

BYLAW NO. 2005-1710

A BYLAW OF THE CITY OF ESTEVAN TO REGULATE THE KEEPING OF DANGEROUS DOGS.

WHEREAS Section 8 of *The Cities Act* authorizes a Council to license, regulate and control any animal or class of animals;

AND WHEREAS it is deemed in the public interest to regulate the keeping and disposition of dangerous dogs;

NOW THEREFORE THE COUNCIL OF THE CITY OF ESTEVAN ENACTS AS FOLLOWS:

TITLE AND PURPOSE

1. This bylaw may be cited as “THE DANGEROUS DOG BYLAW”.
2. The purpose of this bylaw is to promote the safety, health and welfare of people and the protection of people and property by providing a pro-active evaluation of dogs and to ensure the humane treatment of dogs by regulating the keeping of dangerous dogs within the City of Estevan.

DEFINITIONS

3. In this bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter inconsistent therewith:
 - a) “**City**” means the Municipal Corporation of the City of Estevan or, where the context requires, the geographical area within the city limits of the City of Estevan;
 - b) “**Bylaw Enforcement Officer**” means the person appointed as the Bylaw Enforcement Officer for the City and includes any duly authorized representative or designate of such person;
 - c) “**Enclosure**” includes a dwelling place;
 - d) “**Evaluation Committee**” means three persons comprised of the Bylaw Enforcement Officer, a Veterinarian or a Veterinarian Technician and a person whose occupation is such that they would have an expert opinion of a dog’s temperament such as a Certified Animal Behaviorist.
 - e) “**Judge**” means a judge of the Provincial Court of Saskatchewan;

- f) **“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 who is keeping or harbouring a dog to which this bylaw applies for the prevention, diagnosis or treatment of a disease or an injury to the dog;
 - (iv) the City or The Estevan Humane Society with respect to a dog shelter or impoundment facility operated by either of them;
 - (v) a licensed boarding kennel.
- g) **“Provocation”** means an act done intentionally for the purpose of provoking a dog, including entering the owner’s property with the intent to commit a criminal offence;
- h) **“Registered Veterinary Technologist”** means a member in good standing with both the Saskatchewan Veterinary Medical Association and the Saskatchewan Association of Veterinary Technologists.
- i) **“Veterinarian”** means a member in good standing of the Saskatchewan Veterinary Medical Association.

APPLICATION

4. This bylaw shall apply to domestic dogs in Estevan.

DANGEROUS

5. a) A dog is dangerous where it is proven that:
- (i) the dog, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack;
 - (ii) the dog has a demonstrable propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of persons or domestic animals because of breeding, training, abuse, neglect or otherwise;

- (iii) the dog has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked a person or domestic animal;
 - (iv) it has been proven that the dog is owned primarily or in part for the purpose of dog fighting or is trained for dog fighting.
- b) For the purposes of this section, a dog is presumed not to have been provoked, in the absence of evidence to the contrary.

EXEMPTION

6. No dog shall be considered dangerous where an action described in Section 5 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 any unauthorized person; and
 - (ii) defending that property against a person who was committing an offence.
 - (c) acting as an assist dog.

PROTECTION & EVALUATION

7. a) The Bylaw Enforcement Officer(s) shall monitor dogs within the City and the owner of any dog proven to have be involved in an incident as defined in Section 5.a)(i) or 5.a)(iii) must:
- (i) Ensure that the dog is muzzled and leashed in accordance with the provisions of Section 16 – Criteria for Muzzle and Leash for Dangerous Dogs.
 - (ii) Ensure that the dog is either securely tethered or chained or in an enclosure as defined in Section 19 on their property at all times where a person older than 16 years of age is not present to control the dog.
- b) In the event that a report is received of a dangerous dog as defined in Section 5.a)(ii), the City shall serve notice on the owner of that dog requiring the dog to be made available for examination by the Evaluation Committee at a time and place to be set forth in the Notice. The Notice shall also require that the owner follow the provisions of Section 7.a) until

such time as the evaluation is complete and an opinion as to the dog's temperament has been formed. The Notice shall be served:

- (i) in the case of an owner who is an individual:
 - (a) by delivering it personally to the owner; or
 - (b) by sending it by registered mail to the address at which the dog is located.
- (ii) in the case of an owner that is a corporation:
 - (a) by sending it by registered mail to the registered office of the corporation; or
 - (b) by delivering it personally to the manager, secretary or other executive officer of the corporation or the person in charge of any office or other place where the corporation carries on business in Saskatchewan.
- (iii) A notice served in accordance with clause 7.b) (i) (b) or 7.b) (ii) (a) is deemed to have been served on the fifth day after the date of its mailing.
- (iv) A notice served in accordance with clause 7.b)(i)(a) or 7.b)(ii)(b) is deemed to have been served on the day after the date of its delivery.
- c) If, after examining the dog, the Evaluation Committee is of the opinion that the dog has a demonstrable propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of persons or domestic animals because of breeding, training, abuse neglect or otherwise, a complaint shall be made and a hearing shall be conducted, in accordance with Section 8 on the basis of the evidence of the Evaluation Committee.
- d) No owner of a dog receiving a Notice served pursuant to Subsection a) shall fail to present that dog to the Evaluation Committee at the time and place set forth in the said Notice.
- e) Should the owner of the dog not permit this evaluation to be completed, the committee shall consider the dog to be dangerous and a complaint shall be made to a judge.

DANGEROUS DOG HEARINGS

8. a) If a complaint is made that a dog is dangerous within the meaning of clause 5.a)(ii), subject to compliance with Section 7, a judge shall hold a hearing to determine if, based upon the evidence adduced at the hearing, including the evidence of the Evaluation Committee, the dog is, in fact, dangerous.
 - (i) If a complaint is made that a dog is dangerous within the meaning of clause 5.a)(i) or (iii), a judge shall hold a hearing to determine if, based upon the evidence adduced at the hearing, the dog is, in fact, dangerous.
- b) Notice of the hearing referred to in Subsection a) shall be served upon the owner of the dog. The Notice shall be served:
 - (i) in the case of an owner who is an individual:
 - (a) by delivering it personally to the owner; or
 - (b) if the owner cannot conveniently be found, by leaving it for the owner at the owner's residence with a person at that residence who appears to be at least 18 years of age;
 - (ii) in the case of an owner that is a corporation:
 - (a) by sending it by registered mail to the registered office of the corporation; or
 - (b) by delivering it personally to the manager, secretary or other executive officer of the corporation or the person in charge of any office or other place where the corporation carries on business in Saskatchewan.
- c) Where an owner does not appear at the time and place appointed for the hearing after having been notified of that time or place, the judge may proceed *ex parte* to hear and determine the proceedings in the absence of the owner as fully and effectively as if the owner had appeared.
- d) If the judge is satisfied, on the evidence, that the dog is dangerous, the judge shall make an order embodying all of the following terms:
 - (i) if the dog is removed from the owner's property, the dog shall be muzzled and leashed in accordance with Section 16 and kept under direct control and supervision;
 - (ii) the owner shall inoculate the dog against rabies in accordance with Section 17;

- (iii) if the dog is moved to a different city or municipality, the owner shall notify the clerk or administrator of that city or municipality;
 - (iv) if the dog is to be sold, given away or otherwise disposed of, the owner shall:
 - (a) notify the prospective owner that the dog has been declared dangerous, before it is sold or given away; and
 - (b) notify the Bylaw Enforcement Officer of the proposed disposition and of the name, address and telephone number of the prospective owner of the dog;
 - (v) if the dog is unlicensed, the owner shall, at the owner's expense and within ten (10) days of the date of the order, purchase the requisite license for the dog;
 - (vi) the owner shall have the dog microchipped or tattooed in accordance with Section 18.
- e) An order pursuant to Subsection d) may also include any or all of the following terms:
- (i) the owner shall keep the dog in an enclosure in accordance with Section 19;
 - (ii) the owner shall obtain, and keep in effect, liability insurance in an amount of not less than \$500,000.00 for any bodily injury to or death of any person or domestic animal, or for damage to property, caused by the dog;
 - (iii) the owner shall display signs, in accordance with Section 20, on the owner's property warning of the presence of the dog and shall continue to display the signs in good condition so long as the dog is present on the property;
 - (iv) the owner shall have the dog spayed or neutered;
 - (v) the owner shall take such other measures as the judge considers appropriate.
- f) Notwithstanding Subsection d), a judge may, in the alternative, 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.

- g) Where an order has been made pursuant to subsection e) against the owner, the owner may apply to the judge who made the order for an order that compliance with the provisions of clause e)(ii) be waived.
- h) On an application pursuant to Subsection g), the judge may waive compliance with clause e)(ii), on any terms and conditions that the judge considers reasonable, where the judge is satisfied that the owner is unable to comply with the requirements of that clause for a reason other than the owner's financial circumstances.
- i) A person desiring to appeal an order pursuant to this Section shall, within seven (7) days of the order being appealed from, file a notice of appeal with Her Majesty's Court of Queen's Bench, and the provisions of Part XXVII of the Criminal Code apply with any necessary modification.

OFFENCES AND PENALTIES

9. a) Any person who contravenes Section 7.a) of this bylaw is guilty of an offense.
- b) 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.
- c) Any person who displays a sign in the form required by subsection 20a) and who is not acting in accordance with an order made pursuant to Section 8 or 9 or has not received the permission of the City to display the sign is guilty of an offence.
- d) Any person who does not comply with any part of an order made against him or her pursuant to subsection 8d), 8e) or 8f) is guilty of an offence.
- e) 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.
- f) Any person who owns a dog that, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack; is guilty of an offence.
- g) A person who is guilty of an offence pursuant to this Section is liable on summary conviction:
- (i) in the case of an individual, to a fine not exceeding \$10,000.00, or imprisonment for not more than one year, or both;

- (ii) in the case of a corporation, to a fine not exceeding \$25,000.00, or imprisonment of the directors of the corporation for not more than one year, or both.
- h) In addition to imposing the penalty under Subsection e), the judge may:
 - (i) make an order embodying the terms of Section 8.d) that may also include the terms of Section 8.e); or
 - (ii) make an 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.
- i) 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 Court, and the provisions of Part XXVII of the *Criminal Code* apply with any necessary modification.
- j)
 - (i) Where an animal control officer or peace officer believes that a person has contravened the provisions of this bylaw, they may by personal service, serve or cause to be served upon such person a notice of violation in Form A as provided by this Section.
 - (ii) The notice of violation in Form A shall be in a form similar to that provided as Form A of this bylaw and shall indicate thereon the Section of the bylaw which was contravened and the amount of penalty to be paid as provided in Schedule "B" of this bylaw.
 - (iii) Upon production of the notice of violation in Form A issued pursuant to Subsection a) within seven (7) days from the date of service together with payment as indicated on the notice of violation in Form A to the person to whom the notice of violation was issued shall not be liable for prosecution for the contravention in respect of which the notice of violation in Form A was given.
 - (iv) If payment is not received as provided in Subsection c) hereof within the time prescribed, a summons shall be issued to the person alleged to have committed the offence and thereafter the provisions of this Section shall not apply with respect to that offence. A person to whom a notice of violation in Form A is being issued pursuant to this section shall furnish any Bylaw Enforcement Officer or Peace Officer, upon request, with his name and address.

ORDER BINDS SUBSEQUENT ORDER

10. An order issued pursuant to Section 8 or 9 continues to apply if the dog is sold or given to a new owner or is moved to a different municipality.

EXECUTION OF DESTRUCTION ORDER

11. a) Unless the owner otherwise agrees, every order for destruction of a dog shall state that it shall not be implemented for eight days.
- b) 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.
- c) Regardless of the outcome of the appeal, the owner shall be responsible for the payment of the costs of impoundment of the dog pending the hearing.

RETURN OF DOG

12. 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.

DESTRUCTION BY PEACE OFFICERS

13. a) A peace officer as defined by the Criminal Code may destroy any dog that the officer finds injuring or viciously attacking a person or domestic dog.
- b) A peace officer who, in good faith, destroys a dog pursuant to Subsection a) is not liable to the owner for the value of the dog.

ENTRY AND SEARCH

14. Subject to section 327 of The Cities Act, supra, a peace officer, as defined by the Criminal Code having reasonable grounds to believe that a dog is dangerous or has been ordered to be destroyed or otherwise disposed of and that the dog is in or on any premises may enter the premises to search for the dog and impound the dog 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 the dog.

CHARGES MAY BE ADDED TO PROPERTY TAXES

15. a) The City may pay any costs for which the owner of a dog is responsible pursuant to this bylaw and may add the amount to the tax roll of any parcel of land for which the owner is an assessed person.
- b) If an amount is added to the tax roll of a parcel of land pursuant to subsection a), the amount:

- (i) is deemed for all purposes to be a tax imposed pursuant to *The Cities Act, supra*, from the date it was added to the tax roll; and
- (ii) forms a lien against the parcel of land in favour of the City from the date it was added to the tax roll.

CRITERIA FOR MUZZLE AND LEASH FOR DANGEROUS DOGS

16. Any dog that is required to be muzzled and leashed when removed from the owner's property pursuant to Section 7, 8 or 9, the dog shall be equipped with a muzzle and be secured by a leash in accordance with the following criteria:
- a) the dog shall be fitted with a collar or harness that is of a sufficient strength and good condition that is properly placed and fitted on the dog;
 - b) the movement of the dog shall be controlled by a person of more than 16 years old by means of a leash attached to the collar or harness on the dog;
 - c) the leash shall not exceed 1.2 meters in length and shall be constructed of a material having a tensile strength of, at least, 140 kilograms;
 - d) the muzzle on the dog shall be properly fitted on the dog to prevent it from biting any dog or person;
 - e) the muzzle shall be fitted on the dog in a manner that it will not interfere with the vision or respiration of the dog.

INOCULATION

17. a) Where a judge orders that a dog be inoculated against rabies pursuant to Section 8 or 9, the owner of the dog shall, at the owner's expense and within ten (10) days of the date of the order, have the dog inoculated against rabies by a veterinarian and provide proof to the Bylaw Enforcement Officer that the dog has been inoculated.
- b) Where the owner of a dog provides proof that the dog has been inoculated against rabies during the period of twelve (12) months prior to the date of the order, the owner is not required to comply with Subsection a) until the expiration of twelve (12) months from the date of inoculation of the dog.
- c) The owner of a dog shall have the dog inoculated within each twelve (12) month period following the inoculation mentioned in Subsection a) or b) during the lifetime of the dog.

IDENTIFICATION OF DANGEROUS DOGS

18. a) Where a judge orders that a dog be microchipped or tattooed pursuant to Section 8 or 9, the owner of the dog shall, at the owner's expense and

within ten (10) days of the date of the order, cause the dog to be microchipped or tattooed by a veterinarian.

- b) A tattoo provided for by Subsection a) shall be made with indelible or permanent ink inside the dog's outer ear or inside the dog's flank and shall consist of an alphanumeric code assigned by the veterinarian.
- c) The owner shall, within the ten (10) day period referred to in Subsection a), advise the Bylaw Enforcement Officer of the number associated with the microchip or of the alphanumeric code comprising the tattoo.
- d) If the owner of the dog provides proof that the dog was microchipped or tattooed in a manner consistent with this section prior to the judge's order, the owner is not required to comply with Subsection a) but shall, within the ten (10) day period referred to in Subsection a), advise the Bylaw Enforcement Officer of the number associated with the existing microchip or of the alphanumeric code comprising the existing tattoo.

ENCLOSURES FOR DANGEROUS DOGS

19. Where a judge orders that a dog be kept in an enclosure pursuant to Section 8 or 9, the enclosure must comply with the following criteria:
- a) the enclosure shall be constructed of steel or any other building material of sufficient strength and in a manner adequate to:
 - (i) confine the dog; and
 - (ii) locked gate to prevent the entry of any unauthorized person;
 - b) the entrances and other areas by which entry to or exit from the enclosure may be made shall be locked or fastened in a manner adequate to prevent the dog from escaping from the enclosure;
 - c) the enclosure shall be at least 3 meters in length, 1.5 meters in width and 1.8 meters in height;
 - d) the enclosure shall have a top secured to the sides of the enclosure;
 - e) the enclosure shall:
 - (i) have a floor secured to the sides of the enclosure; or
 - (ii) the sides of the enclosure shall be embedded in the ground to a depth of at least .6 meters;
 - f) the enclosure shall:

- (i) provide protection from the elements for the dog;
- (ii) provide adequate light and ventilation for the dog; and
- (iii) be kept in a sanitary and clean condition.

SIGNS

20. a) Where a judge orders that the owner of a dog display signs pursuant to Section 8 or 9, the owner of the dog shall, within ten (10) days of the date of the order, display signs in accordance with Appendix "A".
- b) A sign in the form required by subsection a) shall be placed at each entrance to the premises where the dog is kept and on the enclosure in which the dog is confined.
- c) A sign in the form required by subsection a) shall be clearly visible and capable of being read from any adjacent public road.

QUARANTINE

21. Where a dog has bitten a person or domestic animal, the owner of the dog shall, unless the dog is ordered destroyed, quarantine the dog for observation for symptoms of rabies for a period of not less than ten days in accordance with the Health of Dogs Act (Canada).

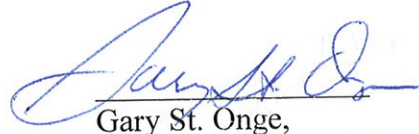
RABIES TEST OF DOGS

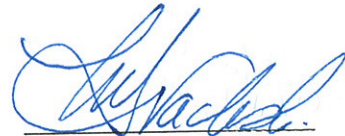
22. a) Every person who destroys a dog following the non-fatal biting of a person or domestic dog, whether the destruction is pursuant to an order of a judge or court or at the decision of the owner of the dog shall, if the destruction is carried out before the completion of the quarantine period mentioned in Section 21, retain the head of the dog in a manner usable for testing the dog for rabies.
- b) Where a person destroys a dog in the circumstances described in Subsection a), the person shall immediately notify the Bylaw Enforcement Officer that he or she is in possession of the head of a dog to be tested for rabies.

COMING INTO FORCE

23. This bylaw shall come into force on the day of its final passing.

CITY OF ESTEVAN


Gary St. Onge,
Mayor.



Lyndon Stachoski
City Clerk.


Read a first time this 14th day of November, 2005.

Read a second time this 14th day of November, 2005.

Read a Third and Final Time, approved and adopted for use this 14th day of November, 2005.

This is the original document known as Bylaw 2005-1710 that was given three readings as shown in the Motions 2005-598, 2005-599 and 2005-602 and is hereby annexed to the Council Meeting Minutes.


Lyndon Stachoski
City Clerk


Gary St. Onge
Mayor

FORM "A"
Notice of Violation of Bylaw 2005-1710
CITY OF ESTEVAN
Voluntary Payment of Fine

DETAILS OF VIOLATION

Name of Owner _____
Address of Owner _____

On the _____ day of _____, _____ at Estevan, Saskatchewan at
_____ did unlawfully commit the following offence under the
(time)

City of Estevan Animal Control Bylaw No. 2005-1709, Section No. _____
Description of Offence: _____

Location of Violation: _____
Description of Dog or Cat: _____

Please pay as indicated:

Penalty for the above infraction - \$ _____

Issued by: _____

Date of Issue: _____

The Voluntary Penalty may be paid at the Police Station, Estevan, Saskatchewan.

Voluntary Payment of the fine within seven (7) days after service of this

Notice of Violation upon the owner results in the owner not being liable for prosecution
for the offence.

Failure to remit the fine within seven (7) days after service of this Notice of Violation
may result in issuance of a Summons.

SCHEDULE "B"

AMOUNTS WHICH WILL BE ACCEPTED BY CITY IN LIEU OF PROSECUTION

<i>OFFENCE UNDER</i>	<i>OFFENSE</i>	<i>AMOUNT</i>
Section 7.a)(i)	Not Muzzled Or Leashed	\$ 250.00
Section 7.a)(ii)	Not Under Control	\$ 250.00
Section 7.d)	Failure To Present Animal To Evaluation Committee	\$ 1,000.00
Section 9.b)	Dog Fighting Or Unprovoked Attacks	\$ 250.00
Section 9.c)	Signs	\$ 100.00
Section 9.d)	Failure To Comply With Judge's Order	\$ 1,000.00
Section 9.e)	Attacked Without Provocation	\$ 250.00
Section 9.f)	Chased Or Approached In Apparent Attitude Of Attack	\$ 250.00
Section 16	Not Muzzled Or Leashed	\$ 1,000.00
Section 17	Failure To Inoculate And/Or Quarantine	\$ 250.00
Section 18	Failure To Identify Dangerous Dog	\$ 250.00
Section 19	Improper Enclosure	\$ 1,000.00
Section 20	Signs	\$ 1,000.00
Section 21	Quarantine	\$ 250.00
Section 22	Rabies	\$ 250.00
Other	Any Other Section Of The Bylaw Violated For Which No Specific Penalty Is Listed.	\$ 250.00

For any reoccurrence of offenses by one animal owner within one calendar year

2nd Subsequent Offense - 2 times listed penalty
3rd & Subsequent Offense - 3 times listed penalty

Appendix "A"

WARNING



DANGEROUS ANIMAL ON PREMISES