

SUMMARY:

The Animal and Poultry Regulation and Animal Pound Bylaw sets out the regulations for the keeping of farm animals within the City. The bylaw also provides for the establishment of an animal pound and the appoint of a Poundkeeper to impound animals that are running at large. See the Dog Control bylaw for regulations regarding the licensing and control of dogs within city limits.

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CITY OF KELOWNA
BYLAW NO. 5421-82
REVISED: November 24, 2008

CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAW NOS. 5949-85, 7214, 8276, 8767 and 10033

ANIMAL AND POULTRY REGULATION AND ANIMAL POUND BYLAW

A bylaw pursuant to Section 933 of the Municipal Act to regulate the keeping of horses, mules, asses, cattle, sheep, goats, swine, rabbits, and other animals

WHEREAS it is deemed desirable to regulate the keeping of animals and poultry in the City of Kelowna;

AND WHEREAS it is deemed advisable to establish and regulate an Animal Pound in the City of Kelowna;

AND WHEREAS it is deemed desirable to prohibit the running at large of animals and poultry within the City of Kelowna;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. DEFINITIONS

In this bylaw, unless the context otherwise requires:

BL5949-85 and BL10033 amended definitions:

"Animal" means any cattle, horse, sheep, swine, goat, guinea pig or poultry.

"Brand Inspector" means any Inspector appointed under the Livestock Brand Act, Chapter 25, R.S.B.C. 1979 as amended.

"Cattle" means any bull, cow, ox, heifer, steer or calf.

"City" means the City of Kelowna or the area within the municipal boundaries thereof as the context may require.

"Council" means the Municipal Council of the City of Kelowna.

"Director of Finance" means the person appointed as such by the Municipal Council from time to time.

"Horse" means any horse, mare, gelding, colt, filly, ass or mule.

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

“Lot” means the smallest unit in which the land is designated as a separate and distinct parcel on a legally recorded plan or description filed in the Land Title Office.

“Owner” in respect of any animal, includes possessor or harbourer.

“Owned” means possessed or harboured.

“Person” means an individual but shall be construed as meaning the plural, masculine, feminine, body politic or corporate where the context may require.

BL7214 replaced the following definition:

“Poultry” means any domestic fowl, turkey, goose, duck, or pigeon.

“Pound” means any building, enclosure or place established as such, by the Council from time to time, for the keeping of animals impounded under this bylaw.

“Poundkeeper” means the person appointed from time to time by the Council for the purpose of enforcing and carrying out the provisions of this bylaw, and shall include any assistant poundkeeper appointed pursuant to the provisions of this bylaw.

BL10033 added a new definition:

“Rabbit” means any non-native rabbit, including rabbits kept as domestic pets, farm animals, or feral rabbits.”

BL10033 added a new definition:

“Rabbit Warren” means any site where rabbits tunnel, or a site which harbours rabbits, including but not necessarily limited to piles of logs, rocks or debris.”

“Run or Running at Large” when used with reference to any animals means being elsewhere than on the premises of a person owning or having the custody, care or control of said animal and not being under the immediate charge and control of a responsible and competent person.

“Structure” means any building, shed, stable, or other type of housing used for the shelter or enclosure of animals.

BL8276 replaced the following definition:

“Zone or Zones” shall have the same meaning and classification as contained and identified in the Zoning Bylaw.

BL8276 added a new definition:

“Zoning Bylaw” means the City of Kelowna Zoning Bylaw No. 8000.

The words herein shall be construed as meaning singular or plural, and masculine or feminine, wherever the context so requires.

2. REGULATIONS

BL7214, BL8276 and BL8767 all replaced Section 2(a):

- (a) Except as outlined in this section, the keeping of animals and poultry other than household pets is prohibited in all Zones in the City. The keeping of animals and poultry, when permitted in the Zoning Bylaw, shall comply with the following restrictions:
- (i) In the A1, RR1, RR2, RR3, and RU1 zones, or in one of these zones with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, where the lot is less than ½ acre (.20 ha.) in area - two (2) rabbits are permitted.
 - (ii) In the A1, RR1, RR2, RR3, and RU1 zones, or in one of these zones with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, where the lot is more than ½ acre (.20 ha.) but less than 1 acre (.40 ha.) in area - ten (10) rabbits or ten (10) poultry or a combination thereof are permitted.
 - (iii) In the RR3 and RU1 zones, or in one of these zones with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, where the lot is more than 1 acre (.40 ha.) but less than two acres (.81 ha.) in area - one (1) horse, or one (1) cow, or one (1) steer, or one (1) goat, or one (1) sheep, or one (1) other large animal; plus then (10) rabbits or ten (10) poultry or a combination thereof are permitted.
 - (iv) In the RR3 and RU1 zones, or in one of these zones with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, where the lot exceeds 2 acres (.81 ha.) in area - not more than two (2) animals consisting of horses, cattle, sheep, or goats, or a combination thereof, plus twenty (20) rabbits or twenty (20) poultry, or a combination thereof are permitted.
 - (v) In the A1, RR1, and RR2, or in one of these zones with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, zones where the lot is more than 1 acre (.40 ha.) and less than 2 acres (.81 ha.) in area - the number of animals and poultry is unlimited except as outlined in the Zoning Bylaw.
 - (vi) In the A1 zone, or in one of this zone with an “s” notation as part of the zoning classification, as defined in the Zoning Bylaw, where the lot is more than 2 acres (.81 ha.) in area, the number of animals and poultry is unlimited except as outlined in the Zoning Bylaw.”
- (b) Accessory buildings or structures used to shelter or house animals or poultry with the exception of household pets, shall be a minimum of fifty (50) feet (15.24 metres) from any building used for residential purposes located on the same lot.
- (c) Accessory buildings or structures used to shelter or house animals or poultry with the exception of household pets, shall be a minimum of fifty (50) feet (15.24 metres) from any front, side, or rear lot line of the lot it occupies.
- (d) Animals and poultry shall be kept enclosed by secure fences or corrals.

- (e) Accessory buildings and structures used to shelter or house animals or fowl (with the exception of household pets) shall be situated not less than one hundred (100) feet (30.48 metres) from all wells and streams.
- (f) No person shall keep swine, male goats, or more than four (4) guinea pigs on any lot in the City, unless the lot is assessed as “Farm Land” as defined in the Municipal Act.
- (g) No person shall keep bee hives on a lot within the City of Kelowna, which has an area of less than one and one-half acres (.61 hectares).

BL10033 added new sub-sections (h), (i) and (j):

- (h) No owner or occupier of property shall have or keep a rabbit on his property except confined in a secure, enclosed structure.
- (i) No person shall sell or give away rabbits that have not been spayed or neutered.
- (j) An owner or occupier of property shall remove or modify any rabbit warren on the property, so as to prevent the harbouring of any rabbits.

3. ESTABLISHMENT OF POUND

- (a) The Council may, from time to time, enter into an agreement with any person for the provision of a Municipal Pound on private property.
- (b) The Council shall, from time to time, as the occasion may require, appoint a Poundkeeper by resolution and such assistant or assistants as deemed necessary, and may authorize the entering into of a contract or agreement with any person to provide such poundkeeping services.

4. IMPOUNDING OF ANIMALS

BL10033 replaced sub-section (a):

- (a) No person or owner shall suffer, permit or allow his animal or rabbit, or an animal or rabbit over which he has control, to run at large, stray, depasture or trespass on any street, lane, highway, boulevard, park or public place within the City.

BL10033 replaced sub-section (b):

- (b) No person shall suffer, permit or allow his animal or rabbit, or an animal or rabbit over which he has control, to trespass on private property within the City or to graze on unfenced land within the City unless such animals are securely tethered, and no person shall release any animal or rabbit from an enclosure or tether, leave any gate open, or remove, cut or break any fence so as to release any animal or rabbit contained therein.

BL10033 replaced the first paragraph in sub-section (c):

- (c) It shall be lawful for the Poundkeeper, or for any other person, to seize and impound any animal or rabbit found running at large or trespassing in or upon any lands or premises or public place contrary to the provisions of this bylaw, or if found trespassing in any enclosures or gardens, or any enclosed land within the City of Kelowna.

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It shall be the duty of the Poundkeeper to notify the Brand Inspector (by telephone or in writing), of the impoundment of any branded animal, and to furnish the Brand Inspector with any particulars requested by him in connection with the animal so impounded.

It shall be the duty of the Poundkeeper to detain same until the owner thereof shall have paid the applicable charges incorporated within this bylaw for impoundment fees, boarding costs, and any hauling charges resulting from impoundment, as follows:

(i) Impoundment Charges

For impounding any horse, cattle, male sheep, male goat, or male swine over one (1) year old \$30.00 each to a maximum of \$60.00.

For impounding any horse, cattle, female sheep, female goat or female swine under one (1) year old..... \$15.00 each to a maximum of \$30.00.

BL5949-85 deleted the word "cat":

For impounding any rabbit, goose or other poultry to a maximum of \$10.00..... \$2.00 each

For impounding all other animals A charge at the discretion of the Poundkeeper to a maximum of \$30.00.

(ii) Hauling Charges As established by the Public Utilities Commission for transporting animals.

(iii) Boarding Charges

For each horse, cattle, male sheep, male goat, or male swine over one (1) year old \$5.00 per day.

For each horse, cattle, female sheep, female goat or female swine under one (1) year old \$3.00 per day.

BL5949-85 deleted the word "cat":

For each rabbit, goose, or other poultry..... \$1.00 per day.

For each other animal..... A charge at the discretion of the Poundkeeper to a maximum of \$5.00 per day.

BL10033 replaced the last paragraph of sub-section (d):

- (d) The charges contained within Section 4(c) of this bylaw shall be assessed per impoundment occurrence by the Poundkeeper, and monies due thereof shall be payable to the Poundkeeper.

Payment of such charges shall be made directly to the Poundkeeper who is hereby authorized to receive same, and who shall be responsible for ensuring such monies are recorded and reported to the City not later than the last day in the month during which charges were received and recorded by him.

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The Poundkeeper shall not release any impounded animal or rabbit without receiving in cash the said charges, and he shall furnish a receipt to the payee of such charges.

BL5949-85 amended sub-section (e):

- (e) In the case of milk cows or goats impounded the Poundkeeper shall, at least twice each day, milk each animal and for so doing, shall be entitled to keep for his own use and disposal, milk so obtained.

BL10033 replaced sub-section (f):

- (f) It shall be the duty of the Poundkeeper to provide and supply with proper shelter and good and sufficient food and water daily all animals and rabbits detained by him as Poundkeeper, at his own expense.

BL10033 replaced sub-section (g):

- (g) It shall be the duty of the Poundkeeper to request the attendance of a veterinarian, to any impounded animal or rabbit who, if in the opinion of the Poundkeeper, is suffering from any injury, disease or sickness, or from any other cause. The Poundkeeper shall be entitled to demand and receive from the owner, if known, the amount equivalent to the veterinary charges for professional services and attendance call administered to such animal or rabbit, or such expenditure is to be realized from the City of Kelowna for animals or rabbits whose owner cannot be located. The Poundkeeper may permit such suffering animal or rabbit to be destroyed.

BL10033 amended Section 5:

5. NOTICE OF IMPOUNDING

- (a) If the owner of any impounded animal or rabbit is known to the Poundkeeper, the Poundkeeper shall forthwith telephone, deliver or mail to the address of the owner, a notice, duly completed, as follows:

CITY OF KELOWNA ANIMAL POUND

_____ 19 _____

TO: _____

NOTICE is hereby given, under Bylaw No. 5421-82, being "Animal and Poultry Regulation and Animal Pound Bylaw, that (describe animal or rabbit impounded) _____ was impounded in the Pound kept by the undersigned at (give location of pound) _____ on the _____ day of _____, 19____.

Poundkeeper

Phone _____

- (b) In case the owner is not known, or the owner so notified does not, within three (3) days after the mailing, delivery or telephoning of the notice referred to in clause one (1) hereof, appear at the Pound and release the animal or rabbit so impounded by payment of the charges outlined in this bylaw hereof, the Poundkeeper shall cause to be published a notice of sale in the following form:

CITY OF KELOWNA ANIMAL POUND

NOTICE is hereby given, under Bylaw No. 5421-82, being the "Animal and Poultry Regulation and Animal Pound Bylaw, that (describe animal or rabbit impounded) _____ was impounded in the Pound kept by the undersigned at (give location of pound) _____ on the _____ day of _____, 19____; this animal will be sold by public auction (give location of auction) _____ at _____ a.m. (p.m.) on that date.

Poundkeeper

Phone _____

Dated at Kelowna, B.C. this _____ day of _____, 19____.

The Notice described herein shall be posted at the Pound and on the Notice Board at City Hall, and if considered advisable by the Poundkeeper, by publication in one issue of a newspaper circulating in the City of Kelowna.

The said Notice shall be so posted at least six (6) clear days before the day of sale named thereon. More than one (1) animal or rabbit may be included in such Notice and the wording of the Notice amended accordingly to merit the circumstances.

6. SALE OF IMPOUNDED ANIMALS

BL10033 amended sub-section (a):

- (a) Every owner or other person entitled to the possession of an animal or rabbit which has been impounded as aforesaid shall forthwith upon being notified or become aware of such impounding redeem the animal or rabbit in accordance with the provisions of this bylaw, or should the Pound be broken and the animal or rabbit get out or in any way escape therefrom and get back to the possession or custody of the owner or any person claiming the said animal or rabbit, the said owner or other person shall still be liable for the payment of any impoundment, boarding or haulage charges due and payable under this Bylaw.

BL10033 amended sub-section (b):

- (b) Where any impounded animal or rabbit has not been claimed in accordance with the provisions of this bylaw, the Poundkeeper shall take whatever action necessary to sell such animal or rabbit by public auction on the day named in the Notice issued pursuant to Section 5 herein, as follows:
 - (i) Under this Section, any horse, cattle, male sheep, male goat or male swine apparently over one (1) year old may be sold at such public auction as the Poundkeeper may arrange for, subject to approval of this particular auction by the Director of Finance.
 - (ii) Under this Section, any horse, cattle, female sheep, female goat, or female swine apparently under one (1) year old, and any goose, rabbit or poultry is to be sold by public auction at the Pound, the Poundkeeper shall be the auctioneer.

BL10033 amended sub-paragraph (iii):

- (iii) The Poundkeeper shall neither in person nor by his agent purchase any animal or rabbit at a sale under this Section, or have any interest of any kind in any animal or rabbit so purchased.

BL10033 replaced sub-paragraph (i):

- (c) (i) If more than one (1) animal or rabbit is impounded and the owner thereof is known, the Poundkeeper shall not sell or cause to be sold any more of such animals or rabbits after there has been realized from the sale sufficient to satisfy the charges due against the animals or rabbits under this bylaw, and the owner of the animals or rabbits shall be entitled to those remaining unsold.

BL10033 replaced sub-paragraph (ii):

- (ii) If the owner of the animals or rabbits is unknown, the Poundkeeper shall sell all the animals or rabbits impounded.

BL10033 deleted sub-section (d) in its entirety.

BL10033 amended sub-section (e):

- (e) The Poundkeeper shall be responsible for providing the Director of Finance with a statement of any public auction held under this section, which shall contain a description of the animal or rabbit sold, the date of sale, the amount of monies realized, and such monies shall be turned in to the City no later than the last day of the month in which such public auction took place.

BL10033 amended sub-section (f):

- (f) Where at any public auction held pursuant to this Section, no bid is received for the impounded animal or rabbit to be sold or where a bid received is less than the charges due under this bylaw, the Poundkeeper may, at his discretion, sell it at private sale, and if in the opinion of the Poundkeeper, it is impossible to dispose of such animal or rabbit for valuable consideration, the Poundkeeper may cause such animal or rabbit to be humanely destroyed or otherwise disposed of.

BL10033 amended sub-section (g):

- (g) If the proceeds from the sale or other disposal of any animals or rabbits aforesaid shall not be sufficient to satisfy the amount chargeable thereon as hereinbefore provided, then the owner or other person entitled to the possession of the animal or rabbit shall pay the balance and may be sued therefore at the insistence of the Poundkeeper.
- (h) Notwithstanding any other provisions of this bylaw, after a period of four (4) calendar weeks following the issuance of the notice prescribed under paragraph 5(a), or if the owner is unknown and all reasonable avenues to locate the owner and/or collect the charges payable under this bylaw have failed, a cat shall be humanely destroyed at City expense under direct supervision of a person authorized to practice Veterinary Medicine under the Veterinary Medical Act for the Province of British Columbia, and in possession of a valid and subsisting City Business Licence, issued by the Licence Inspector of the City of Kelowna.

BL10033 amended Section 7:

7. PROCEEDS OF SALE

The proceeds of the sale of any impounded animal or rabbit sold under the provisions of this bylaw shall be forwarded to the Director of Finance, who shall apply payment from same as follows:

- (a) Towards costs and charges attending the sale.
- (b) Towards outstanding charges accruing under this bylaw.
- (c) The residue, if any, shall be paid over to the owner of the animal or rabbit sold, providing written application is made to the Director of Finance within three (3) months from the date of sale; otherwise such money shall form part of the General Municipal Revenue.

8. GENERAL PROVISIONS

- (a) The Director of Finance shall ensure that the Poundkeeper is furnished with Animal Pound Log Sheets, to be submitted to the Director of Finance from the Poundkeeper on or before the last day in each month, together with any monies received by the Poundkeeper under this bylaw.
- (b) The Poundkeeper shall record on the said Animal Pound Log Sheets details of all actions undertaken by him relating to complaints, investigations, impoundments and collection of charges, including dates, names and addresses of persons involved, mileage and haulage, and disposition of each action.
- (c) The Pound shall be kept open for the Public for the transaction of business on an as-required basis.

BL10033 amended sub-section (d):

- (d) If the Poundkeeper:
 - (i) demands or receives any sum other than that authorized by this bylaw;
 - (ii) fails to pay over to the Director of Finance any money held by him under the provisions of this bylaw;
 - (iii) neglects to provide food or water for any animal or rabbit or works or uses the same in any manner while so impounded;
 - (iv) neglects to properly milk any milk-cow or milk-goat while such cow or goat is impounded;
 - (v) omits or neglects to keep records and make entries therein as required by this bylaw;
 - (vi) knowingly allows any animal or rabbit infected with any contagious or infectious disease to be in the same enclosure with any impounded animal or rabbit not so infected;
 - (vii) fails to give any notice required by this bylaw;
 - (viii) neglects to do anything required by this bylaw to be done whereby damage is incurred by any person;

he shall, in addition to any civil liability which he may incur by reason thereof, be guilty of an infraction of the bylaw.

9. PENALTY

- (a) 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 of this bylaw, or who neglects to do or refrains from doing any act or thing which is required by any of the provisions of this bylaw, shall be deemed to have violated the provisions of this bylaw.
- (b) Any person who violates any of the provisions of this bylaw shall, upon summary conviction thereof, be liable to a penalty of not less than Fifty Dollars

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(\$50.00) or more than Two Thousand Dollars (\$2,000.00) for each offence, plus the cost of the prosecution.

10. REPEAL

The "City of Kelowna Animal and Poultry Regulation and Pound Bylaw No. 4202-77" is hereby repealed.

11. CITATION

This bylaw may be cited as "City of Kelowna Animal and Poultry Regulation and Animal Pound Bylaw No. 5421-82".

12. EFFECTIVE DATE

This bylaw shall come into full force and effect and be binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 17th day of August, 1982.

Read a second time by the Municipal Council this 17th day of August, 1982.

Read a third time by the Municipal Council this 17th day of August, 1982.

Reconsidered, finally passed and adopted by the Municipal Council of the City of Kelowna this 31st day of August, 1982.

"G.D. Hammill"

Mayor

"R.A. Beauchamp"

City Clerk