

NO: R116

COUNCIL DATE: **JUNE 23, 2014**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **June 18, 2014**

FROM: **City Solicitor**

FILE: **3900-20-12508**

XC: **3900-20-13880**

SUBJECT: **Care of Dogs – Proposed Amendments to Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Receive this report as information;
2. Approve amendments to Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, as amended (the "MTI By-law"), as documented in Appendix "I" of this report, which will allow for the use of MTI tickets in the enforcement of Sections 46 through 50 of the Surrey Dog Responsibility By-law, 1999, No. 13880 (the "Dog Responsibility By-law"); and
3. Authorize the City Clerk to bring forward the related amendment by-law for the required readings.

INTENT

The purpose of this report is to seek approval of amendments to the MTI By-law, which will allow for enforcement through MTI ticketing of the care of dogs provisions of the Surrey Dog Responsibility By-law.

BACKGROUND

Section 264 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*"), gives the City the ability to enforce its regulatory by-laws by way of an information (a ticket) called a Municipal Ticket Information (an "MTI ticket"). Pursuant to this authority, the City has enacted the MTI By-law, which designates which of the City's regulatory by-laws may be enforced by way of MTI tickets, specifies the persons who have the power to write the MTI tickets and sets a specified fine amount for each violation type.

When an MTI ticket is written, it is personally served on the individual who then has the option of paying the MTI or disputing the MTI. If the MTI is paid, it is considered a deemed conviction. If the MTI is disputed, a Court date is set and a trial is conducted by the Assistant City Solicitor acting as the prosecutor. If the defendant does not respond to

the MTI after a specified period of time, the defendant is deemed to have pleaded guilty and the fine amount is immediately payable to the City.

DISCUSSION

The Care of Dogs provisions of the Dog Responsibility By-law provisions have been in place in Surrey since 1995 and were updated with the enactment of the Dog Responsibility By-law in 1999. In November of 2013, the City added a section addressing the tethering of dogs for extended periods such that dogs cannot spend more than 4 hours per 24 hour period tethered.

Historically, when the BC SPCA was the animal control contractor for the City, it would utilize its authority under the Provincial Cruelty to Animals Act to deal with issues related to animal welfare. As the City is now responding directly to residents concerned with issues such as dogs being left in vehicles with inadequate ventilation it would be timely to provide City staff with a tool that is more efficient for dealing with these requests for service.

The Dog Responsibility By-law addresses the following issues relating to the keeping of dogs:

- Dogs must be provided with clean drinking water, appropriate nutrition in clean and sanitary conditions;
- Dogs must be provided the opportunity for exercise and necessary veterinary care;
- Dogs that reside outside must be provided with shelter that protects the dog from the elements, provides enough space to move about freely and protects the dog from direct sun;
- The area where a dog is kept must be regularly cleaned and all waste matter removed daily;
- Dogs cannot be tied up wearing a choke collar;
- Dogs cannot spend more than 4 hours per 24 hour period tethered;
- Adequate ventilation must exist anywhere a dog is confined, such as in a vehicle; and
- Dogs must be transported in a safe manner which prevents their injury.

The full text of these provisions are set out in Appendix "II" to this report.

Currently, offences related to these sections must be enforced by means of long form charges through the Court, which is a fairly time-consuming and costly process. The proposed amendments to the MTI By-law, if adopted, will provide staff with an additional tool and greater latitude in relation to enforcement actions associated with the Dog Responsibility By-law. The ability to proceed with long form charges through the Court will also remain an option where circumstances warrant such an approach.

SUSTAINABILITY CONSIDERATIONS

The recommendation of this report if adopted will assist in achieving the objectives of the City's Sustainability Charter by using the City's resources more efficiently.

CONCLUSION

Based on the above discussion, the Legal Services Division recommends that Council:

- Approve amendments to the MTI By-law, as documented in Appendix "I" of this report, which will allow for the use of MTI tickets in the enforcement of Sections 46 through 50 of the Dog Responsibility By-law; and
- Authorize the City Clerk to bring forward the related amendment by-law for the required readings.



CRAIG MACFARLANE
City Solicitor

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c.c. Manager, By-law Enforcement & Licensing Services

Appendix "I": Proposed Amendments to the Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, as amended

Appendix "II": Sections 46 through 50 of Surrey Dog Responsibility By-law, 1999, No. 13880, as amended

APPENDIX "I"

CITY OF SURREY

BY-LAW NO. _____

A by-law to amend the provisions of "Surrey Municipal Ticket Information Utilization By-law", 1994, No. 12508, as amended.

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The Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. "Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508" as amended is hereby further amended by deleting Schedule 4 in its entirety and replacing it with the new Schedule 4 attached to this By-law:
2. This By-law shall be cited for all purposes as "Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508, Amendment By-law, 2014, No. _____."

PASSED FIRST READING on the ____ day of June, 2014.

PASSED SECOND READING on the ____ day of June, 2014.

PASSED THIRD READING on the ____ day of June, 2014.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the ____ day of July, 2014.

_____MAYOR

_____CLERK

Attached as Schedule to Proposed By-law Amendment

SCHEDULE 4 TO BY-LAW NO. 12508

<u>SURREY DOG RESPONSIBILITY</u> <u>BY-LAW, 1999, NO. 13880</u>	<u>SECTION</u>	<u>FINE</u>
1. No dog license	4	\$200.00
2. Dog without tag	4	\$200.00
3. More than 2 dogs	6	\$200.00
4. Dog at large	16	\$200.00
5. Dog on beach	17	\$200.00
6. Dog feces (public property)	18	\$200.00
7. Dog feces (private property)	19	\$200.00
8. Dangerous dog not muzzled	42	\$500.00
9. Dangerous dog not confined	43	\$500.00
10. Fail to provide water	46(a)	\$200.00
11. Fail to provide food	46(a)	\$200.00
12. Fail to clean receptacles	46(b)	\$200.00
13. Fail to provide exercise	46(c)	\$200.00
14. Fail to provide vet care	46(d)	\$200.00
15. Inadequate shelter	47(a)	\$200.00
16. Inadequate shelter size	47(b)	\$200.00
17. Inadequate shelter location	47(c)	\$200.00
18. Fail to clean dog area	47(d)	\$200.00
19. Dog confined by neck	48	\$200.00
20. Dog tied too long	48.1	\$200.00
21. Inadequate ventilation	49	\$500.00
22. Improperly confined in vehicle	50	\$500.00

APPENDIX "II"

Excerpts from Surrey Dog Responsibility By-law, 1999, No. 13880, as amended

46. *No person will keep a dog unless the dog is provided with:*
- (a) *clean potable drinking water at all times and suitable food of sufficient quantity and quality to allow for normal growth and the maintenance of normal body weight;*
 - (b) *food and water receptacles kept clean and disinfected and located so as to avoid contamination by excreta;*
 - (c) *the opportunity for periodic exercise sufficient to maintain good health; and*
 - (d) *necessary veterinary medical care when the dog exhibits signs of pain or suffering.*
47. *No person will keep a dog which normally resides outside, or which is kept outside for short to extended periods of time, unless the dog is provided with outside shelter:*
- (a) *to ensure protection from heat, cold and wet that is appropriate to the animal's weight and type of coat. Shelters must provide sufficient space to allow a dog the ability to turn about freely and to easily stand, sit and lie in a normal position;*
 - (b) *at least 1 1/2 times the length of the dog and at least the dog's length in width, and at least as high as the dog's height measured from the floor to the highest point of the animal when standing in a normal position plus 10%;*
 - (c) *in an area providing sufficient shade to protect the dog from the direct rays of the sun at all times; and*
 - (d) *a pen and run area must be regularly cleaned and sanitized and all excreta removed at least once a day.*
48. *No person will cause a dog to be hitched, tied or fastened by a rope, chain or cord that is directly tied around the dog's neck on to a choke collar.*
- 48.1 *No person owning or having custody, care or control of a dog shall allow or suffer the dog, while at the house or premises of the owner or the person having the custody, care or control of the dog, to be hitched, tied or fastened by a rope, chain or cord to any object, other than a person, in excess of a total of four hours in a 24-hour period, except as permitted or required at the discretion of the Poundkeeper.*
49. *No person will cause a dog to be confined in an enclosed space, including a vehicle, without adequate ventilation.*
50. *No person will transport a dog in a vehicle outside the passenger compartment unless it is adequately confined or unless it is secured in a body harness or other manner of fastening which is adequate to prevent it from falling off the vehicle or otherwise injuring itself.*