

THE CORPORATION OF THE MUNICIPALITY OF WEST GREY

BY-LAW NUMBER 87 - 2009

BEING a by-law for the licensing of dogs, and for regulating the running at large of dogs and regulating kennels within the Municipality of West Grey;

WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, as amended, defines spheres of jurisdiction under which a municipality may pass by-laws, and the spheres of jurisdiction includes animals;

AND WHEREAS Section 103 of the Municipal Act, 2001, S.O. 2001, as amended, confers the power upon a municipality to pass a by-law to provide for the seizure and impounding of animals being at large or trespassing and the sale of impounded animals under certain conditions, and animals include dogs;

AND WHEREAS Section 105 of the Municipal Act, 2001, S.O. 2001, as amended, requires that Council afford dog owners hearings with respect to muzzle orders;

AND WHEREAS Sections 4 & 5 of the Dog Owners' Liability Act, R.S.O. 1990, c.D.16, as amended, provides for proceedings against owner of a dog alleged to have bitten or attacked a person or domestic animal;

AND WHEREAS the Council of the Corporation of the Municipality of West Grey deems it expedient and in the best interests of its inhabitants to license, regulate and register dogs within the Municipality of West Grey;

NOW THEREFORE THE CORPORATION OF THE COUNCIL OF THE MUNICIPALITY OF WEST GREY ENACTS AS FOLLOWS:

PART 1

DEFINITIONS

1. For the purpose of this by-law the following definitions apply;
 - a) "Appeal Committee" shall mean a committee composed of members of Council of the Municipality for the purpose of conducting hearings under this By-law;
 - b) "Dog" shall mean a male, female, spayed female or neutered male of the species *canis familiaris* over the age of three (3) months;
 - c) "Guide Dog" shall mean a dog trained as a guide for a disabled person and having the qualifications prescribed by the regulations to the Blind Persons' Rights Act, R.S.O. 1990, c.B.7, or having certification by Hearing Ear Dogs of Canada, Special Skills Dogs of Canada, or other recognized organization;
 - d) "Hunting Dog" shall mean a dog properly licensed through the Ministry of Natural Resources for the purpose of hunting pursuant to Provincial regulations;
 - e) "Kennel" shall mean an establishment where dogs are kept for the purpose of show, training, keeping, breeding and raising for profit or gain, but shall not apply to the keeping of dogs in a veterinary establishment.
 - f) "License" shall mean the receipt issued by the CAO/Clerk or Treasurer of the Municipality or their authorized agent upon registration of a dog or kennel, and the payment of the appropriate fee;
 - g) "License Fee" shall mean the license fee established by Council of the Municipality of West Grey by by-law;
 - h) "Municipality" shall mean the Corporation of the Municipality of West Grey;

- i) "Muzzle" shall mean a humane fastening or covering device that is of adequate strength placed over a dog's mouth to prevent it from biting and which has been or is approved by the Officer;
- j) "Muzzle Order" shall mean an Order issued by the Officer for a muzzle to be put on a dog;
- k) "Officer" shall mean the Canine Control Officer, By-law Enforcement Officer, Police Officer, or other person appointed by the Municipality;
- l) "Owner" shall include any person, organization or corporation who possesses or harbours a dog and where the owner is a minor, shall include the person responsible for the custody of the minor, and owns or owned have a corresponding meaning;
- m) "Police Work Dog" shall mean a dog trained to aid law enforcement officers and which is actually being used for Police work purposes for the protection of the public, which can include the investigation of crime and the apprehension of law violators;
- n) "Pound" shall mean such facilities designated by the Municipality where dogs are held under the provisions of this by-law;
- o) "Running at Large" shall mean any dog found in any place other than the premises of the owner and not under the control of any person over the age of sixteen (16) years;
- p) "Tag" shall mean a metal disc bearing a serial number for the dog for which it has been issued and the year of issue.

PART II

DOG LICENSING REGISTRATION AND REGULATIONS

- 2. a) The owner of every dog shall on or before the 30th day of April in each and every year, or within ten (10) days of becoming the owner of a dog, cause it to be registered and pay the license fee for the current year at the office of the CAO/Clerk of the Municipality, or to its authorized agent.
- b) On payment of the license fee, the owner shall be furnished with a dog tag bearing a serial number and the year in which the tag is issued, for each dog registered and licensed, and a record shall be kept by the CAO/Clerk showing the name and address of the owner and the serial number of the tag.
- c) The owner shall keep the tag securely fixed on the dog at all times until the tag is renewed or replaced, except while the dog is being lawfully used for hunting in the bush.
- d) No license tag or registration under this section shall be transferable and the license tag shall expire and become void upon the sale, death, or other disposal of the dog.
- e) The provisions of this section shall not apply to a dog under the age of three (3) months, or to a guide dog.

PART III

KENNEL LICENSING

3. a) As of the date of passing of this by-law, a proposed new kennel operation shall require a site specific zoning amendment permitting the establishment of the kennel operation. Furthermore, no person shall keep a kennel of dogs in the Municipality except under the authority of a currently valid license which must be renewed annually before the 30th day of May in each and every year.
- b) Every person making application for a license to keep a kennel of dogs shall make application in writing and provide information including:
 - i) the name of the owner or operator;
 - ii) the location of the kennel and the number, size and construction of the facilities;
 - iii) the breed and maximum number of dogs to be kept in the kennel at any time during the next twelve months;
- c) Every person who applies for a kennel shall comply with the following requirements:
 - i) no part of a kennel shall be constructed closer than a minimum of one hundred feet (100') from the property line of any residence other than that of the licensee, or as prescribed in the site specific zoning by-law amendment;
 - ii) the minimum size of any kennel building shall be no less than 109 square feet;
 - iii) a building permit from the Municipality shall be required prior to the issuance of a license for a new kennel building;
 - iv) where a kennel forms part of, or is physically attached to a building used for human habitation or to which the public have access, such kennel shall have a concrete or other impermeable floor with a drain opening constructed as a plumbing fixture, provided, however, that the dogs may be kept in adequately sized cages constructed solely of metal or wire or partly of wire and having metal or other impermeable bottoms;
 - v) where dogs are permitted to use an outside area as part of a kennel, there shall be constructed around such area, a solid board or wire mesh fence, having a height of at least five (5') feet with an eighteen (18") inch apron. The wall of an adjacent building may be included as part of such fenced in area. Such fenced in area shall not be required where such outside area is more than two hundred (200') from the property lines;
 - vi) file a certificate from the Officer of the Municipality that the kennel complies with the requirements of this by-law;
 - vii) if requested, obtain a tag for each dog in the kennel;
 - viii) upon approval of the kennel, pay the current kennel license fee.
- d) Every person who holds a kennel license shall comply with the following requirements:
 - i) while the license is in force, the license shall be kept continuously exposed in a conspicuous place in the interior of the kennel for which the license is obtained;
 - ii) keep dogs in sanitary, well-bedded, well ventilated naturally or artificially lighted, clean quarters, and maintain and keep such quarters at a healthful temperature at all times;
 - iii) adequately feed and water the dogs periodically each day and keep dogs free from vermin and disease.

- e) As of the passing of this by-law, no new kennel shall be established in the urban areas of the former Town of Durham or former Village of Neustadt, the hamlet areas in the Municipality as designated in the County of Grey Official Plan, and in any property zoned ER (Estate Residential).
- f) No person, owner or operator of a kennel, shall allow a dog in the outside runs of a kennel from the hours of 10:00 p.m. to 7:00 a.m.
- g) Council of the Municipality may refuse to issue or renew a license for a kennel of dogs.

PART IV

CONTROL OF DOGS

- 4. a) No person who owns, harbours or possesses any dog shall allow the dog to run at large within the Municipality or trespass on private property even when on a leash.
- b) A dog shall be deemed to be running at large when found in any place other than the premises of the owner of the dog and not under the control of any person.
- c) A dog shall not be considered to be running at large, if it is a guide dog or police work dog, provided it is actually engaged in the performance of its duties, or if it is a hunting dog actively engaged in hunting or training for hunting on land not posted, or on posted land with the permission of the owner.
- d) Where, in the opinion of the Officer, a dog seized under subsection 4 b) is injured or should be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the Officer may euthanize the dog as soon after seizure as the Officer deems appropriate, and no damages or compensation shall be recovered by an owner as a result of the dog being euthanized.
- e) Any person may capture any dog running at large and trespassing on his property and deliver the same to the Officer, who shall impound the dog or return it to the owner upon payment of applicable fine.
- f) The owner of a dog shall be responsible for the removal and sanitary disposal of any excrement of the said dog forthwith from any private or public lands.

PART V

DOGS SEIZED AND IMPOUNDED

- 5. a) A pound shall be established for the impounding of all dogs, pursuant to the provisions of this by-law, and the establishment, maintenance and operation of a pound shall comply with the Animals for Research Act R.S.O. 1990, c.A.22.
- b) Where a dog is impounded pursuant to the provisions of this by-law, the operator of the pound may confine the dog subject to the provisions of the Animals for Research Act R.S.O. 1990, c.A.22.
- c) A dog that is found running at large contrary to this By-Law may be seized and impounded by the Officer. If called for by the owner within three (3) days exclusive of Saturday, Sunday or Public Holidays from the time of being seized and impounded, the dog shall be released to the owner upon payment of pound and maintenance fees.
- d) If a dog is not redeemed by the owner within the time specified in section 5 c) the dog shall become the property of the pound, and may be euthanized by the pound at the expense of the Municipality, or put up for adoption by the pound at the expense of the pound.

- e) No dog seized or impounded shall be released to the owner or sold to any person unless or until it is properly licensed and registered, the licence fee paid and a tag securely fixed on the dog.
- f) The Officer is hereby authorized, in the course of his duties of seizing and impounding dogs running at large contrary to this by-law, to use such reasonable means at his disposal to seize and impound such dogs as may be required by the circumstances.

PART VI

MUZZLING OF DOGS

- 6. a) Where the Officer is satisfied on the balance of probabilities, and in the absence of any mitigating factors, that a dog has bitten a person or animal, the Officer may issue a muzzle order to the owner of the dog.
- b) The Officer may impose conditions on the muzzle order to ensure the health and safety of the owner, the dog, and other persons and animals.
- c) The muzzle order may be served by:
 - i) delivering it personally to the owner of the dog; or
 - ii) by posting it up in a conspicuous place on the premises of the owner, or
 - iii) sending it by registered mail to the last known address of the owner of the dog.
- d) Service of a muzzle order served by registered mail is deemed to be made on the seventh day after the day of mailing.
- e) Notwithstanding any other section of this By-law, when a muzzle order has been served, the owner of a dog shall:
 - i) not permit the dog to be off the premises of the owner unless it is properly leashed and muzzled; and
 - ii) ensure that the dog does not bite, chase or attack a person or a domestic animal on any property, including that of the owner; and
 - iii) either tether the dog on a chain capable of restraining the dog or confine it within a fenced yard capable of preventing the dog from escaping; and
 - iv) put the dog under the control of a person at least sixteen (16) years of age when the dog is not on the owner's premises; and
 - v) notify the Officer within five (5) days of transfer if the dog is transferred to a new location or if the ownership of the dog is transferred to another person; and
 - vi) not contravene any other condition imposed in the muzzle order; and
 - vii) shall within seven (7) days, purchase a Dangerous Dog warning sign and place it in a conspicuous place at the entrance to the owner's premises indicating the presence of a dog, and inform the Officer of same.
- f) A muzzle order expires when the dog dies or the Officer is satisfied that it no longer resides in the Municipality.
- g) Where a muzzle order has been issued, the owner of a dog may apply for a hearing to appeal the order to the Appeal Committee.
- h) An application for a hearing shall be made in writing and delivered to the CAO/Clerk of the Municipality within thirty (30) days after the muzzle order has been served.
- i) An application for a hearing shall be accompanied by the Hearing Request of fifty (\$50.00) dollars.
- j) Notice of a hearing shall be served on the owner at least seven (7) days prior to the hearing. Service shall be affected in accordance with sections 6. c) & d) of this By-law.

- k) Notice of a hearing shall include:
 - i) A statement of the facts by the Officer;
 - ii) Date, time and place of the hearing;
 - iii) A statement that if the owner does not attend the hearing the Committee may proceed in his/her absence and the owner is not entitled to any further notice regarding the proceedings.
- l) When a hearing date before the Appeal Committee has been fixed and the owner who has been given notice of the hearing does not attend at the appointed time and place, the Appeal Committee may proceed in the absence of the owner and the owner will not be entitled to any further notice in the proceedings.
- m) At the conclusion of a hearing, the Appeal Committee shall, as soon as possible, make a decision, which shall:
 - i) Set out the findings of fact made by the Appeal Committee and its decision.
- n) The Appeal Committee may uphold the muzzle order as issued by the Officer, exempt the owner in whole or in part from the requirements under the muzzle order and subject to any conditions the Appeal Committee deems appropriate.
- o) A decision by the Appeal Committee is final and binding. The owner of the dog is not entitled to a further hearing on the matter.
- p) An application made by the owner for a hearing under this By-law does not act as a stay of the muzzle order which shall take effect on the date that it is served, and shall continue to be effective until the Appeal Committee renders a decision indicating otherwise.
- q) Council hereby delegates the authority to make a final decision for the purposes set out in this By-law to the Appeal Committee.

PART VII

GENERAL PROVISIONS

- 7. a) If any section, clause or provision of this by-law is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that the remaining sections, clauses or provisions of the by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.
- b) In this by-law, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender shall include feminine.

PART VIII

ENFORCEMENT AND PENALTIES

- 8. a) The enforcement of this By-law shall be conducted by the Officer.
- b) An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.

- c) Despite any provision of this By-law, an Officer exercising a power of entry on behalf of the Municipality under this By-law shall not remain in any room or place actually being used as a dwelling unless the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under section 438 of the Municipal Act, 2001, S.O. 2001, as amended, or a warrant issued under section 439 or 386.3 of the Municipal Act, 2001, S.O. 2001, as amended.
- d) No person shall hinder or obstruct an Officer in the enforcement of this By-law.
- e) The Municipality, its officer, employees and agents shall not be liable for damages or compensation for any dog euthanized under the provisions of this By-law and no such damages or compensation shall be paid to any person.
- f) Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. Chapter P.33.

PART IX

REPEALING OF BY-LAWS

9. That the former Town of Durham By-law No.'s 95-03 & 99-06, and the former Township of West Grey By-law No. 19-2000, are hereby repealed.

PART X

DATE BY-LAW IN FORCE AND EFFECT

- 10. a) That Schedule "A" attached hereto forms part of this By-law.
- b) This by-law shall come into force and take effect on the date of its passing.

Read a first and second time this 21st day of December, 2009.

Read a third time and finally passed this 21st day of December, 2009.

MAYOR

CAO/CLERK

**SCHEDULE "A" TO BY-LAW NUMBER 87 – 2009
THE CORPORATION OF THE MUNICIPALITY OF WEST GREY**

Part 1, Provincial Offences Act

TITLE: DOG CONTROL BY-LAW

| ITEM | COLUMN 1 SHORT FORM WORDING | COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE | COLUMN 3 SET FINE |
|-------------|--|--|------------------------------|
| 1. | BEING THE OWNER OF A DOG, FAILURE TO REGISTER DOG. | Section 2 a) | \$55.00 |
| 2. | KEEP KENNEL WITHOUT VALID LICENSE. | Section 3 a) | \$55.00 |
| 3. | KENNEL CONSTRUCTED WITHIN 100' FROM PROPERTY LINE OF RESIDENCE OTHER THAN THAT OF THE LICENSEE. | Section 3 c) i) | \$55.00 |
| 4. | CONSTRUCT KENNEL BUILDING LESS THAN 109' SQUARE FEET. | Section 3 c) ii) | \$55.00 |
| 5. | FAILURE TO OBTAIN BUILDING PERMIT FOR NEW KENNEL BUILDING. | Section 3) c) iii) | \$55.00 |
| 6. | FAILURE TO COMPLY WITH KENNEL STANDARDS. | Section 3 c) iv) | \$55.00 |
| 7. | FAILURE TO COMPLY WITH KENNEL STANDARDS. | Section 3 c) v) | \$55.00 |
| 8. | FAILURE TO FILE CERTIFICATE | Section 3 c) vi) | \$55.00 |
| 9. | FAILURE TO OBTAIN DOG TAG WHEN REQUESTED | Section 3 c) vii) | \$55.00 |
| 10. | FAILURE TO PAY KENNEL LICENSE FEE | Section 3 c) viii) | \$55.00 |
| 11. | FAILURE TO POST KENNEL LICENSE | Section 3 d) i) | \$55.00 |
| 12. | FAILURE TO KEEP CLEAN KENNEL | Section 3 d) ii) | \$55.00 |
| 13. | FAILURE TO TAKE ADEQUATE CARE OF DOGS | Section 3 d) iii) | \$55.00 |
| 14. | OWN OR OPERATE KENNEL IN PROHIBITED AREA. | Section 3 e) | \$55.00 |
| 15. | DOG(S) IN OUTSIDE RUNS OF A KENNEL FROM THE HOURS OF 10:00 P.M. 7:00 A.M. | Section 3 f) | \$55.00 |
| 16. | BEING THE OWNER OF A DOG, ALLOWING IT TO RUN AT LARGE. | Section 4 a) | \$55.00 |
| 17. | BEING THE OWNER OF A DOG, FAILURE TO REMOVE EXCREMENT ON PRIVATE OR PUBLIC LANDS. | Section 4 f) | \$55.00 |
| 18. | PERMIT DOG OFF PREMISES WITHOUT LEASH AND MUZZLE | Section 6 e) i) | \$55.00 |
| 19. | PERMIT DOG TO BITE, CHASE OR ATTACK PERSON OR DOMESTIC ANIMAL | Section 6 e) ii) | \$55.00 |
| 20. | PERMIT DOG UNDER CONTROL OF PERSON UNDER SIXTEEN YEARS OF AGE WHEN NOT ON PREMISES | Section 6 e) iv) | \$55.00 |
| 21. | FAILURE TO NOTIFY OFFICER WHEN DOG TRANSFERRED | Section 6 e) v) | \$55.00 |
| 22. | CONTRAVENE OTHER CONDITION OF MUZZLE ORDER | Section 6 e) vi) | \$55.00 |
| 23. | FAILURE TO POST DANGEROUS DOG SIGN AND NOTIFY OFFICER | Section 6 f) vii) | \$55.00 |

“The penalty provision for the offences cited above is Section 8. f) of By-law Number 87 – 2009, a certified true copy of which has been filed.”

