

Bylaw Elements to Regulate the Humane Keeping of Dogs Outdoors.

Chaining/Tethering/Penning

From:
Animal Alliance of Canada
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October, 2015

Dear Council Members of the Community and Protective Services Committee:

Please consider our recommendation to draft a bylaw that would regulate the humane and safe keeping of dogs kept outdoors.

The specifics of this bylaw would include regulation of:

- Chaining of dogs to stationary objects (aka Tethering) as a regular way of life.
- Penning of dogs in kennels or fenced areas as a regular way of life.
- Type of housing and shelter provided for dogs when outdoors.
- Provision of exercise and social interaction suitable for the size and type of dog.

During 2014 the Animal Welfare Advisory Committee undertook extensive research and discussion on this matter, but has not yet made a formal presentation and request to the CPSC regarding drafting such a bylaw.

Taking into account that the new term of AWAC did not meet throughout the summer and so was unable to conduct its usual business, we the members of *Animal Alliance of Canada*, an animal protection group concerned with all matters regarding animal welfare, wish to move forward with the presentation of this matter for your consideration. Please be aware that our intention to proceed was shared with members of the AWAC, and their approval and input was sought prior to our request for delegation status with your standing committee. AWAC members are aware of our efforts to launch formal consideration of such a bylaw and we look forward to their comment on this matter.

Changing Social Expectations of Humane Treatment of Animals:

There are numerous reasons for why forcing a solitary life with little exercise and even less companionship on a dog is inhumane and falls far below a modern standard of appropriate human behaviour.

Practices that were seen as socially acceptable even a few decades ago are now widely recognized to be inappropriate in a modern society. Even the treatment of children in orphanages and schools has changed dramatically, based on a more enlightened understanding of psychology and a

realization of how harsh treatment can be emotionally damaging. We would not look back to common practices of harsh treatment of children and other vulnerable people that were common a few decades ago and see it as acceptable to continue such practices today.

The same is true regarding our treatment of animals. There is extensive evidence confirming the emotional and social natures of most mammal species, especially domestic companion species such as dogs who have been selectively bred through centuries to depend on us and seek our companionship.

Because dogs suffer, and suffer greatly when forced to endure social isolation we have a moral obligation to relieve that suffering, given that in the case of chronically chained or penned outdoor dogs, the suffering is caused by the poor decision of humans.

Further, one does not need to research very far to find that the presence of an isolated, suffering dog causes great distress for many people who are forced to witness this in their neighbourhoods. People have related to us that they have often reported neglected outdoor dogs, only to see no relief brought to the dog due to the inadequate animal protection laws that are common in many provinces. Others have told us that they grieved for a dog that lived next door and clearly suffered as he lived chained out but as they saw no hope in calling authorities they did nothing to help the dog – a decision that they still regret years later.

Some people have even told us that after reporting a suffering, chronically chained dog to authorities, only to see that no rescue occurred, they actually stole the dog in order to relieve the dog's suffering. Note, that the people who have shared these stories are law-abiding citizens who have never stolen anything else in their lives and certainly did not act for their own gain. In every case that was related to us, people felt driven to take this drastic step because they could not bear the ongoing suffering of the dog.

Caring empathetic citizens should not be driven to such lengths to simply provide compassionate rescue to a suffering dog.

There is no social benefit in allowing the build-up of division in neighbourhoods where caring people who want to relieve an animal's suffering, or are disturbed by a dog's barking and whining, or are sickened by the smell of accumulated urine and feces find no relief in the city's bylaws.

Bite Risk:

Chronically chained dogs are well known to become prone to biting. Chained dogs lose their socialization as they become emotionally damaged by their isolation and lack of healthy stimulation. And, their chained and vulnerable state causes them to live in a constant state of anxiety as they are well aware of their vulnerability when chained.

Chained dogs will bite out of fear as they are unable to escape fearful stimulation. When there is no possibility of 'flight' the dog is left with only the ability to 'bite.' Children who approach a chained dog are often the innocent victims of such dog bites.

Numerous Jurisdictions have already passed such laws:

Across North America there is a wave of communities passing bylaws that either outright ban chaining all together, or regulate the length of time that a dog can be chained. These bylaws and

ordinances have proved enforceable so London would not need to be a trailblazer in enacting such a bylaw but could adopt bylaw components that are already being enforced in our own province and other provinces.

The province of Nova Scotia passed a province-wide law that regulates tethering/chaining or penning to no longer than 12 hours in a 24 hour period.

The province of New Brunswick passed a law that states: "Dog tethering is not permitted for more than 30 minutes between 11:00 pm and 6:00 am unless the owner or person responsible is outside and within 25 metres of the dog."

The City of Calgary's law states: "Dogs may not be left unattended while tethered."

The bylaws in Lion's Bay and New Westminster, British Columbia state, "one may not tether unattended dogs."

And, according to a document by the BC. SPCA:

"The CVMA [Canadian Veterinary Medical Association] Code of Practice for Canadian Kennel Operations states that the "tethering of dogs (i.e., chains or ropes used to tie the animal to an immovable object such as a stake or building) as a primary method of confinement is not acceptable" (CVMA, 2007). The Association of Shelter Veterinarians' Guidelines for Standards of Care in Animal Shelters states, "tethering is an unacceptable method of confinement for any animal" (Association of Shelter Veterinarians, 2010).

<http://www.sPCA.bc.ca/assets/documents/welfare/pets-in-the-city/bc-municipal-animal-bylaw.pdf>

Three bylaws already exist in Ontario that can act as good guides for our community.

Both Windsor and Mississauga have bylaws in place that:

- limit the amount of time that a dog can be chained/tethered to no more than 4 hours within any 24 hour period.

Note as well, that Windsor, Ontario is successfully enforcing the 4 hour limit without requiring an enforcement officer to be in constant attendance for 4 hours by making use of a legal rule known as 'Rebuttable Presumption', which will be discussed further in this document.

Both communities allow for penning of the dog to be used as an alternative to chaining, with regulations on the penning as well.

Mississauga includes a regulation regarding penning that states:

- "Animals must be out of the pen and not tethered for four hours in any 24 hour time period."

This additional regulation regarding taking the dog out of the pen for at least 4 hours during a 24 hour period (and not chained during that time) encourages the provision of some exercise and social contact for the dog.

The City of Markham does not regulate the practice of chaining, but their bylaw does include wording that could provide a useful legislative tool to assist an enforcement agent to intervene on behalf of a penned dog living in difficult circumstances:

- “Every person who keeps an animal within the Town’s boundary shall provide such animal, or cause it to be provided, with a clean and sanitary environment free from an accumulation of fecal matter, with adequate and appropriate care, food, water, shelter, warmth, **opportunity for physical activity, attention, veterinary care as may be required, and an environment that is appropriate to meet the physical and behavioral needs of the species.**”

We recommend using the Mississauga bylaw as a template for a London bylaw, with additional wording taken from a variety of other communities.

Bylaw Elements for consideration:

The bylaw will be complaint-driven, though in the case that an enforcement officer should observe a chained or penned dog they should determine if the conditions meet the bylaw’s regulations.

Chaining/tethering:

-Dogs can only be chained/tethered for a total of 4 hours in any 24 hour period.

-The tether or chain must not be so heavy as to cause physical stress to the dog.

-The collar used must be of an appropriate size so that the throat and neck of the dog is not made uncomfortable. There must be no bare or inflamed skin under the collar caused by rubbing, nor can the collar be embedded in the skin. If either condition is present then the dog may not be chained by the neck until the condition is fully healed.

-The tether itself must be at least 3 metres long, and allow the dog access to water, an enclosed shelter of the mandated design and a roofed or shaded area other than the enclosed shelter during summer months.

-The dog must be chained/tethered away from any potential distressing disturbance such as excessive noise, or disturbing interference from either a human or other animal.

Penning:

If the owner/guardian is unwilling to take the dog into the home for the required number of hours, then he or she can provide a pen or kennel for the dog providing that the dog must be taken out of the pen and not tethered for four hours in any 24 hour time period.

Dog houses need to be in good condition, safe, sanitary with clean and dry bedding, a door flap, and insulated. The insulation must be covered so that pets can't come into contact with it.

For animals in a pen, kennel or enclosure, the enclosed area must be: a minimum of 9.3 m² or 100 ft² per dog, with 2.8 m² or 30 ft² added for each extra dog.

As with doghouses, the pen, kennel or enclosure must be safe, secure, and sanitary, and during the summer, provide a shaded/roofed area, and a resting board that allows the dog to rest off of the ground, in an area other than inside the enclosed dog house.

Further Provisions on general care of animals while housed outdoors:

Every person who keeps an animal within the Town's boundary shall provide such animal, or cause the animal to be provided, with a clean and sanitary environment free from an accumulation of fecal matter, with adequate and appropriate care, food, water, shelter, warmth, opportunity for physical activity, attention, veterinary care as may be required, and an environment that is appropriate to meet the physical and behavioral needs of the species.

Extreme Weather:

In the case of extreme weather likely to cause suffering to a dog kept outdoors; including excessive rain, snow accumulation, freezing temperatures or extreme heat, and even when an enclosed and insulated dog house or shelter is provided, the dog must be brought indoors to a location sufficient to provide relief.

What constitutes extreme weather will be determined by a bylaw enforcement agent using the common understanding of what a reasonable person would consider to be extreme weather sufficient to cause suffering or distress.

Regarding Successful Enforcement of the Regulations:

A key element in the successful enforcement of the bylaw would be determining that a dog has been outside in excess of a total of 4 hours during a 24 hour period. We understand that it would be unworkable to post an enforcement agent for a 4 hour period to observe for that period.

Windsor has been successfully enforcing their 4 hour limit using a legal rule called 'Rebuttable Presumption.'

see:

"Rebuttable Presumption Definition - Duhaime.org

www.duhaime.org › *Legal Dictionary*

The legal *definition* of *Rebuttable Presumption* is "A presumption of fact which can be defeated by persuasive evidence to the contrary."

The Executive Director of the Windsor/Essex County Humane Society (holding the animal services contract for their area) explained that the way Rebuttable Presumption works in such cases is that if an enforcement agent has viewed the dog chained up at various time during the day, that it is lawful for them to presume that the dog has been chained continuously for that period. It is not up to the enforcement agent to prove that is the case, but it is the responsibility of the dog's owner/guardian to prove that the dog has been taken off of the chain for enough time to fall within the regulated hours.

It is my understanding that Rebuttable Presumption is at work as well in the enforcement of the DOLA (Dog Owners Liability Act) that has been used to ban the keeping of pit bull dogs in Ontario. It functions in a way that if an enforcement agent deems that a dog appears to be a pit bull then it falls to the owner/guardian to prove otherwise.

Therefore, if Rebuttable Presumption is a known legal rule that has allowed Windsor to successfully enforce their bylaw, and the province to successfully enforce the DOLA, then there should be no legal reason for the 4 hour limit to be unenforceable in London.

Violations:

If it is determined that a dog is being chained for longer than 4 hours cumulatively in a 24 hour period, relying on Rebuttable Presumption to make that case, then the dog's owner/guardian is given the option of taking the dog inside for the required part of the day.

Or, the owner/guardian can provide a pen/kennel or enclosure that meets the specified requirements, including releasing the dog each day from the pen for the stipulated period of time.

Or, if the owner/guardian does not choose either of these options then he or she can choose to rehome the dog using their own resources, or can surrender the dog to the bylaw enforcement agent.

If the dog's owner/guardian does not choose any of these options and continues to keep the dog in a manner that violates the bylaw, then he or she will be fined under the bylaw and further visits will be made by the enforcement agent that may involve further fines if the violation persists.

Rehoming and Surrender:

Note that if a dog is surrendered or rehomed, then the dog has a second chance at a better life. As well, the owner/guardian now understands that he or she is not free to acquire another dog to be made to live in the same way. If another companion animal is acquired, the animal will have to be housed and kept in a manner that meets the community standard.

Benefits to the Community and Neighbourhood:

In this way, the community has not just dealt with the keeping of one animal, but has dealt with a household that is now aware that this form of animal-keeping does not meet the community's standards. Because the person in violation understands that chaining or penning as a full-time way of life for a dog will no longer be acceptable within our community, it is more likely that no other dog will be acquired, thus meaning that no further visits from enforcement agents should be required.

Any neighbours that have had to endure the barking and whining that so often occurs when dogs are kept constantly outdoors in social isolation will be free to enjoy relief from this disturbing noise.

Fecal and urine waste will no longer collect as is common with dogs made to live outdoors as a constant way of life. This will relieve neighbours from unpleasant smells, flies, as well as rodents attracted to the outdoor dog's food.

Neighbours will no longer experience emotional distress from witnessing an animal's chronic suffering. Many people have related how difficult it was for them to constantly observe a dog that was clearly suffering chronic isolation and misery, yet were unable to intervene and help the dog.

Social Benefit to Children:

Children who live near will not learn to harden their hearts to the sight of an animal in distress. We rely on children developing empathy and good character to be good citizens and participate in the community in a socially sensitive way. If children grow up witnessing a dog bark and cry in distress, yet be ignored and not helped, the child has little option but to experience emotional distress as well, or become hardened to the sight of suffering in order to cope.

There is no social benefit in allowing children to witness an animal's chronic suffering and learn to see this as a normal community standard.

There is no social benefit for a community to empower those who keep companion animals in ways that cause them suffering.

There is no social benefit in causing caring and socially engaged citizens to become discouraged and distressed by a lack of ability to intervene when an animal is suffering.

Possible Consequences of this Bylaw:

Some dog owner/guardians may oppose this bylaw. They may resent being 'interfered with' on their property. Nevertheless, cities routinely regulate inanimate things like lawn care, weeds, and accumulated items (junk) in yards to maintain a community standard of acceptable home-keeping. If we are willing to regulate the keeping of inanimate objects that affect the appearance of private property, then surely we can also regulate the keeping of living, sentient beings who experience suffering from being made to endure neglectful conditions.

In the initial phases of enforcing this complaint-driven bylaw, there may be an increase in the number of dogs surrendered. Being surrendered may be in the best interests of the dog, but may increase the numbers of dog that enter the care of the animal services contractor. While this may be a challenge to the contractor these surrenders will occur over time as citizens become aware of the bylaw and complaints are reported. And, each household that is dealt with should not need further intervention as it has been made clear that another dog cannot simply be acquired to be made to live in the same way.

Effects on Well-intentioned Dog Guardians:

There may well be well-intentioned dog owner/guardians who tie out their dog during their work day and provide good care and companionship when they return.

While these are not the situations that cause the kind of suffering that these bylaws are meant to

relieve, a dog in such a circumstance is still left in a vulnerable condition if the dog is chained or penned while the person is not at home. Tethers have often become tangled, thus trapping the dog. It is reported that some dogs have even become strangled while trying to jump over a fence while chained at the neck. If another animal should enter the yard the dog is helpless if chained. In communities where wild animals are in the vicinity, chained dogs have been killed by a wild animal.

Summary:

We hope that these recommendations will be helpful, and will encourage members of your committee and council to seek the drafting of a bylaw for London. As winter approaches, we know that there are likely dogs in London, as there are in communities across Canada, who will endure freezing weather in addition to their social isolation if there is no bylaw in place to provide for intervention.

We are aware that the City of Oshawa has already held two committee meetings to discuss this matter, and that their civic administration has been directed to draft a bylaw regarding chaining/tethering.

As London has proven to take the lead in many progressive aspects of community life, we hope that London too will join with the Ontario communities that are leading the way on ending the misery of Backyard dogs.

We would be happy to provide assistance in any way that we can.

Sincerely,

Vicki Van Linden

Director of:
Animal Alliance of Canada

