous dog” means any dog that has been the subject of an owner’s conviction of an offence against Section 17.3 or 17.4 of this bylaw.

“dog” means both male and female of the species canine apparently over the age of four (4) months.

“Dog Control Officer” means the person or persons appointed from time to time by the City as “Dog Control Officer” to enforce the provisions of this bylaw.

“Dog Kennel” means a premises used for buying, selling, breeding or overnight boarding of more than (3) three dogs.

“domestic animal” means an animal coming within the definition of the same phrase defined in the *Livestock Protection Act* [RSBC 1996] CHAPTER 273.

“enclosure” means a structure at least 1.83 meters in height by 1.2 meters wide by 4 meters long, having a concrete or asphalt floor, wire or steel mesh sides (or equivalent construction), designed and built to prevent the entry of young children or the escape of a dog.

“fee” means the rates or fees and set out in the City of Penticton 2000 Fees and Charges Bylaw No. 2000-25 (2000) as amended or superseded.

“fence” means a facility as described in Schedule “B” of this bylaw.

“impounding” means seized, delivered, received or taken into the Pound, or in the custody of the Poundkeeper as provided for herein.

“incurable disease” means any disease, sickness, injury or mutilation, which would inevitably result in death, including but not limited to, rabies.

“Kennel Operation Permit” means written approval by the City for a person to have a Dog Kennel on a specific property.

“minor injury” means a physical injury to a person, companion animal or domestic animal that consist of pinches, minor localized bruising or small punctures, tears or lacerations.

“noise” means continuous barking, howling or yelping sounds lasting more than 5 minutes or the sound of barking, howling or yelping sporadically or erratically for a cumulative duration of 5 minutes or longer in any 15 minute period which sounds are repeated again within 72 hours.

“non-resident” means any person who is residing in the City for a short duration and who has not taken up permanent residency.

“owner” means the person who is the possessor or harbourer of any dog.

“person with a disability” means a person who requires help in relation to a daily living activity if, in order to perform it, the person requires the services of Certified Guide Animal.

“pen” means a facility as described in Schedule “B” of this bylaw.

“person” means any individual, household, corporation, partnership or party and the heirs, executors, administrators or other legal representatives of the same, to whom the context can apply according to law.

“Pound” means any building or enclosure designated as a Pound by the City.

“Poundkeeper” means the person or persons appointed from time to time by the City as the Poundkeeper, Dog Control Officer, or the authorized agent of any corporation or society, with whom the City has an agreement to act as Poundkeeper.

“Revenue Supervisor” means the Revenue Supervisor of the City.

“run at large for aggressive dogs” means an aggressive dog that is outside of its owner’s building premises on private property or a public place while:

- not being confined within a closed vehicle, or
- not being held on a short leash by an owner, or
- not being held in a locked enclosure.

“run at large for dangerous dogs” means a dangerous dog that is outside of its owner’s building premises on private property or a public place while:

- not being confined within a closed vehicle, or
- not being held on a short leash by an owner, or
- not being held in a locked enclosure.

“run at large” (for dogs other than dangerous or aggressive dogs) means a dog being away from its owner’s premises while;

- not being confined within a closed vehicle, or;
- not being in visual sight of and under the care, custody, and control of an owner; or
- in a park designated for dogs to be off leash, not being in visual sight of and under the care, custody and control of the owner.

“secondary injury” means a physical injury to a person that is directly attributable to the person’s reaction when a dog approaches the person in a menacing fashion or an apparent attitude of attack.

“short leash” means a leash with a fixed total length of 2 meters or less.

“unlicensed dog” means any dog for which the license fee for the current year has not been paid as provided for herein, or to any dog that the tag provided for herein is not attached.

“Zoning Bylaw” means City of Penticton Zoning Bylaw No. 87-66 as amended or superseded

PART II – KEEPING AND LICENSING OF DOGS

3. No person shall own, keep, harbour or have in their possession any dog unless a license therefore, under this bylaw, has first been obtained.
4. The owner of every dog shall, annually on or before January 31st each year, or as soon thereafter as such dog shall attain, before the age of (4) four months, cause same to be registered, numbered, described and licensed in the office of the City, or office designated by the City, and shall cause the dog to wear around its neck a collar to which shall be attached the tag referred to in Section 9 of this bylaw.
5. The license shall be issued by the Revenue Supervisor or such other person(s) as the CFO may appoint. Every license shall be distinguished by a number and a record shall be kept by the Revenue Supervisor of all licenses issued and for the purpose of identification, a general description of the dog in respect of which such license was issued.
6. A non-resident, who is the owner of a dog, shall at the expiry of thirty (30) days residency within the City cause that said dog to be registered, numbered, described and licensed as outlined in Sections 8 and 9 herein.
7. Except for Animal Clinics, Dog Kennels, Animal Shelters and Animal Daycare and Grooming facilities no person shall keep more than (3) three dogs over the age of (4) four months old in a household or property.
 - 7.1 Certified Guide Animal, for a person with a disability, will not be considered when counting the number of dogs in a household.

- 7.2 Dog Kennels, Animal Shelters and Animal Daycare and Grooming Services, where permitted in the Zoning Bylaw shall be required to obtain a Kennel Operation Permit.
8. Every application for a license shall be accompanied by a license fee payable to the City.
 - 8.1 All owners of Certified Guide Animal shall be required to obtain a license, but there shall be no charge for this license.
9. Every license issued under this bylaw shall be for the calendar year in which the license is issued and shall expire on the 31st day of December in the year specified on the license and tag. There shall be issued with each license, a tag which shall be impressed or stamped with a number corresponding to the number of the license issued by the Revenue Supervisor.
 - 9.1 Where the owner of a dog in respect to which a license is issued under this bylaw sells or otherwise ceases to be the owner of the dog, the license shall, in respect of that dog thereupon become invalid.
 - 9.2 Any person holding a valid license for any dog under a bylaw of any other municipality or City of the Province of British Columbia shall pay a fee as set out in the City of Penticton 2000 Fees and Charges Bylaw No. 2000-25 (2000) as amended or superseded.
10. Person operating an Animal Daycare and Grooming Service shall ensure that dogs remain indoors, except to allow a dog to relieve themselves, at which time, the dog must be on a leash.
11. Any person who keeps a dog must provide:
 - 11.1 clean, potable drinking water at all times, and suitable food of sufficient quantity and quality to ensure normal growth and the maintenance of normal body weight;
 - 11.2 clean food and water receptacles located so as to avoid contamination by excrement;
 - 11.3 the opportunity for periodic exercise sufficient to maintain good health, including the opportunity to be unfettered from a fixed area and exercised regularly, under appropriate control; and
 - 11.4 shelter to ensure protection from heat, cold, and wet. Such shelters must provide sufficient space to allow any animal to turn about freely, to sit, stand, and lie in a normal position, in an area providing sufficient shade to protect the dog from the direct rays of the sun at all times; any pen must be regularly cleaned and sanitized, and excessive excrement removed.

PART III – CONTROL OF DOGS

12. No owner shall take or allow any dog onto any public beaches, swimming areas, parks or school grounds unless the park or public area has been otherwise designated by the City as appropriate for the location of the park or public area.

13. Except as provided in Sections 13.1, 13.2, 13.3, 17.1, or 17.2 any dog while outside a building premise shall be kept in a fenced area or pen, constructed in accordance with Schedule "B" of this bylaw.
 - 13.1 Where a dog, other than a dangerous dog or an aggressive dog, is outside at its owner's premises and is not in a fenced area or pen as required in Section 13, the dog shall be in visual sight of and under the care, custody and control of an owner.
 - 13.2 Where a dog, other than a dangerous dog or an aggressive dog, is away from its owner's premises and in a public place, the dog shall be on a leash held by an owner, unless the dog is in park area designated for dogs to be off leash or participating in a dog show or trial recognized by the appropriate local government jurisdiction.
 - 13.3 Where a dog, other than a dangerous dog or an aggressive dog, is away from its owner's premises on other's private property, the dog shall be in visual sight of and in the care, control and custody of an owner who shall also be with the dog on the same private property.
 - 13.4 No owner shall allow or suffer their dog to leave or deposit any feces on any public or private property or any park, boulevard or road allowance other than the property of the owner of the dog, unless the owner immediately removes such feces and disposes of same in a sanitary fashion.
14. Except as provided for in Section 16, no owner shall tie, secure, tether or pen any dog in a front yard or within 1.5m (5 feet) of any side or backyard property line.
15. No owner shall tie, secure, or tether any dog except in the backyard and the tethering system shall allow adequate freedom of movement, with a minimum of 3m (10 ft.) radius.
 - 15.1 No person shall allow a dog to be tied or tethered with a choke collar or pinch collar.
16. Notwithstanding Section 14 hereof, where a rear yard of a property is fully enclosed with a secure fence and a gate which will effectively prevent any dog from escaping therefrom, a dog may be allowed to roam free anywhere therein.
17. Notwithstanding Section 12, no owner shall allow a dangerous dog or an aggressive dog into any public beach, swimming area, park or school grounds at any time.
 - 17.1 The owner of every dangerous dog shall, when the dog is outside of its owner's building premises and not kept within a closed vehicle, keep the dog on a short leash controlled and effectively muzzled or keep the dangerous dog within a locked enclosure.
 - 17.2 The owner of every aggressive dog shall, when such dog is outside of its owner's building premises and not kept within a closed vehicle, keep the dog controlled on a short leash or keep the aggressive dog within a locked enclosure.

- 17.3 An owner shall control their dog to ensure that the dog shall not kill or without provocation, seriously injure a person.
- 17.4 An owner shall control their dog to ensure that the dog shall not, without provocation, while in a public place or while on private property, other than property occupied by the person responsible for the dog, kill or seriously injure a companion animal or a domestic animal.
- 17.5 An owner shall control their dog to ensure that the dog shall not, without provocation, aggressively pursue, inflict minor injury, harass, cause secondary injury, chase or approach a person on public or private property in an attitude of attack.
- 17.6 An owner shall control their dog to ensure that the dog shall not, without provocation, aggressively pursue, inflict minor injury, harass, cause secondary injury or chase a domestic animal or companion animal.
- 17.7 An owner shall control their dog to ensure that the dog shall not become a nuisance by repeated unprovoked charging or lunging at a fence adjacent to a premise or street.
- 17.8 Where an owner of an aggressive dog has been the subject of a total of only one conviction of Section 17.5 or 17.6 of this bylaw for that specific dog and the dog is not involved in any subsequent convictions for violations of Sections 17.1, 17.2, 17.3, 17.4, 17.5, or 17.6 for a period of 36 months from the date of the first conviction, the dog will no longer be considered to be an aggressive dog.
18. No owner of a dog shall allow, suffer or permit a dog to run at large in the City.
- 19.0 19.1 The number of dogs that may be kept in a Dog Kennel shall be based on a minimum provision of 4.46 square meters of land per dog, of which land is to be specifically designated for use by the dogs.
- 19.2 No person shall operate a Dog Kennel, Animal Clinic, Animal Daycare and Grooming business or Animal Shelter on a property unless the use is permitted under the Zoning Bylaw or a non-conforming use under Section 911 of the *Local Government Act*.
- 19.3 With the exception of Animal Daycare and Grooming facilities, every person issued a Kennel Operation Permit shall conform with the requirements for Dog Kennels as set out in Schedule "C" attached to this bylaw.
- 19.4 Prior to issuance or renewal of a Kennel Operation Permit, the Dog Kennel may be inspected by the Dog Control Officer.
- 19.5 Notwithstanding Section 19.2, where a kennel fails to continue to meet the requirements of this bylaw the Kennel Operation Permit will be considered to be invalid and will be cancelled.
20. Upon notification, a dog owner shall be required to erect a secure fence or pen as described in Schedule "B" of this bylaw within fourteen (14) days. If the fence is

not built within the fourteen (14) days, a charge may be laid pursuant to the provisions of this bylaw.

21. Dogs are to be kept within the Dog Kennel building between the hours of 8:00 p.m. and 7:00 a.m.
22. No person being the owner or occupant of any private premises shall permit, allow or suffer the noise of barking, yelping or howling sounds from a dog(s) to be caused or made at the private premises owned or occupied by that person, in a manner that can easily be heard or otherwise perceived by an individual who is not at the same private premises.

PART IV – IMPOUNDING OF DOGS

23. The City shall establish and operate a Pound for the impounding of dogs pursuant to the provisions of this bylaw.
24. The City shall, from time to time as may be required, appoint a Poundkeeper and hire an assistant or assistants as deemed necessary.
25. The City shall, from time to time as may be required, appoint a Dog Control Officer, who may hire assistants as deemed necessary, who shall enforce the provisions of this bylaw.
26. It shall be lawful for the Dog Control Officer to seize any dog found running at large and such Dog Control Officer shall forthwith after making such a seizure cause for such dogs to be impounded, and the Poundkeeper shall retain such dog for seventy-two (72) hours, and if the same is not reclaimed within the said seventy-two (72) hours, it shall be the duty of the Poundkeeper to cause such dog to be sold or destroyed.
 - 26.1 Notwithstanding other sections of this bylaw, the owner of a dangerous dog will, upon request, be allowed to leave the dog in the pound for up to 14 days while an enclosure required by this bylaw is being constructed, without the Poundkeeper selling or destroying the impounded dog after 72 hours as provided in this bylaw.
 - 26.2 The Dog Control Officer may destroy any impounded dog suffering from an incurable disease, with such disease having been confirmed by a qualified veterinarian.
27. Where a dog observed to run at large by a Dog Control Officer is apprehended on private property, the Officer shall attempt to contact the occupant of the property. Where no person is at the building premises, the Dog Control Officer shall post a notice at the building premises advising that the described dog has been impounded for running at large. The notice shall include the 24-hour Dog Control telephone number and a description of the dog. Where the dog, other than a dangerous dog or aggressive dog, lives at the property from which it was impounded, the owner may be served an appropriate violation ticket and the dog will be returned without an impound fee being charged. Where the impounded dog does not live on the premises from which it was impounded or is a dangerous

dog or an aggressive dog the appropriate impound fee will be charged when the dog is retrieved from the pound.

28. It shall be the duty of the Poundkeeper to receive any dog delivered to them which has been seized or impounded pursuant to the provisions of this bylaw, and they shall retain such dog and deal with the same in the manner as other dogs seized, received and retained by them, pursuant to this bylaw.
29. The City shall provide and supply proper shelter and the Poundkeeper shall provide for and give sufficient food and water daily to all dogs detained by the Poundkeeper within the Pound.
30. If the owner of any impounded dog is known to the Poundkeeper, the Poundkeeper shall forthwith notify the owner by mail or telephone in accordance with the form set out in Schedule "A" of this bylaw.
31. The Poundkeeper, on being requested to call for and take away any dog which the owner thereof desires to have destroyed, may direct the Dog Control Officer to call for and take away and the Poundkeeper may destroy or otherwise dispose of such dog.
32. The owner of any dog impounded pursuant to this bylaw, other than a dog that is or will be the subject of a destruction order application as provided for in the *Community Charter* may reclaim the dog on application to the Poundkeeper after providing proof of ownership, paying the applicable fees and where the dog is a dangerous dog or an aggressive dog, demonstrating that the dog's owner has an enclosure available for the dangerous dog or aggressive dog.
 - 32.1 The additional fee for a dog that is not currently licensed shall be the same amount as the ticket offence for fail to have a valid license as described in Bylaw Notice Enforcement Bylaw 2011 No. 5000 as amended or superseded or in City of Penticton Ticket Information Bylaw No. 2010 – 64 (2010) as amended or superseded.
 - 32.2 Where a dog, other than a dangerous dog or an aggressive dog, is not impounded or the subject of a conviction under the City of Penticton Dog Control Bylaw 2011-04 for a period of 24 months, the impoundment fees will be charged on the basis that the dog has no impoundment record.
 - 32.3 Where a dog is adopted to a new owner, the new owner will not be responsible to pay the impound fees generated by the dogs impound record prior to adopting the dog.
33. It shall be unlawful for any person to release or rescue or to attempt to release or rescue any dog lawfully in the custody of the Poundkeeper or a Dog Control Officer and no person shall obstruct or otherwise interfere with the Poundkeeper or a Dog Control Officer in the lawful exercise of their duties.
34. In case the owner is not known or the owner so notified does not within three (3) days of notification referred to in Section 30 hereof, appear at the Pound and release the dog so impounded by the payment of the lawful fees, the Poundkeeper may sell or destroy the dog or dogs as provided for in this bylaw.

35. The Poundkeeper shall not allow a person to adopt any dog unless that person can demonstrate that there is adequate fencing or an adequate pen provided, or sign a declaration that they will provide a fence or pen, as described in Schedule "B" of this bylaw. The new owner shall be allowed fourteen (14) days to cause the fence or pen to be constructed, and if the fence or pen is not constructed at the expiry of the (14) fourteen days, that a charge may be laid pursuant to the provisions of this bylaw. Apartment dwellers are exempt from this requirement.
36. The Pound shall be kept open to the public for the transaction of business a minimum of 7 hours per day, Monday through Saturday of each week, or such additional hours as may be warranted excluding statutory holidays.
37. 37.1 Every owner or other person entitled to the possession of a dog which has been impounded, shall, upon being notified or become aware of such impounding, redeem the dog in accordance with the provision of this bylaw.
- 37.2 Should the Pound be broken into and the dog escape there from and get back to the possession or custody of the owner or any person caring for the said dog, the said owner or person shall still be liable for the payment of fees and expenses chargeable and recoverable under Section 32 of this bylaw.
- 37.3 When selling a dog to a person other than the previous owner, the Poundkeeper shall ensure that the said dog is neutered or spayed, and if neutering or spaying is required, shall charge the veterinary fee to the purchaser.

PART VI – RIGHT OF ENTRY

38. The Dog Control Officer is hereby authorized, to enter, at all reasonable times, upon any property within the City subject to any of the regulations of this bylaw, in order to ascertain whether such regulations are being obeyed.

PART VII – PENALTIES

39. Any person who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, is guilty of an offence under this bylaw, and liable to a penalty of not less than Fifty Dollars (\$50.00) and not more than Two Thousand Dollars (\$2000.00).

PART VIII – REPEAL

40. Dog Licence Regulations Bylaw No. 2001-30 (2001) and amendments thereto are repealed upon adoption hereof.

READ A FIRST time this 21st day of February, 2011.

READ A SECOND time this 21st day of February, 2011.

READ A THIRD time this 21st day of February, 2011.
RECONSIDERED and FINALLY PASSED and ADOPTED
this 7th day of March, 2011.

Mayor

City Clerk

SCHEDULE "A"

THE CORPORATIN OF THE CITY OF PENTICTON

City of Penticton Dog Control Bylaw 2011 -04

IMPOUND NOTICE

TO:

Take notice that, pursuant to the provisions of the "City of Penticton Dog Control Bylaw 2011-04

_____ was (or were) impounded
(Description of Dog or Dogs Impounded)

in the Pound kept by the undersigned at _____ on _____
the _____ day of _____, ____ .

And further take notice that unless within three (3) days after the date of this notice, you appear at the Pound and release the dog(s) so impounded by the payment of the lawful fees and charges, the same will be destroyed or sold as provided in the said bylaw.

Dated this _____ day of _____.

Poundkeeper

Address

Telephone Number

SCHEDULE "B"

THE CORPORATION OF THE CITY OF PENTICTON

City of Penticton Dog Control Bylaw 2011-04

STANDARDS FOR FENCES/PENS

1. Minimum standards for outdoor fences/pens for dogs in the City of Penticton shall be as follows:
 - (a) Sizes: Pens – 1 metre x 1.5 metres per dog
Runs – 1.2 meters x 3.7 metres per dog
 - (b) Fences shall be no less than 1.2 meters in height and shall not exceed the maximum fence heights specified in the Zoning Bylaw. All gates must be secured with latches or locks.

SCHEDULE "C"

THE CORPORATION OF THE CITY OF PENTICTON

City of Penticton Dog Control Bylaw 2011-04

STANDARDS FOR USE WITH KENNEL OPERATION PERMITS

1. Kennel Operation Permits shall be in the name of the person responsible for the operation of the kennel.
2. Operators of kennels shall provide to the City of Penticton, proof of ownership of the property or the written approval of the property owner.
3. Dogs must be cared for in accordance with the minimum standards for animal care as specified by The Canadian Council on Animal Care in their publication entitled 'Guide to Care and Use of Experimental Animals'.
4. Cleanliness of the facilities must be maintained at all times. The kennel facilities must be free of offensive odors. Dog feces must be controlled and disposed of in a manner acceptable to Public Health and Environmental Standards.
5. Noise, as defined in the bylaw, shall be confined to the premises covered by the Kennel Operation Permit.
6. The number of dogs authorized by the Kennel Operation Permit shall not be exceeded.
7. Kennel buildings shall be designed and constructed to limit sound from transmitting to the exterior of the building, to facilitate cleaning and prevent the escape of dogs.
8. Kennel facilities shall be kept at a temperature which is appropriate to the dogs being housed therein, having regard to the outside temperature and the season of the year.
9. All runs, pens and exercise yards used in conjunction with a kennel shall be constructed so as to prevent the escape of any dogs being kept therein, in accordance with Schedule 'B' and provide sufficient space for the dogs to stand and lie in comfort.