

BYLAW NO. 1698

A BYLAW OF THE CITY OF NORTH BATTLEFORD BEING THE DANGEROUS DOGS BYLAW

WHEREAS pursuant to Clauses 8(1)(b) and (k) of *The Cities Act*, it is necessary to establish a Bylaw to provide for the safety, health and welfare of people and the protection of people and property.

NOW THEREFORE, THE COUNCIL OF THE CITY OF NORTH BATTLEFORD ENACTS AS FOLLOWS:

1. This Bylaw may be cited as “The Dangerous Dogs Bylaw”.

Purpose

2. The purpose of this Bylaw is to promote the safety, health and welfare of people and the protection of people and property in the City of North Battleford and to ensure the humane treatment of dogs by regulating and prohibiting the keeping of dangerous dogs within the City.

Definitions

3. In this Bylaw:
 - (a) “City” means the City of North Battleford;
 - (b) “Court” in sections 12(b) and 14 of this bylaw means the Court of Queen’s Bench for Saskatchewan located at the Judicial Centre of Battleford.
 - (c) “Judge” means a judge of the Provincial Court of Saskatchewan or a justice of the peace.
 - (d) “Owner” includes:
 - (i) a person who keeps, possesses or harbours a dog to which this Bylaw applies;
 - (ii) the person responsible for the custody of a minor where the minor is the owner of a dog to which this Bylaw applies;

but does not include:

- (iii) a veterinarian registered pursuant to *The Veterinarians Act, 1987* who is keeping or harbouring a dog for the prevention, diagnosis or treatment of a disease of or an injury to the dog;
 - (iv) the City, the Saskatchewan Society for the Prevention of Cruelty to Animals, a local Society for the Prevention of Cruelty to Animals or the Humane Society of the Battlefords operating pursuant to *The Animal Protection Act*, with respect to an animal shelter or impoundment facility operated by any of them.
- (e) "Provocation" means an act done intentionally for the purpose of provoking a dog.

Dangerous Dogs

4. (1) If a complaint is made that a dog within the boundaries of the City is dangerous, a judge shall, on hearing the complaint, declare the dog to be dangerous where it proved that:
- (a) the dog, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack;
 - (b) the dog has a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of persons or domestic animals;
 - (c) the dog has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked a person or domestic animal;
 - (d) the dog is owned primarily or in part for the purpose of dog fighting or is trained for dog fighting.
- (2) For the purposes of proceedings pursuant to this section and section 7, a dog is presumed not to have been provoked, in the absence of evidence to the contrary.

Exemption for Guard Dogs

5. No dog shall be declared dangerous where an action described in clause 4(1) (a), (b) or (c) occurred while the dog was:
- (a) acting in the performance of police work; or
 - (b) working as a guard dog on commercial property:
 - (i) securely enclosed on the property by a fence or other barrier sufficient to prevent the escape of the dog and the entry of children of tender years; and

- (ii) defending that property against a person who was committing an offence or a trespass.
- 6. The owner of a dog complained of, if known, shall be served with notice of a hearing pursuant to subsection 4(1), but the judge may make an order pursuant to section 7 in the absence of the owner if he fails to appear.
- 7. (1) Where a judge declares a dog to be dangerous, the judge shall make an order embodying all of the following requirements:
 - (a) the owner shall keep the dog in an enclosure which complies with prescribed criteria;
 - (b) if the owner removes the dog from the enclosure, he shall muzzle and leash it in accordance with prescribed criteria and keep it under his direct control and supervision;
 - (c) the owner shall obtain and keep in effect liability insurance in the prescribed amount to cover damage or injury caused by the dog;
 - (d) the owner shall comply with the regulations and the *Animal Disease and Protection Act* (Canada), as amended from time to time, with respect to the detection and control of rabies;
 - (e) where the dog is moved to a different municipality, the owner shall notify the clerk of that municipality;
 - (f) where the dog is to be sold or given away, the owner shall:
 - (i) notify any prospective owner that the dog has been declared dangerous, before it is sold or given away; and
 - (ii) notify the clerk of the municipality or person designated by the municipality of the name, address and telephone number of any new owner of the dog.
- (2) An order issued pursuant to this section continues to apply and shall be binding on the new owner of the dog if the dog to which the order relates is sold or given to a new owner.
- 8. An order pursuant to section 7 may also include any or all of the following terms:
 - (a) the owner shall have the dog tattooed in the prescribed manner;
 - (b) the owner shall have the dog spayed or neutered;
 - (c) the owner shall take any other measures the judge considers appropriate.

9. Notwithstanding section 7, in the alternative, the judge may order that the dog be destroyed or otherwise disposed of at the owner's expense and shall give directions with respect to the destruction or other disposition.
10. Where an order has been made pursuant to section 7 against an owner, the owner may apply to the judge who made the order for an order that compliance with the provisions of subsection 7(c) be waived.
11. On an application pursuant to section 10, the judge may waive compliance with subsection 7(c), on any terms and conditions that he considers reasonable, where he is satisfied that the owner is unable to comply with the requirements of that clause for a reason other than his financial circumstances.
12. An owner or complainant who feels aggrieved by an order made pursuant to section 7 or 9 may appeal the order:
 - (a) to a judge of the Provincial Court of Saskatchewan by way of a trial de novo where the order was made by a justice of the peace; or
 - (b) on the grounds that it:
 - (i) is erroneous in point of law;
 - (ii) is in excess of jurisdiction; or
 - (iii) constitutes a refusal or failure to exercise jurisdiction;to the court where the order was made by a judge of the Provincial Court of Saskatchewan.
13. A person desiring to appeal an order pursuant to section 12 shall, within seven days of the order being appealed from, file a notice of appeal with the judge or court being appealed to and the provision of Part XXVII of the *Criminal Code*, as amended from time to time, apply *mutatis mutandis* to the appeal.
14. A person who feels aggrieved by a decision of a judge of the Provincial Court of Saskatchewan made in respect of an appeal pursuant to subsection 12(a) may appeal the decision to the court on any grounds set out in subsection 12(b) and the provisions of section 13 apply to the appeal.

Offences and Penalties, Destruction etc., of Dogs

15. (1) Any person who owns a dog for the purpose of dog fighting, or trains, torments, badgers, baits or otherwise uses a dog for the purpose of causing or encouraging the dog to make unprovoked attacks on persons or domestic animals is guilty of an offence.

- (2) Any person who does not comply with any part of an order made against him or her pursuant to section 7, 8 or 9 is guilty of an offence.
- (3) Any person who owns a dog that, without provocation, attacks, assaults, wounds, bites, injures or kills a person or domestic animal, is guilty of an offence.
- (4) A person who is guilty of an offence pursuant to this section is liable on summary conviction to:
 - (a) a fine of not more than \$10,000;
 - (b) imprisonment for not more than six months;
 - (c) an order imposing the requirements of sections 7 and 8.
 - (d) an order that the person's dog be destroyed or otherwise disposed of in accordance with the terms and conditions ordered by the judge; or
 - (e) a penalty consisting of any combination of subsections (a) to (d).
- (5) A person desiring to appeal an order or conviction pursuant to this section shall, within seven days of the order or conviction being appealed from, file a notice of appeal with the Provincial Court of Saskatchewan or the court, as the case may be, and the provisions of Part XXVII of the *Criminal Code* apply with any necessary modification.

Destruction Order

16. (1) Unless the owner otherwise agrees, every order for destruction of a dog shall state that it shall not be implemented for eight days.
- (2) Where an appeal is taken against an order for the destruction of a dog, the application of the order is stayed pending the disposition of the appeal.

Return of Dog

17. Where the judge on appeal overturns the order for destruction of the dog, the dog shall be released to the owner after the owner has paid the costs of impoundment of the dog pending the hearing.

Actions for Damages

18. In an action brought to recover damages for injuries to persons or property caused by a dog within the boundaries of the City, it is not necessary for the person injured to prove that the dog is, or that the owner knew that the dog was, of a dangerous or mischievous nature or is accustomed to doing acts causing injury.

Destruction by Peace Officers

19. (1) A peace officer as defined by the *Criminal Code*, as amended from time to time, may destroy any dog that he finds injuring or viciously attacking a person or domestic animal.
- (2) Where he acted in good faith, a peace officer who destroys a dog pursuant to subsection (1) is not liable to the owner for the value of the dog.

Entry and Search

20. (1) Where a peace officer as defined by the *Criminal Code*, as amended from time to time has reasonable and probable grounds for believing that a dog is dangerous or has been ordered to be destroyed and is:
 - (a) in or on any premises other than a dwelling house; or
 - (b) in any vehicle or other chattel;the peace officer or official may, with or without a warrant and by force if necessary, enter the premises, vehicle or chattel, search for the dog and impound it or, if there is an order to destroy or otherwise dispose of the dog, deliver the dog to the person appointed in the order to destroy or otherwise dispose of it.
- (2) Where it appears to a judge, on information laid before him on oath, that there are reasonable and probable grounds for believing that a dog that has been ordered to be destroyed or otherwise disposed is in any dwelling place or any other premises or vehicle or chattel, the judge may issue a warrant authorizing a peace officer to enter, by force if necessary, the dwelling place or other premises or vehicle or chattel specified in the warrant and search for the dog, and the peace officer may impound and deliver the dog to the person appointed by the judge to destroy or otherwise dispose of it.

Charges May be Added to Property Taxes

21. (1) If a person owes the City for costs incurred by the City with respect to a dangerous dog, the City may add the amount owing to the tax roll of any parcel of land for which the person is the assessed person.
- (2) If an amount is added to the tax roll of a parcel of land pursuant to subsection (1), the amount:
 - (a) is deemed for all purposes to be a tax imposed pursuant to *The Cities Act* from the date it was added to the tax roll; and
 - (b) forms a lien against the parcel of land in favour of the City from the date it was added to the tax roll.

22. (1) All references in this bylaw to *The Cities Act* are deemed to be references to *The Cities Act*, being chapter C-11.1 of the Statutes of Saskatchewan as amended from time to time.
- (2) Unless specifically stated herein nothing in this bylaw shall be interpreted to derogate, remove, hinder or limit any right, power or privilege of the City or any peace officer granted under *The Cities Act*, including section 327 thereof, or any other law granting any right, power or privilege to the City or any peace officer.
23. This Bylaw shall come into force and take effect immediately.

INTRODUCED AND READ A FIRST TIME THIS 2nd DAY OF JANUARY, A.D. 2003.

READ A SECOND TIME THIS 2nd DAY OF JANUARY, A.D. 2003.

READ A THIRD TIME AND ADOPTED THIS 2ND DAY OF JANUARY, A.D. 2003.

Wayne Ray
MAYOR

Elaine Kostiuk
CITY CLERK