



## DISTRICT OF CLEARWATER

### BYLAW NO. 148, 2016

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#### A Bylaw to Regulate and Control Animals

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**WHEREAS** the *Community Charter*, S.B.C. 2003, Chapter 26, authorizes a local government to regulate, prohibit and impose requirements in relation to animals;

**AND WHEREAS** section 49 of the *Community Charter* provides local governments with specific powers to deal with dangerous dogs;

**NOW THEREFORE** Council for the District of Clearwater, in open meeting assembled, enacts the following:

#### 1. CITATION

This bylaw may be cited for all purposes as the "*District of Clearwater Animal Control Bylaw No. 148, 2016*".

#### 2. INTERPRETATION

##### 2.1 Definitions

In this Bylaw, unless the context otherwise requires and as generally indicated in italics:

"**Agent**" means any organization or body so appointed from time to time by *Council*.

"**Aggressive dog**" means:

- (a) a *dog* that, being over the age of 4 months, has without provocation bitten or attacked a person or *domestic animal*, resulting in at least a minor injury;
- (b) a *dog* that has, when not on the property of its *owner*, approached or pursued any person in an aggressive or menacing manner;
- (c) a *dog* owned or harboured primarily or in part for the purpose of *dog* fighting, or a *dog* trained for *dog* fighting; or
- (d) a *dog* with a demonstrated propensity, tendency or disposition to attack without provocation other *domestic animals* or humans.

"**Animal Control Officer**" means a person(s) designated by *Council*, for the purposes of this Bylaw, to deal with *domestic animals* and *dangerous dogs* under section 49 of the *Community Charter*.

"**At large**", with reference to an animal, means being elsewhere than on the property of its *owner* or other *responsible person* and not under the physical charge and control of a competent person.

"**Commercial kennel**" means a building and a supporting compound, cage or run for household *domestic animals* in which such animals are boarded, trained, raised or bred as a business.

"**Coop**" means a structure used for housing *poultry* constructed and sited in accordance with this bylaw and the *Zoning Bylaw*.

“**Council**” means the *Council* of the District of Clearwater.

“**Dangerous dog**” has the same meaning as defined in section 49 of the *Community Charter*.

“**District**” means the District of Clearwater.

“**Dog**” means any animal of the canine species.

“**Domestic animal**” means an animal that is:

- (a) tame or kept, or that has been and is being sufficiently tamed or kept, to serve some purpose for the use of persons; and
- (b) includes rabbits, goats, sheep, swine, *equine*, cattle, *farm animal*, *poultry* kept for the purpose of providing meat or eggs.

“**Equine**” means of or belonging to the family Equidae, and includes horses, asses, donkeys and mules.

“**Farm animal**” means a *domestic animal*, excluding any *equine*, normally raised for food, milk, or wool and without limiting the generality of the foregoing includes:

Cattle	Oxen	Swine	llamas
Sheep	Goats	Ostriches	Alpacas

“**Lot**” means a parcel of land legally described and registered on the records of the Land Title Office and includes Land Act Surveys as registered crown land.

“**Owner**” means a person legally entitled to ownership of an animal, provided that for a person under the age of 19, the parent or guardian of such person is deemed to be the *owner*.

“**Person responsible**” or “**responsible person**” means a person who is the *owner* of the animal; has care, custody or control of the animal; or is keeping or harbouring the animal, provided that where the person is under the age of 19, the parent or guardian of such person is deemed to be the *person responsible*.

“**Poultry**” means all birds or fowl normally raised for food or egg production and without limiting the generality of the foregoing, includes:

Hens (including Bantams)	Turkeys
Geese	Ducks
Guinea Fowl	Pheasant
Artificially reared Grouse	Quail
Partridge	Ptarmigan

“**Pound**” means any building or enclosure or place established for impounding animals under the provisions of this Bylaw.

“**Veterinarian**” means a person licensed to practice veterinary medicine in the Province of British Columbia.

“**Zoning Bylaw**” means District of Clearwater Zoning Bylaw 133, 2016 as amended or superseded.

## 2.2 **General**

- 2.2.1 Unless otherwise provided, words and phrases used in this Bylaw have the same meanings as in the *Community Charter, Local Government Act, or Interpretation Act*, as the context and circumstances may require. A reference to a statute in this Bylaw refers to a statute of British Columbia, and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time. In the event of a conflict between this Bylaw and a Provincial enactment, the stricter law prevails. Words in the singular include the plural and words in the plural include the singular, and reference to a gender includes both genders and a corporation.
- 2.2.2 Headings in this Bylaw are for convenience only and must not be construed as defining or limiting the scope or intent.
- 2.2.3 If any section, subsection, paragraph, clause or phrase of this Bylaw is for any reason held to be invalid by a Court of competent jurisdiction, the invalid portion is severed and the remaining portions continue to be valid.

## 3. **ADMINISTRATION & APPLICATION**

- 3.1 This Bylaw may be administered and enforced by:
- (a) the *Animal Control Officer*;
  - (b) any peace officer appointed by *Council* to assist or replace the *Animal Control Officer* as necessary; and
  - (c) by the Chief Administrative Officer for the *District*, except in matters dealing with any *dangerous dog* pursuant to section 49 of the *Community Charter*.
- 3.2 The *District* may from time to time appoint an *Animal Control Officer* and may enter into a contract with any persons or body to provide for *pound* keeping and animal control services.
- 3.3 The limits imposed in this Bylaw do not apply to normal farm practices as permitted activities within the Agricultural Land Reserve or as “agriculture use” where permitted as a principal use under the *Zoning Bylaw*.
- 3.4 Every animal *owner* shall promptly provide, upon demand made by the *Animal Control Officer*, truthfully and fully, the *owner’s* name and the number of animals owned or kept by the *owner*, their breed, species and general description(s); and the place where such animals are kept.
- 3.5 The *Animal Control Officer* may enter upon property on which animals are kept at any reasonable hour and may inspect the property to ascertain whether the regulations contained in this Bylaw are being obeyed.
- 3.6 A person must not interfere with, obstruct or impede the *Animal Control Officer* or any peace officer or other person acting in the course of their duties under this Bylaw or pursuant to section 49 of the *Community Charter*.

#### 4. **ANIMAL CONTROL OFFICER**

4.1 The *Animal Control Officer* may:

- (a) designate a *dog* as an *aggressive dog* in accordance with this Bylaw;
- (b) carry out the powers, functions and obligations established in the *Community Charter*, s. 49, in relation to a *dog* that is a *dangerous dog* or that the officer believes to be a *dangerous dog*;
- (c) employ any lawful method to apprehend an animal;
- (d) seize, impound and detain any animal in accordance with this Bylaw or a court order;
- (e) request information from a person to identify their name and address, proof of ownership of an animal, and the usual address of an animal for which the person appears to be responsible;
- (f) issue notices and bring proceedings to enforce this Bylaw and receive information and make and keep records for the purposes of this Bylaw; and
- (g) provide for the sale, other disposition or destruction of an impounded animal if the animal is not claimed within 14 days following the date of its impoundment and a *veterinarian* has examined the animal and found it to be suffering from a serious disease or severe injury that cannot reasonably be treated or the *owner* of an animal has requested that it be disposed of.

#### 5. **PROHIBITIONS**

##### **No Leg Hold Traps**

5.1 A person must not use a leg-hold trap or snare within the boundaries of the *District*.

##### **No Running at Large**

5.2 A *person responsible* for an animal must not permit, suffer or allow the animal:

- (a) to be *at large* on a sidewalk, highway, park or other public place;
- (b) to trespass in or upon any private lands or premises; and
- (c) to attack or bite a person or a *domestic animal*.

#### 6. **CONTROL OF DOGS**

6.1 A *person responsible* for a *dog* must, when the *dog* is on a sidewalk or highway or within any public park, space, or building, ensure it is under the control of a competent person by means of a leash, unless the *dog* is accompanied by the person and within an area designated by the *District* as an off-leash area; and, must immediately remove feces deposited by the *dog* and dispose of it in a sanitary manner.

- 6.2 Except as part of a permitted breeding or *commercial kennel* operation, a *person responsible* for a female *dog* in estrus ("heat") must confine the *dog* or cause it to be confined in a secure building or enclosure so that it cannot come in contact with other *dogs*.

## 7. POULTRY

- 7.1 In a zone where *domestic animals* are explicitly permitted as accessory to residential use, the maximum number of *poultry* or rabbits, or combination thereof, that may be kept on a *lot* is restricted as follows:

Less than 1,012 m <sup>2</sup> (1/4 acre)	4 head
1,012 m <sup>2</sup> (1/4 acre) to 4,047 m <sup>2</sup> (1 acre)	10 head
4,047 m <sup>2</sup> (1 acre) to 2 ha (5 acres)	20 head
Over 2 ha (5 acres)	50 head

- 7.2 A person must not keep roosters in any area except where agriculture is permitted as a primary use.
- 7.3 An *owner* of *poultry* must provide a *coop* for their shelter as follows:
- said *coop* must be sited and setback no less than 8 m from all property lines and be secured from sunset to sunrise, with *poultry* kept within; and must comply with all other regulations for accessory buildings established in the *Zoning Bylaw*; and
  - Except where existing trees and vegetation prevent the *coop* from being readily viewed from beyond the *lot*, a vegetative barrier must be planted for this purpose. Existing trees and hedges along adjacent boulevards and property lines must be retained as buffer zones where *poultry* are kept.
- 7.4 Nothing in this bylaw shall be construed to permit the keeping of *poultry* when such activity is prohibited by statutory or private covenants, conditions or other restrictions governing the use of property.

## 8. FARM ANIMALS

For clarity, the allowances under this section are additional to *poultry* keeping quotas.

- 8.1 A person must not keep or harbour any *equine* or *farm animal* on any *lot* unless said *lot* is at least 4000 m<sup>2</sup> (1 acre) in area.
- 8.2 Where *domestic animals* are explicitly permitted as accessory to residential use:
- given *lot* area is over 4000 m<sup>2</sup> (1 acre), one *farm animal* that is not an *equine* may be kept per every 4000 m<sup>2</sup> (1 acre) to a maximum of six *farm animals*; and
  - in addition, given *lot* area is over 4000 m<sup>2</sup> (1 acre) two *equines* may be kept; and, where the *lot* area is over 8000 m<sup>2</sup> (2 acres) a maximum of four *equines* may be kept.

## 9. WILD ANIMALS

- 9.1 A person must not keep, harbour or raise animals identified in the *Controlled Alien Species Regulation* under the *Wildlife Act* except as specifically permitted in that Regulation, and must be on RL-1 zoned land.

- 9.2 A person must not feed, keep or harbour any of the following animals on any RL-1 zoned *lot* in the *District* except strictly in accordance with a valid permit under the *Wildlife Act*:
- (a) a bear, wolf, cougar or coyote;
  - (b) deer, or other members of the family *Cervidae*;
  - (c) a member of any species of wildlife listed in Schedule B or C to the *Designation and Exemption Regulation* under the *Wildlife Act*; or
  - (d) a member of any species identified in the *Controlled Alien Species Regulation* under the *Wildlife Act*.
- 9.3 Where any of the above wild animals are allowed under a Provincial permit, the *person responsible* must ensure that:
- (a) the animal cannot run *at large* and is strictly confined to the property of their *owner*; and
  - (b) the animal is kept in a building, structure, pen or enclosure that has the minimum clearance from property lines required for buildings in the zone in which the *lot* is located.

## 10. **CAGE PETS**

- 10.1 A person who keeps rabbits, guinea pigs, hamsters or similar small animals as pets on any *lot* must ensure that:
- (a) the animals have a secure escape-proof cage, pen or enclosure and are confined to this cage and the property of their *owner*; and
  - (b) any building, structure, cage, pen or enclosure in which the animals are kept must have the minimum clearance from property lines required for buildings in the zone in which the *lot* is located.

## 11. **BEEES**

- 11.1 A person must not place any hive or other device for the housing of bees on any *lot* unless said hive or device is located at least 5 metres from any property line and oriented so there is a clear flight path into the subject *lot*, except where such hive or device for the housing of bees is used in conjunction with the operation of a greenhouse.

## 12. **DANGEROUS DOGS**

- 12.1 If, pursuant to s. 49 of the *Community Charter*, application is made to the Provincial Court for an order to destroy a *dangerous dog*:
- (a) the order is granted by the Court, the *dog* shall be destroyed in accordance with the order and any fees payable to the *District* under this Bylaw become a debt due and owing to the *District* in addition to any approved legal and Court costs paid by the *District*;
  - (b) the order is not granted by the Court, the *dog* will be returned to the *Owner*, upon payment to *District* of all impoundment and boarding fees due pursuant to this Bylaw, and the *Owner* must comply with any and all directions of the Court that are set out in the order.
- 12.2 Any *Owner* of a *dog* that has been determined to be a *dangerous dog* pursuant to this Bylaw may voluntarily surrender the *dog* to the *District* for destruction, at cost of the *Owner*. Before

the *District* will accept such *dog* for destruction the *Owner* must sign a “Consent for Euthanasia/Surrender” in a form established by the *District* Chief Administrative Officer.

- 12.3 An *Animal Control Officer* may require an *Owner* to provide proof of ownership of a *dog*, to the satisfaction of the *Animal Control Officer*, prior to the return of a *dog* to the *Owner* or surrender of a *dog* for destruction in accordance with this Bylaw.

### 13. **AGGRESSIVE DOGS**

- 13.1 An *Animal Control Officer* may designate a *dog* as an *aggressive dog* for the purposes of this Bylaw, based on his or her own knowledge or observation, a written communication from another *animal control officer*, or a written complaint about the *dog* that provides reasonable grounds for the designation.

- 13.2 If the *Animal Control Officer* has designated a *dog* to be an *aggressive dog*, the Officer will deliver to the *owner* or other *person responsible* for the *dog*, if that person is known, written notice advising that the *dog* has been so designated. The notice may stipulate measures the person must take to prevent incidents of harm to other animals or to any person. The notice is sufficiently delivered if personally given or left with the *person responsible*, or mailed to the address of that person or where the *dog* is known or believed to reside. If mailed, the addressee is deemed to have received the notice 6 days after the date of mailing.

- 13.3 The *owner* of a *dog* that has been designated as an *aggressive dog* may, within 10 calendar days of being delivered notice of the designation, request that the *Animal Control Officer* reconsider the designation. The request must be accompanied by written reasons why the *owner* believes the *dog* is not an *aggressive dog*, and may include any information that would support that position. If requested, the *Animal Control Officer* must allow the *owner* an opportunity to be heard, in person or by telephone or other device, and may arrange for any other person with relevant information to address the matter. If no request for reconsideration is made within 10 days of the notice being delivered, the designation is final.

- 13.4 After considering the *owner's* case, and other relevant information as may be presented, the *Animal Control Officer* may confirm or reverse the *aggressive dog* designation, and may confirm, increase, modify or cancel the measures set out in the original notice of designation.

- 13.5 If a *dog* has been deemed by the *Animal Control Officer* to be an *aggressive dog*, but the *dog* has not:

- (a) killed or seriously injured a person;
- (b) killed or seriously injured a *domestic animal* while in a public place or on private property other than property owned or occupied by the *person responsible* for the *dog*; or
- (c) been declared a *dangerous dog* by a court of competent jurisdiction,

the *owner* may request that *Council* review the designation of *aggressive dog* by the *Animal Control Officer* by notifying the *District's* Chief Administrative Officer within 14 days of the date of the *Animal Control Officer's* decision. Such a request must be in writing and include the *owner's* reasons for the request and any further information related to the matter. If a complete request is not made within 14 days, or the *owner* does not appear at a hearing as

- scheduled by the corporate officer, the decision of the *Animal Control Officer* is deemed to be final.
- 13.6 After hearing from the *owner* or their representative and the *Animal Control Officer* or any other person that *Council* believes could provide relevant information, *Council* may confirm or reverse the designation of the *dog* as an *aggressive dog*, and may impose conditions, restrictions or requirements as it deems necessary and appropriate for its keeping, to prevent incidents of harm to another *domestic animal* or to a person.
- 13.7 Every *person responsible* for an *aggressive dog* shall, at all times while the *dog* is on the premises owned or controlled by such person, keep the *dog* securely confined either indoors or in an enclosed pen or other structure capable of preventing the entry of children and adequately constructed to prevent the *dog* from escaping.
- 13.8 A *person responsible* for an *aggressive dog* must not cause, suffer or permit the *dog* to be on a highway or in any public place, unless the *aggressive dog* is muzzled by a properly fitted humane device AND firmly held on a leash not exceeding 2.4 metres in length and held by a person competent to restrain the *dog*.
- 13.9 A *person responsible* for an *aggressive dog* must not cause, suffer or permit the *dog* to be on any private lands and premises without the consent of the occupier of such lands and premises and when on such lands and premises must ensure that the *aggressive dog* is confined as set out in subsection 13.7, or leashed and muzzled as set out in subsection 13.8 of this Section.
- 13.10 The *owner* of an *aggressive dog* must post a warning sign, in a form and size prescribed by the *District Chief Administrative Officer*, at each entrance and side of the property and upon the building in which the *dog* is kept, indicating that that an *aggressive dog* is present. This sign must be:
- (a) installed so as to be visible and capable of being read from the sidewalk or highway adjacent to the *lot*; and
  - (b) secured and maintained in good condition and promptly replaced if removed.
- 13.11 A person must not deface or remove a sign required to be posted under s. 13.10.
- 13.12 The *owner* of an *aggressive dog* must:
- (a) within two working days of selling or giving away the *dog*, provide the *Animal Control Officer* with the name, address and telephone number of the new *owner*;
  - (b) advise the *Animal Control Officer* within two days of the death of the *dog* and provide a *Veterinarian's* certificate of the death; and
  - (c) advise the *Animal Control Officer* immediately if the *dog* is loose or has bitten or attacked any person or *domestic animal*.

#### 14. **IMPOUNDING ANIMALS**

- 14.1 The *Animal Control Officer*, a Peace Officer or a Bylaw Enforcement Officer may seize, impound and detain any animal found to be:

- (a) *at large* in a public place or building, unless the animal is a *dog* accompanied by a *person responsible* within a designated off-leash area;
- (b) straying or trespassing on private property (other than that of the *person responsible* for the animal); or
- (c) on unfenced land, if not securely tethered or contained.

- 14.2 If the *owner* of any impounded animal is known to the *Animal Control Officer*, the *Animal Control Officer* will promptly notify the *owner* by telephone, hand delivered notice, or mail, to advise of the impoundment. If the *owner* is not known, the *Animal Control Officer* will contact the *District's* Chief Administrative Officer who will publish a notice in the *District* offices and may additionally publish a notice online at the *District's* website.
- 14.3 Subject to an order of the Court, if an impounded animal other than a *farm animal* or *equine* is not claimed within 14 days of the time of its impoundment, the *Animal Control Officer* or the *Agent* may arrange to have the animal destroyed, sold or otherwise disposed of.
- 14.4 Subject to an order of the Court, if an impounded *farm animal* is not claimed within 14 days of the time of its impoundment, the *Animal Control Officer* may sell the animal, provided that he has notified the *owner* or if the *owner* is unknown, that he has advertised in a locally-distributed newspaper the fact that the animal has been impounded and will be offered for sale. The proceeds of the sale of such animals, after deduction of impoundment fees and advertising costs, shall be returned to the *owner*; however, if the *owner* cannot be found within ninety (90) days of the time of impoundment, the proceeds shall be returned to *District* general revenues.
- 14.5 If the *owner* of an animal that has been impounded pursuant to this section provides evidence to satisfy the *Animal Control Officer* or *Agent* as to ownership, upon payment of impoundment fees the *Animal Control Officer* or *Agent* will release the animal to its *owner*.

## 15. **FEES & CHARGES**

- 15.1 The following impound fees apply in relation to an animal that has been impounded:
- |  |        |
|--|--------|
| (a) a <i>dog</i> other than an <i>aggressive</i> or <i>dangerous dog</i> : | \$ 75  |
| (b) an <i>aggressive</i> or <i>dangerous dog</i>                           | \$ 175 |
| (c) an <i>equine</i>   | \$ 175 |
| (d) a <i>farm animal</i>   | \$ 100 |
| (e) a head of <i>poultry</i> or rabbit or other small animal               | \$ 30  |
- 15.2 Addition to the fees under s. 15.1, the following daily board fees apply in relation to the care of an animal that has been impounded:
- |  |               |
|--|---------------|
| (a) a <i>dog</i> other than an <i>aggressive</i> or <i>dangerous dog</i> : | \$ 25 per day |
| (b) an <i>aggressive</i> or <i>dangerous dog</i>                           | \$ 50 per day |
| (c) an <i>equine</i>   | \$40 per day  |
| (d) a <i>farm animal</i>   | \$40 per day  |
| (e) <i>poultry</i> or rabbit or other small animal                         | \$ 5 per day  |
- 15.3 The fee for euthanasia of a *dog* by a licenced *veterinarian* shall be \$125.

**16. OFFENCE & PENALTY**

16.1 Any person who:

- (a) contravenes any provision of this Bylaw;
- (b) suffers or permits any act to be done in contravention of this Bylaw; or
- (c) neglects to do anything required to be done under this Bylaw;

commits an offence, and each day that the contravention is continued constitutes a separate offence.

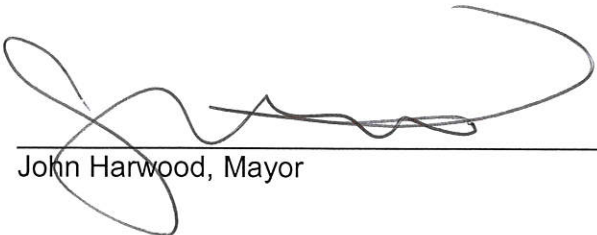
16.2 A person who is guilty of an offence under this Bylaw is liable to pay a fine of up to \$10,000 and the costs of prosecution; and to pay compensation for damage or loss sustained by the *District* or another person resulting from the offence.

Read a first time this 5<sup>th</sup> day of April, 2016.

Read a second time this 19<sup>th</sup> day of April, 2016.

Read a third time this 17<sup>th</sup>, day of May, 2016.

Adopted this 7<sup>th</sup> day of June, 2016.



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John Harwood, Mayor



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Leslie Groulx, Corporate Officer

Certified to be a true and correct copy of Bylaw No. 148, 2016 cited as "District of Clearwater Animal Control Bylaw No. 148, 2016" as adopted by the Council of the District of Clearwater this 7<sup>th</sup> day of June, 2016.



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Leslie Groulx, Corporate Officer