

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 93-028

A Bylaw to provide for the control, keeping and impounding of animals within the Corporation of the District of Summerland

CONSOLIDATED FOR CONVENIENCE TO INCLUDE: Bylaw No. 2000-098, Bylaw No. 2000-455 and Bylaw No. 2015-022.

WHEREAS it is deemed desirable to regulate the keeping of animals, poultry and bees within the District of Summerland;

AND WHEREAS it is deemed desirable to establish and regulate an Animal Pound within the District of Summerland;

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

NOW THEREFORE the Municipal Council of the Corporation of the District of Summerland in open meeting assembled enacts as follows:

DEFINITIONS

In this Bylaw, unless the context otherwise requires:

Animal means any cattle, horse, sheep, llama, alpaca, ostrich, swine, goat, domestic rabbit, guinea-pig, poultry or backyard chicken. *[Amended by Bylaw No. 2015-022]*

Backyard Chicken means hens that are permitted under Section 1 (b) of this bylaw, and does not include roosters. *[Inserted by Bylaw No. 2015-022]*

Brands Inspector means any inspector appointed under the Livestock Brands Act, Chapter 25, indexed Chapter 241.1, R.S.B.C. 1979 as amended.

Cattle means any horse, mule, ass, swine, goat, sheep, cow, livestock, or other animal of bovine species.

Council means the Municipal Council of the Corporation of the District of Summerland.

District means the Corporation of the District of Summerland.

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

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.

Poultry means any domestic fowl, exotic fowl, turkey, goose or duck, excluding backyard chickens. *[Amended by Bylaw No. 2015-022]*

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

Poundkeeper means the person appointed from time to time by 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.

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 animals, and not being under the immediate charge and control of a responsible and competent person.

Zone or Zones shall have the same meaning and classification as contained and identified in the District of Summerland Zoning Bylaw.

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

1. REGULATIONS

[Section 1(a) amended by Bylaw 2000-455; further amended by 2015-022]

- a) Except as outlined in this section, the keeping of animals other than household pets is prohibited in all zones with the exception of the FG – Forestry Grazing zone; A1 – Agricultural Small Acreage zone and A2 – Agricultural Large Acreage zone, as set out in the District of Summerland Zoning Bylaw 2000-450.

Notwithstanding the foregoing, in the CR1-Country Residential Zone, if the site exceeds 0.2 hectares (1/2 acre), animals may be kept provided that:

- (i) the total number of cattle, horses, livestock (excluding llamas, alpacas, or ostriches) or other similar large animals over the age of six months, shall not exceed one for each 0.2 hectares (1/2 acre) or fraction thereof;
- (ii) the total number of llamas, alpacas, or ostriches over the age of six months, shall not exceed seven (7) for each 0.2 hectares (1/2) acre or fraction thereof, providing that the site is not less than 0.8 hectares (2

acres);

- (iii) the total number of sheep, excluding lambs attached with ewes, shall not exceed three (3) for each 0.2 hectares (1/2 acre) or fraction thereof;
- (iv) the total number of poultry, rabbits or other small furbearing animals or the number of colonies of bees, shall not exceed twenty-five plus one for each forty-six square metres (500 sq. ft.) or fraction thereof of lot or site area in excess of 0.2 hectares (1/2 acre);
- (v) such animal or poultry shall be kept enclosed by an approved fence or corral.

[New section b) below inserted by Bylaw No. 2015-022]

- b) Backyard chickens may be kept in all Residential Zones, as defined in the District of Summerland Zoning Bylaw, provided that all the following provisions are met:
 - i. the property has at least one residential dwelling on it and that dwelling is either a single family dwelling or a duplex;
 - ii. the owner of the backyard chickens resides at the property where the backyard chickens are kept;
 - iii. no more than five backyard chickens are kept per property;
 - iv. backyard chickens are kept for personal use only; the sale of eggs, manure, meat or other products derived from the backyard chickens on or off the property is prohibited;
 - v. backyard chickens may not be slaughtered on the property;
 - vi. deceased backyard chickens may not be buried or otherwise disposed of on the property;
 - vii. storage and disposal of feces must be hygienically managed;
 - viii. backyard chicken food must be stored securely to prevent attracting vermin;
 - ix. backyard chickens must not run at large;
 - x. a single coop for the backyard chickens that is built and maintained in accordance with good animal husbandry practices must be provided, and must meet the following specifications:
 - 1. the coop must be located in the rear yard of a lot and must provide a fully enclosed area for the backyard chickens;
 - 2. the coop must be located within a required setback;
 - 3. the coop must not exceed 2 metres in height;
 - 4. the coop must not exceed 9 square metres in total area;
 - 5. the coop must not be located closer than 3 metres from any window or door of any residential building; and
 - 6. the coop must be maintained and cleaned regularly to minimize odour and prevent attracting vermin; and
 - xi. if it is suspected that any backyard chicken is ill, the owner is required to contact a veterinarian immediately to diagnose the illness; if a backyard chicken is diagnosed with a communicable disease, the owner is required to contact the Public Health Department of Interior Health and to comply

with directions provided by Interior Health; and,
xii. coops must comply with all other bylaws, states, and regulations.

- c) No person shall keep swine, male goats, or more than four guinea-pigs on any lot in the District unless the lot is assessed as "farm land" as defined in Section (1) of the Municipal Act.
- d) No person shall keep bee hives on a lot within the District which has an area of less than 0.61 hectares (1 1/2 acre).
- e) Accessory buildings or structures used to shelter or house animals or poultry with the exception of household pets and backyard chickens, shall be a minimum of fifty (50) feet (15.24 metres) from any building for residential purposes located on the same lot. *[Amended by Bylaw No. 2015-022]*
- f) Accessory buildings or structures used to shelter or house animals or poultry with the exception of household pets and backyard chickens, shall be a minimum of fifty (50) feet (15.24 metres) from any front, side, or rear lot line of the lot it occupies. *[Amended by Bylaw No. 2015-022]*
- g) Accessory buildings and structures used to shelter or house animals or fowl (with the exception of household pets and backyard chickens) shall be situated not less than one hundred (100) feet (30.48 metres) from all wells and streams. *[Amended by Bylaw No. 2015-022]*

2. 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.

3. IMPOUNDING OF ANIMALS

- a) Any person or owner who suffers, permits or allows his animals or animals over which he has control, to run at large, stray from the pasture or trespass on any street, lane, highway, boulevard, park or public place within the District shall be guilty of an infraction of this Bylaw.
- b) Any person who suffers, permits or allows his animals to trespass on private property within the District or to graze on unfenced land within the District unless such animals are securely tethered, or any person who releases any animals from an enclosure or tether, leaves any gate open or removes, cuts or breaks any fences or permits such to become in a state of disrepair so as to release any animals contained therein, shall be guilty of an infraction of this

Bylaw.

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

It shall be the duty of the Poundkeeper to notify the Brands 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 such animal until the owner thereof shall have paid the applicable charges incorporated in the District's "Fees and Charges Bylaw" for impoundment fees, boarding costs, and any hauling charges resulting from impoundment.

- d) The charges under the Fees and Charges Bylaw shall be assessed per impoundment occurrence by the Poundkeeper, and monies due thereof shall be payable to the District.

Payment of said charges may be made at the Municipal Office or directly to the Poundkeeper who is hereby authorized to receive same, and who shall be responsible for encuring such monies are turned into the District not later than the last day of the month during which the charges were received and recorded by him.

The Poundkeeper shall not release any impounded animal without receiving in cash the said charges, or obtaining from the owner a copy of a valid District receipt for said charges.

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

- f) It shall be the duty of the Poundkeeper to provide and supply with proper shelter and good sufficient food and water daily all animals detained by him as Poundkeeper, and for so doing he shall be reimbursed by he District all Boarding Charges under the Fees and Charges Bylaw which have been paid to the District.

- g) It shall be the duty of the Poundkeeper to request the assistance of a veterinarian, to any impounded animal 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 such expenditure is to be realized from the District for animals whose owner cannot be located. The Poundkeeper may permit the suffering animal to be

destroyed.

5. NOTICE OF IMPOUNDING

- a) If the owner of any impounded animal is known to the Poundkeeper, the Poundkeeper shall forthwith telephone, deliver or mail to the address of the owner, a dated notice advising as follows and containing the Poundkeeper's name and telephone number:

Notice is hereby given, under Bylaw Number 93-028, being the "Animal and Pound Regulation Bylaw" that (description of animal impounded) was impounded in the Pound kept by the undersigned at (location of Pound) on the (date).

- 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 this section, appear at the Pound and release the animal so impounded by payment of the charges outlined in the Fees and Charges Bylaw, the Poundkeeper shall cause to be published a notice of sale in the following form:

Notice is hereby given, under Bylaw Number 93-028, being the "Animal and Pound Regulation Bylaw", that (description of animal impounded) was impounded in the Pound kept by the undersigned at (location of Pound) on the (date), and this animal will be sold by public auction at (location of auction) at (time, am or pm) on the (date).

Poundkeeper

Dated at Summerland, B.C. this
___ day of _____, ____.

A notice herein described shall be posted at the Pound and on the Notice Board of the Municipal Office, local RCMP office, and, if considered advisable by the Poundkeeper, by publication in one issue of the Summerland Review.

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

6. SALE OF IMPOUNDED ANIMALS

- a) Every owner or other persons entitled to the possession of an animal which has been impounded as aforesaid shall forthwith upon being notified or become aware of such impounding redeem the animal in accordance with the provisions of this Bylaw, or should the Pound be broken and the animal 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, the said owner or other

person shall still be liable for the payment of any impoundment, boarding or haulage charges due and payable under the Fees and Charges Bylaws.

- b) Where any impounded animal has not been claimed in accordance with the provisions of this Bylaw, the Poundkeeper shall take whatever action as is necessary to sell such animal by public auction on the day named in the Notice issued pursuant to Section 5 herein, as follows:
 - (i) Under this Section, any horse, llama, alpaca, ostrich, 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 the particular auction by the Municipal Treasurer.
 - (ii) Under this Section, any horse, llama, alpaca, ostrich, 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, and the Poundkeeper shall be the auctioneer.
 - (iii) The Poundkeeper shall not neither in person nor by his agent purchase any animal at a sale under this Section, or have any interest of any kind in any animal so purchased.
- c) *Repealed February 25, 2002. [Bylaw 2000-98]*
- d) No Poundkeeper conducting an auction under this Section shall be liable to a penalty for selling without a licence as an auctioneer.
- e) The Poundkeeper shall be responsible for providing the Municipal Treasurer with a statement of any public auction held under this Section, which shall contain a description of the animal sold, the date of sale, the amount of monies realized, and such monies shall be turned into the District no later than the last day of the month in which such public auction took place.
- f) Where at any public auction held pursuant to this Section, no bid is received for the impounded animal to be sold or where a bid received is less than the charges due, the Poundkeeper may, at his discretion, sell it at a private sale, and if in the opinion of the Poundkeeper, it is impossible to dispose of such animal for valuable consideration, the Poundkeeper may cause such animal to be humanely destroyed or otherwise disposed of.
- g) If the proceeds from the sale or other disposal of any animals shall not be sufficient to satisfy the amount chargeable as provided, then the owner or other person entitled to the possession of the animal shall pay the balance and may be sued at the insistence of the Poundkeeper.

7. **PROCEEDS OF SALE**

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

- a) Towards costs and charges attending the sale.
- b) Towards outstanding charges accruing under the Fees and Charges Bylaw.
- c) The residue, if any, shall be paid over to the owner of the animal sold, providing written application is made to the Municipal Treasurer with three (3) months from the date of sale, otherwise such monies shall form part of the General Municipal Revenue of the District.

8. **GENERAL PROVISIONS**

- a) The Municipal Treasurer shall ensure that the Poundkeeper is furnished with Animal Pound Log Sheets, to be submitted to the Treasurer from the Poundkeeper on or before the last day of the month, together with any monies received by the poundkeeper.
- b) The Poundkeeper shall record on the said Animal Pound Log Sheet 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 auction.
- c) The Pound shall be kept open for the Public for the transaction of business on an as required basis.
- d) If the Poundkeeper -
 - (i) Demands or receives any sum other than that authorized by District bylaw;
 - (ii) Fails to pay over to the Municipal Treasurer any money held by him under the provisions of District bylaws;
 - (iii) Neglects to provide food and water for any animal or works or uses the same in any manner while so impounded;
 - (iv) Neglects to properly milk any milch-cow or milch-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 infected with any contagious or infectious disease to be in the same enclosure with any

impounded animal 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) Every person who violates or causes or allows to be violated, any of the provisions of this Bylaw shall be guilty of an offense of this Bylaw, and each day that such violation is caused or allowed to be continued shall constitute a separate offense.
- b) Every person who offends against any of the provisions of this Bylaw or suffers or permits any act or thing to be done in contravention of violation of this Bylaw, or neglects to do, or refrain from doing anything to be done, or does any act or thing which violates any of the provisions of this Bylaw, shall be deemed to have committed an offense under this bylaw and is liable upon summary conviction to a fine or penalty not exceeding \$2,000 and costs recoverable and enforceable in the manner provided by the Office Act, R.S.B.C., 1979, Chapter 305.

10. **SEVERABILITY**

If any section, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

11. **REPEALS**

The Corporation of the District of Summerland "Animal Control Bylaw Number 2328" is hereby repealed.

12. This Bylaw may be cited for all purposes as the "Animal and Pound Regulation Bylaw Number 93-028".

13. **EFFECTIVE DATE**

This Bylaw shall come into force and take effect upon the day of its adoption by Municipal Council.

READ A FIRST, SECOND AND THIRD TIME by the Municipal Council of The Corporation of the District of Summerland, this 13th day of April, 1993.

RECONSIDERED, FINALLY PASSED AND ADOPTED, by the Council of the Corporation of the District of Summerland this 26th day of April, 1993.

"R.J. Shewfelt"
MAYOR

"G. Redluch"
CLERK