

BYLAW NO. 86/2010

BEING A BYLAW OF THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31 IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE REGULATION AND CONTROL OF DOGS FOR THE PURPOSE OF PUBLIC SAFETY IN THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31

WHEREAS it is deemed expedient to regulate and control dogs in certain areas within the boundaries of the Municipal District of Foothills No. 31;

WHEREAS pursuant to the provisions of the Municipal Government Act, being Chapter M- 26.1, 2000, Section 7 (h) and amendments thereto, the Council of the Municipal District of Foothills No. 31 in the Province of Alberta, enacts as follows;

Section 1: Title

1. This Bylaw may be cited as the M.D. of Foothills No. 31 Dog Control Bylaw.

Section 2: Definitions

2. In this Bylaw unless the context otherwise requires:

- (a) "Adult dog" means a dog that is, or appears to be, more than six months old;
- (b) "Animal" includes domestic fowl and livestock;
- (c) "Animal Services Centre" means the facility established for the holding of impounded dogs within the Municipality;
- (d) "Animal Services Officer" means a Bylaw Enforcement Officer, Peace Officer, or a member of the Royal Canadian Mounted Police, or Officers designated by Council to administer and enforce this Bylaw
- (e) "Bylaw Enforcement Officer" means a person appointed as such by the Municipality pursuant to the provisions of the Municipal Government Act;
- (f) "Dog" means a member of any domesticated canine species, including male, female, spayed, neutered and intact members.
- (g) "Domestic Animal" means any animal kept by a Person for domestic purposes or as a household pet including but not limited to Dogs, cats, rabbits, ferrets, cows, horses, sheep, goats and pigs.
- (h) "Domestic Fowl" means all types of poultry (chickens, ducks, geese and turkeys) and includes ostriches, peacocks and other exotic birds;
- (i) "Former owner" means the person who at the time of impoundment was the owner of a dog which has subsequently been sold or destroyed;
- (j) "Highway" means a thoroughfare, street, road, trail, avenue, parkway, lane, alley, square, bridge, causeway, trestle, sidewalk (including the boulevard portion of the sidewalk), park or other public place;
- (k) "Justice" has the meaning as defined in the Provincial Offences Procedure Act R.S.A. 2000 Chapter P-34, as amended or replaced from time to time;
- (l) "Leash" means a chain or other material capable of restraining the dog on which it is being used;
- (m) "Livestock" means cattle, swine, horses, buffalo, beefalo, llamas, sheep, goats, rabbits, mules, zebras and camels.
- (n) "Municipality" means the municipal corporation of the Municipal District of Foothills No. 31 or the area contained within the boundary thereof as the context requires;
- (o) "Owner" is deemed to be any person, partnership, association, organization or corporation, who:
 - (i) is named as Owner on the dog License;
 - (ii) has charge of the dog;
 - (iii) has control over the dog; or
 - (iv) harbours the dog; and for the purposes of this Bylaw, a dog may have more than one Owner;

- (p) "Permitted Leash" means a leash adequate to control the Dog to which it is attached and which leash shall not exceed three (3) metres in length.
- (q) "Private Property" includes land and buildings or structures, whether or not affixed to land;
- (r) "Property of the owner" means land or a building owned by the owner of a dog or in respect of which the owner of a dog has a right of occupation;
- (s) "Provincial Court" means The Provincial Court of Alberta;
- (t) "Recognized Hamlet" means the hamlets described in Schedule "A" hereto;
- (u) "Running at large" means any dog that is off the property of the owner and is not on a leash and under the control of a responsible or competent person capable of controlling the animal.
- (v) "Trespasser in relation to a Hamlet" means that there is a presumption that access for lawful purposes to the door of a building on land by a pathway apparently provided for the purpose of access is not a trespass. Entry on land may be prohibited by notice that may be given orally, in writing or by posters or signboards visibly displayed where normal access is obtained to the land.
- (w) "Trespasser in relation to rural property" means any person who enters a property, other than their own, regardless of whether it is fenced, gated or provides open access to such property and buildings and does not have written or oral permission to enter is deemed to be a trespasser. Exception to this is appointed Federal, Provincial or Municipal employees entering the property to conduct government business
- (x) "Vicious dog" means any dog, whatever its age, whether on public or private property, which has:
 - (i) chased, injured or bitten any domestic animal or human; or
 - (ii) damaged or destroyed any public or private property; or
 - (iii) threatened or created a reasonable apprehension of a threat of injury or harm to a domestic animal or human;
 - (iv) and/or which, in the opinion of a Justice, presents a threat of serious harm to domestic animals or humans; or
 - (v) been previously determined to be a vicious dog under this Bylaw.
 - (vi) been declared "vicious" by its owner.

Section 3: Nuisance

3.1 (a) Within the boundaries of the Municipality, the owner of a dog shall ensure that such dog shall not:

- (i) run at large
- (ii) chase any person, animal, vehicle, or bicycle
- (iii) bark, howl or otherwise make such noise as to disturb the quiet or repose of any Person or otherwise constitute a public nuisance
- (iv) upset any waste receptacles or scatter the contents thereof
- (v) pursue, worry, injure or destroy a domestic animal or livestock while on public property or land owned or occupied by the owner or person in actual possession of that domestic animal
- (vi) bite or attempt to bite a person, or otherwise threaten a person, when such dog is on public or private property, or when the dog is on the property of the dog owner and the person the dog bit or attempted to bite is not a trespasser

(b) Where a dog has defecated on any public property or private property within the Municipality, other than that of the Dog's owner, the owner shall be required to remove such defecation immediately and disposed of in a sanitary manner.

Section 4: Dog License

4.1 No person shall keep more than three (3) adult dogs upon property owned or occupied by him/her unless such person is the holder of a dog kennel permit issued under the provisions of the Municipality's Land Use Bylaw.

Section 5: Vicious Dogs

- 5.1 **Within the boundaries of the Municipal District of Foothills No. 31:** the owner of a dog alleged to be vicious shall be given ten (10) clear days notice of a hearing for determination of such allegation before a Justice.
- 5.2 At the hearing, if it appears to the Justice that the dog should be declared to be a vicious dog, he shall make an order in a summary way declaring the dog to be a vicious dog.
- 5.3 Within the boundaries of the Municipal District of Foothills No. 31, the owner of a vicious dog shall ensure that:
- (a) such dog does not:
 - (i) chase a person;
 - (ii) injure a person;
 - (iii) bite a person;
 - (iv) chase domestic animals;
 - (v) injure domestic animals; or
 - (vi) threaten or create a reasonable apprehension of a threat to a person or domestic animal.
 - (b) when such dog is on the property of the owner:
 - (i) such dog is confined indoors and under the control of a person over the age of eighteen (18) years, or
 - (ii) when such dog is outdoors it is in a locked pen or other structure, constructed to prevent the escape of the vicious dog and capable of preventing the entry of any person not in control of the dog, or
 - (iii) such dog is kept as if the provisions of Section 5.3(e) applied to such dog while on the property of the owner.
 - (iv) post warning signs that a vicious Dog resides on premise at each gate to the property
 - (c) the locked pen or other structure referred to in section 5.3(b) (ii) shall:
 - (i) have secure sides and a secure top, and if it has no bottom secured to the sides, the sides must be embedded in the ground to a minimum depth of thirty (30) centimeters, and
 - (ii) provide the vicious dog with shelter from the elements and be of the minimum dimensions of one and one-half (1.5) metres by three (3) metres and be a minimum one and one-half (1.5) metres in height, and
 - (iii) not be within one (1) metre of the property line or within five (5) metres of a neighbouring dwelling unit within the boundaries of a recognized Hamlet and 15 metres in all other areas of the Municipality.
 - (d) at all times, when off the property of the owner, such dog is securely:
 - (i) muzzled, and
 - (ii) harnessed or leashed on a leash which length shall not exceed one (1) metre in a manner that prevents it from chasing, injuring or biting domestic animals or humans as well as preventing damage to public or private property, and
 - (iii) under the control of a person over the age of eighteen (18) years.
 - (e) such dog is not running at large.
- 5.4 If an Owner has any reason to believe that his/her dog may be a Vicious Dog, he/she shall keep the Dog in accordance with the provisions of this Section unless and until the MD of Foothills' Animal Services Officer has determined that the Dog is not a Vicious Dog and has so advised the Owner in writing.

5.5 If the MD of Foothills' Animal Services Officer has reasonable grounds to believe that a Dog is a Vicious Dog, either through personal observation or after an investigation initiated by a complaint about the Dog, the Animal Services Officer may, in writing:

- a) Notify the Owner that the Dog is deemed to be a Vicious Dog, and
- b) Require the Owner to comply with all provisions of this Bylaw with respect to Vicious Dogs immediately.

5.6 A Notice under Section 5.5 shall include a summary of the applicable Bylaw provisions governing Vicious Animals.

5.7 Notice given under Section 5.5 will be deemed served upon actual personal service of the Notice upon the Owner or after five (5) days from mailing via regular mail to the Owner's address as it appears on the MD of Foothills' tax roll.

5.8 A Person who has been served with a Notice in accordance with Section 5.5 may appeal the Notice to the MD of Foothills Council by filing a written notice of appeal with the Municipality within seven (7) days of being served with the Notice under Section 5.5. The appeal will be heard by MD of Foothills Council within 30 days of receiving the notice of appeal.

5.9 Until such time as MD of Foothills Council hears and upholds the appeal, the Dog must be treated in accordance with Vicious Dog provisions under this Bylaw.

Section 6: Licensing (Vicious Dogs)

6.1 **Within the boundaries of the Municipal District of Foothills No. 31**, the owner of a vicious dog shall:

- (a) obtain an annual license for such dog at such times as specified in Section 6.2 and shall pay an annual fee as set out in Schedule "B" of this Bylaw.
- (b) No person shall give false information when applying for a vicious dog license.

6.2 **Within the boundaries of the Municipal District of Foothills No. 31**, the owner of a vicious dog shall:

- (a) be over the age of eighteen (18) years;
- (b) obtain a vicious dog license on the first day on which the Municipality's office is open for business after the provisions of Section 6.2(g) have been complied with or, if the owner was not the owner of a dog when it was declared to be vicious, obtain a license on the first day on which the Municipality's office is open for business after he becomes the owner of the vicious dog;
- (c) obtain an annual license for the vicious dog on or before the day specified by the Animal Services Officer every year;
- (d) notify the Animal Services Officer should the vicious dog be sold, gifted, or transferred to another person or die;
- (e) remain liable for the actions of the vicious dog until formal notification of sale, gift or transfer is given to the Animal Services Officer;
- (f) immediately notify the Animal Services Officer if the vicious dog is running at large;
- (g) within three (3) days after the dog has been declared vicious, have a licensed veterinarian identify the dog by means of a tattoo or implantation of an electronic identification microchip in the animal and provide a copy of the information contained thereon to the Animal Services Officer prior to a license being issued.

Section 7: Dog Control Operation - Authority

7.1 An Animal Services Officer is a designated officer of the MD of Foothills for the purposes of inspections, investigations and enforcement of this Bylaw and, in addition to any other powers or authority granted under this Bylaw or other enactment, is authorized to:

- (a) capture, including baiting and trapping if required, and impound in an authorized Animal Shelter any Dog that has chased, attacked, or exhibited threatening behaviour to any Person or Animal;

- (b) to take any reasonable measures necessary to subdue any Dog, including the use of tranquilizer equipment and materials;
- (c) to enter onto lands surrounding any building in pursuit of an Dog while that Dog is Running At Large; and
- (d) if a Dog is in distress, whether or not as a result of enforcement actions taken pursuant to this Bylaw, to take the Animal to a Registered Veterinarian for treatment and, once treated, to transfer the Animal to the Animal Shelter.

Section 8: Obstruction

- 8.1 No person, whether or not he is the owner of a dog or vicious dog which is being or has been pursued or captured shall interfere with or attempt to obstruct an Animal Services Officer of the Municipality who is attempting to capture or who has captured a dog which is subject to impoundment.

Section 9: Interference with Dogs

- 9.1 No person shall:
- (a) untie, loosen or otherwise free a dog which has been tied or otherwise restrained; or
 - (b) negligently or wilfully open a gate, door or other opening in a fence or enclosure in which a dog has been confined and thereby allow the dog to run at large.

Section 10: Notifications

- 10.1(a) If an Animal Services Officer knows or can ascertain the name of the owner of any impounded dog, he shall serve the owner with a copy of the Notice in Schedule “C” of this Bylaw, either personally or by leaving it, or by mailing it to the last known address of the owner.
- (b) An owner of a dog to whom a Notice is mailed pursuant to this section is deemed to have received the Notice within forty-eight (48) hours from the time it is mailed.

Section 11: Reclaiming

- 11.1 (a) the owner of any impounded dog or vicious dog may reclaim the dog or vicious dog from the Animal Services Centre by paying to an Animal Services Officer the costs of impoundment as set out in Schedule “D” of this Bylaw, and by obtaining the license for such dog or vicious dog, should a license be required under this Bylaw.
- (b) Where a dog is claimed, the owner shall provide proof of ownership of the dog.
- (c) The owner of a dog who has been found not guilty of committing an offence under this Bylaw may request the return of any fees paid by him for reclaiming his dog.

Section 12: Sale or Destruction

- 12.1 The Animal Services Officer shall not sell or destroy an impounded dog until the following conditions are met:
- (a) After a dog is retained in the Animal Services Centre for:
 - (i) five (5) days after the owner has received notice or is deemed by Section 10 to have received notice that the dog is in the Animal Service Centre unless the owner of the dog makes arrangements with the Animal Services Officer for the further retention of the dog, or
 - (ii) five (5) days, if the name and address of the owner is not known, unless a person having authority orders the retention of the destruction of the dog; the Animal Services Officer may cause the dog to be sold or destroyed.
 - (b) The Animal Services Officer may retain a dog for a longer period if in his opinion the circumstances warrant the expense;
 - (c) The Animal Services Officer may offer for sale all unclaimed dogs which have been in the Animal Service Centre for seven (7) days or longer.

- (d) The Animal Services Officer may, before selling an unclaimed dog, require that the dog be spayed or neutered at the expense of the purchaser of the dog.
- (e) The purchaser of a dog from the Animal Services Centre pursuant to the provisions of this Section shall obtain full right and title to it and the right and title of the former owner of the dog shall cease thereupon.
- (f) When the Animal Services Officer agrees to put a dog to death at the request of the owner, the owner shall pay to the Animal Services Officer a fee as set out in Schedule "D" of this Bylaw.

Section 13: Penalties

- 13.1(a) Where an Animal Services Officer of the Municipality believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a summons by means of a violation ticket in accordance with Part 2 of the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, and/or amendments thereto.
 - (b) The specified penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in Part One of Schedule "E" of this Bylaw in respect of that provision.
 - (c) Notwithstanding Section 14(b):
 - (i) where any person contravenes the same provision of this Bylaw twice within one twelve (12) month period, the specified penalty payable in respect of the second contravention is double the amount shown in Part One of Schedule "E" of this Bylaw in respect of that provision, and
 - (ii) where any person contravenes the same provision of this Bylaw three or more times within one twelve (12) month period, the specified penalty payable in respect of the third or subsequent contravention is triple the amount shown in Part One of Schedule "E" of this Bylaw in respect of that provision.

Section 14: Summary Conviction

- 14.1(a) Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Two Thousand Five Hundred (\$2,500.00) Dollars and in default of payment is liable to imprisonment for a term not exceeding six (6) months.
 - (b) The minimum fines on summary conviction in respect to a contravention of this Bylaw with respect to vicious dogs shall be the amounts shown in Part Two of Schedule "E" regarding vicious dogs.
 - (c) The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a person from the necessity of payment of any fees, charges or costs for which he is liable under the provisions of this Bylaw.
 - (d) A Justice, in addition to the penalties provided in this Section, may if he considers the offence sufficiently serious direct or order the owner of the dog to stop the animal from doing mischief or causing the disturbance or nuisance complained of, or to have the animal removed from any area to which this Bylaw applies, or have the animal destroyed.
 - (e) A Justice, after convicting the owner of a dog of an offence under this Bylaw may, in addition to any other penalties imposed or orders made, and without further notice or hearing, declare the subject dog a vicious dog, pursuant to the provisions of this Bylaw.

Section 15: General Provisions

- (a) This bylaw shall not apply to Dogs kept at a veterinary clinic or being securely transported within a motor vehicle to or from a veterinary clinic.
- (b) Should any provisions of this bylaw be invalid, then such invalid provision may be severed and the remaining Bylaw shall be maintained.
- (c) An individual is responsible for and is not excused from ascertaining and complying with the requirements of any Federal, Provincial or other Municipal legislation, including the Municipalities Land Use Bylaw.

Section 16: Effective Date

16.1 Bylaw number 52/2010 is hereby rescinded.

16.2 This Bylaw shall come into effect on the date of its third reading.

FIRST READING: August 26, 2010

REEVE

MUNICIPAL MANAGER

SECOND READING: August 26, 2010

REEVE

MUNICIPAL MANAGER

THIRD READING: August 26, 2010

REEVE

MUNICIPAL MANAGER

PASSED IN OPEN COUNCIL assembled at the Town of High River in the Province of Alberta,
on the 26 day of August, 2010

SCHEDULE “A”

Affected Hamlets

Aldersyde
Blackie
Cayley
DeWinton
Heritage Pointe
Millarville
Naphtha
Priddis
Priddis Greens

SCHEDULE "B"

1. Annual VICIOUS DOG Licence Fee \$50.00

SCHEDULE "C"

Notice of Impoundment

TO: _____
[Name]

[Address]

You are hereby notified that a dog:

- bearing Tag No. _____, registered under the above name and address; or

- bearing no identification, but believed to belong to you;

was impounded on _____, 20__ pursuant to the provisions of
Bylaw No. 86/2010 of the Municipal District of Foothills No. 31, and that, unless the dog is claimed and all
impoundment charges are paid, on or before _____, 20__, the
said dog will be sold, destroyed or otherwise disposed of pursuant to the said Bylaw.
Animal services Officer

SCHEDULE "D"

Reclamation/Destruction Fees

| | | |
|----|---|------------------------|
| 1. | Impoundment fees | \$90.00 |
| 2. | Vicious dog impoundment fee | \$250.00 |
| 3. | Care and sustenance (per day or portion thereof. To commence at midnight on the day of impoundment) | \$Kennel Fees (actual) |
| 4. | Veterinary fees | amount expended |
| 5. | Destruction of dog | amount expended |

SCHEDULE "E" – Part 1

| OFFENCE UNDER | OFFENCE | AMOUNT |
|--------------------------|---|---------------|
| Section 3.1(a) (i) | running at large | \$150.00 |
| Section 3.1(a) (ii) | chasing a person, animal, vehicle or bicycle | \$200.00 |
| Section 3.1(a) (iii) | bark, howl, or otherwise make such a noise as to disturb the quiet or repose of any person or otherwise constitute a public nuisance | \$150.00 |
| Section 3.1(a) (iv) | Upset waste receptacles or the contents thereof | \$150.00 |
| Section 3.1(a) (v) | Pursue, worry, injure, or destroy a domestic animal or livestock while on public property or land owned by the owner or person in actual possession of the domestic animal | \$200.00 |
| Section 3.1(a)(vi) | Bite or attempt to bite a person, or otherwise threaten a person, when such dog is on public or private property, or when the dog is on property of the owner and the person the dog bit or attempted to bite is not a trespasser | \$250.00 |
| Section 3.1(b) | Failure to properly dispose of Dog waste | \$150.00 |
| Section 4.1 | Owner keeping more than 3 dogs without kennel permit | \$500.00 |
| Section 8.1 | Obstruction | \$500.00 |
| Section 9.1 | Interference | \$500.00 |

SCHEDULE “E” – Part 2
Minimum Penalties with Respect to Vicious Dogs
For the Purposes of Section 14 of Bylaw 86/2010

| OFFENCE UNDER | OFFENCE | AMOUNT |
|--|--|------------|
| Section 5.3(a) (i), (ii), (iii), (iv), (v) or (vi) | Vicious dog chasing, injuring, or biting a person or animal | \$1,500.00 |
| Section 5.3(b) (i), (ii), (iii) (iv) | Failure to confine or control vicious dog | \$1,000.00 |
| Section 5.3(c) (i), (ii), (iii) | Confining vicious dog in improper structure | \$1,000.00 |
| Section 5.3(d) (i), (ii), (iii), | Failure to secure vicious dog | \$1,000.00 |
| Section 5.3(e) | Vicious dog running at large | \$1,000.00 |
| Section 6.1(a) | Failure to obtain an annual vicious dog license | \$1,000.00 |
| Section 6.1(b) | Provide false information | \$1,000.00 |
| Section 6.2(d) | Failure to notify Animal Services Officer or vicious dog being sold, gifted or transferred | \$1,000.00 |
| Section 6.2(f) | Failure to notify Animal Services Officer of vicious dog running at large | \$1,000.00 |
| Section 6.2 (g) | Failure to have dog tattooed or microchipped | \$1000.00 |