

BY-LAW NO. 7/99
OF
THE RURAL MUNICIPALITY OF ALEXANDER

BEING A BY-LAW to provide for the regulation and control of animals within the limits of the Rural Municipality of Alexander.

WHEREAS subsection 232(1) of The Municipal Act, S.M. 1996, c. 58 (the “Act”) provides in relevant part as follows:

Spheres of jurisdiction

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;
- (o) the enforcement of by-laws.

AND WHEREAS, subsection 232(2) of the Act provides, in relevant part, as follows:

Exercising by-law making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
- (f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters.

AND WHEREAS, subsection 236(1) of the Act provides, in relevant part, as follows:

Content of by-laws under clause 232(1)(o)

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- (b) remedying contravention of by-laws, including
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of ...animals...or other things related to a contravention.

AND WHEREAS subsection 5(1) of The Animal Husbandry Act, R.S.M. 1987, c. A90 provides, in relevant part, as follows:

Municipal by-laws

5(1) The council of any municipality may pass by-laws, applicable to the whole or any part of the municipality

- (a) for allowing, restraining, prohibiting, and regulating the running at large or trespassing of animals and poultry and providing for impounding them; for causing them to be sold if not claimed within the time prescribed in the by-law or if damages, fines and expenses are not paid in accordance therewith; and for appraising damages to be paid by the owners of the animals or poultry impounding for trespassing;

AND WHEREAS section 6 of The Animal Husbandry Act provides, in relevant part, as follows:

Control in municipalities

6 In addition to the powers conferred in section 5, the council of a municipality may pass by-laws

- (b) providing for impounding them and causing them to be sold if not claimed within the time prescribed in the by-law, or if damages, fines and expenses are not paid in accordance therewith.

NOW THEREFORE, council of the Rural Municipality of Alexander duly assembled enacts as follows:

SECTION 1 – DEFINITIONS

1. In this By-Law, unless the context otherwise requires

- (a) “Animal Control Officer” means the person or persons appointed by council to apply the provisions of this By-Law and includes any person acting as an assistant to, or under the direction of, the Animal Control Officer;
- (b) “Council” means the council of the Municipality
- (c) “Dog” means the female as well as the male of every breed or classification or mixture of breed or classification or mixtures of breeds and classifications of the canine family;
- (d) “Dog Pound” means any enclosure, premises or place designated by Council for the purpose of impounding or confining Dogs, and includes those premises upon which Dogs are kept by any person appointed or employed by the Municipality for the purpose of carrying out any provision of this By-Law;
- (e) “Kennel” means any premises on which three or more animals are boarded, bred, trained or cared for, in return for remuneration or are kept for the purpose of sale. A kennel shall not include a veterinary clinic, animal hospital or animal pound;
- (f) “Livestock” means farm animals kept for food, milk or fur production, or propagation or intended for profit and includes,
 - (i) dairy and beef cattle;
 - (ii) swine, goats, sheep and horses;
 - (iii) hens, chicken, turkey, turkey broilers, geese and ducks; and
 - (iv) foxes, mink and rabbits.The term “Livestock” does not include Restricted Animals;
- (g) “Municipality” means the Rural Municipality of Alexander;
- (h) “Owner” means any adult person who owns, keeps or harbours an animal or who knowingly permits or allows any other person to own, keep or harbour an animal upon premises owned, leased or occupied either solely or jointly with others by that adult person;
- (i) “Person” includes a firm or corporation;

- (j) “Restricted Animal” means:
 - (A) all members of the order *Primate* excepting human beings;
 - (B) all members of the order *Carnivora* excepting domestic dogs (*Canis familiaris*), domestic cats (*Felis catus*) and ferrets;
 - (C) all members of the order *Crocodylia*;
 - (D) all constrictor snakes and venomous reptiles including, but not limited to:
 - (i) all members of the family *Boidae*;
 - (ii) all members of the family *Colubridae*;
 - (iii) all members of the family *Elapidae*;
 - (iv) all members of the family *Viperidae*;
 - (v) all members of the family *Helodermatidae*; and
 - (vi) all members of the family *Varanidae*; and
 - (E) all venomous amphibians including, but not limited to:
 - (i) all members of the family *Bufo* and *Bufo* spp.; and
 - (ii) all members of the family *Dendrobatidae*;
- (k) “Traveling Show” means a circus or exhibition that may include Restricted Animals, which intends to operate within the Municipality for a period not exceeding two weeks and which does not have a permanent base, residence or location within the Municipality;
- (l) “Vicious Dog” means a Dog that has, on at least one occasion, attacked a person, another dog or any other animal with sufficient severity for the victim to require medical or veterinary treatment.

SECTION II – GENERAL

2. In areas of the Municipality zoned RR, RA, SR and RM, no person shall harbour, keep or have in his or her possession, or on his or her premises more than three adult cats and/or adult Dogs unless that person is licensed to operate a Kennel. For the purpose of this section an adult Dog or cat is one which is four months of age or older. In case of dispute, the onus shall be on the Owner to establish the age of the Dog or cat.

3. Every person owning or occupying premises on which animals are kept, whether for commercial purposes or otherwise, shall keep the premises clean and tidy, to the satisfaction of a Province of Manitoba Public Health Officer.

4. No person owning or occupying premises on which animals are kept, whether for commercial purposes or otherwise, shall allow the premises to become offensive or affect adversely the health or comfort of other persons by reason of filthy conditions, offensive odors, or other causes.

SECTION III – LIVESTOCK

5. The keeping of Livestock shall only be permitted in those areas of the Municipality zoned agricultural unless otherwise permitted by the Municipality’s Zoning By-Law in effect from time to time.

6. No Owner shall permit his or her Livestock to run at large within the Municipality. When Livestock is found running at large, its Owner shall be deemed to have refused or failed to comply with this section. For the purpose of this section, the phrases “run at large” and “running at large” have the same meaning as set out in subsection 2(2) of The Animal Husbandry Act, namely, that the Livestock is not under control, by confinement within an enclosure, except in the case where Livestock is being driven from one enclosure to another in direct or continuous charge of a person.

7. Council may establish, on a temporary or permanent basis, premises for the confinement of Livestock apprehended pursuant to the provisions of this By-Law. When Livestock is impounded, the Animal Control Officer shall publish notice of the impoundment as required by The Animal Husbandry Act. In addition, if the identity of the Owner is known, the Animal Control Officer shall mail a notice of impoundment to the Owner at his or her last known address. The Owner of the Livestock shall not be entitled to the return of the Livestock until the actual costs incurred by the Municipality in apprehending and impounding the Livestock and the fine imposed pursuant to this By-Law, have been paid.

8. If no person claims the Livestock within ten days of the date of the notice, or if the Owner has not paid the costs and fine referred to in paragraph 8, the Animal Control Officer may sell the Livestock.

SECTION IV – DOGS

9. Council shall establish and/or maintain a Dog pound for the confinement of Dogs apprehended pursuant to any provision of this By-Law and appoint an Animal Control Officer to carry out the provisions of this By-Law. The costs associated with the establishment and maintenance of a Dog Pound and payment of the Animal Control Officer shall be paid out of the general funds of the Municipality.

10. Except as hereinafter provided, all Dogs must be kept on a leash when not on the property of their Owners (or on the property of someone other than the Owner, with the permission of that property owner). This requirement does not apply to working Dogs, such as hunting or herding Dogs, who are actually working.

11. No Owner shall:

- (a) permit his or her Dog to run at large in the Municipality. For the purpose of this section, the phrases “run at large” or “running at large” mean that the Dog is not securely confined within an enclosure or on a rope, chain or leash controlled by a person competent to, and capable of, controlling the Dog on the rope, chain or leash, so that it is unable to roam at will;
- (b) permit his or her Dog to:
 - (i) chase, or bark at, any animal or person or any vehicle in any public place;
 - (ii) disturb or annoy the quiet of others anywhere by howling or barking; or
 - (iii) bite any person, dog or other animal;
- (c) permit his or her Dog to defecate on any public or private property other than the property of its Owner. Where a Dog defecates on property other than the property of its Owner, the Owner shall cause such excrement to be removed immediately;
- (d) permit his or her Dog to damage public or private property other than that of its owner;
- (e) permit his or her Dog to upset any waste receptacle and scatter the contents about; or
- (f) harbour or keep any Vicious Dog unless such Dog is securely fastened and properly muzzled at all times in such place and in such manner that it does not endanger the safety of any person or any other animal.

Where a Dog commits any of the acts prohibited by this paragraph, the Owner will be deemed to have permitted the activity and the Owner will be liable to pay costs associated with the cleaning up the mess or repairing the damage done by the Dog including, but not limited to, veterinary bills.

12. Where it appears, on reasonable grounds, to the Animal Control Officer that a Vicious Dog presents a danger to the public, other Dogs or any other animals, the Animal Control Officer may apprehend and impound the Vicious Dog for the purpose of destroying it. When the Animal Control Officer impounds a Vicious Dog under this section, he or she shall give the owner written notice, delivered to the last known address of the Owner, that the Vicious Dog will be destroyed within 14 days of the date of the notice. The Owner may, during that time period, appeal the decision of the Animal Control Officer to Council by providing notice in writing to the Chief Administrative Officer and the Animal Control Officer of his or her desire to appeal the decision. The Vicious Dog shall not be destroyed while an appeal is pending. Council shall review the decision of the Animal Control Officer within 14 days of receipt of the request from the Owner and may confirm, vary, substitute or cancel the decision. If Council upholds the decision of the Animal Control Officer, the Vicious Dog shall be destroyed no sooner than 3 working days after the Owner has been notified to Council's decision.

13. The Owner of each unspayed female Dog shall confine her in the residence of the Owner or take the dog to a Kennel for the period of time that such Dog is in heat, and shall take all reasonable measures to prevent the congregation of Dogs upon or in the vicinity of the premises in which the unspayed female dog is confined during the time when she is in heat.

14. (a) It shall be the duty of the Animal Control officer, amongst other things to do to:
- (i) establish and maintain a Dog Pound for the confinement of Dogs apprehended pursuant to any provision of this By-Law;
 - (ii) apprehend and impound any dog which bites any person with sufficient force to break the skin, whether on private premises or elsewhere unless the Owner thereof forthwith delivers the Dog to the Dog pound, or to an approved premises where Dogs are kept under the personal supervision of a licensed veterinary surgeon. Any such Dog so delivered or taken to the Dog Pound shall be kept therein for a period of ten (10) days, unless the Medical Health Officer sooner certifies that all danger of infection has ceased, and any Dog so impounded shall be kept at the Owner's expense at the rate of \$10.00 per day or portion thereof during which such dog is impounded;
 - (iii) apprehend and impound in isolation any Dog thought to be rabid for a period of ten (10) days either in the Dog Pound or under the care of a licensed veterinary surgeon. If the Dog dies during that time, its head shall be removed and submitted to the Health of Animals Branch, Federal Department of Agriculture, for rabies examination. Any Dog known to be rabid shall be destroyed if required by order of the veterinary inspector;
 - (iv) notify the Owner of every dog impounded of the fact of impoundment and, where the Owner of the dog impounded is not known, to prepare and post in the general office of the Municipality, a notice describing each Dog impounded, the date of its apprehension and confinement, and the date after which the Dog will be sold, disposed of or destroyed;
 - (v) deliver to the Owner of every Dog with respect to which he or she believes or has reasonable grounds to believe that an offence under this By-Law is being or has been committed a Notice of Breach of By-Law in the form attached hereto as Schedule "A";

- (vi) sell, dispose of or destroy any Dog which is not claimed by its Owner, or for which the Owner has not paid, or whose Owner has refused to pay those costs chargeable to the Owner of a Dog after its apprehension;
 - (vii) collect and pay to the Municipality the costs chargeable to an Owner who reclaims a Dog which has been impounded;
 - (viii) prepare and deliver to Council a monthly report setting forth such information as Council may require.
- (b) No liability shall attach to the Animal Control Officer and/or the Municipality for any Dog destroyed or injured while being captured or during impoundment.
- (c) A person appointed or employed by the Municipality to carry out the provisions of this By-Law may lawfully enter upon the premises of any Owner or any person he or she reasonably believes to be the Owner to serve a Notice of Breach of By-Law pursuant to clause 15 (a) (v).
- (d) A person appointed or employed to carry out the enforcement of this By-Law may lawfully enter upon the lands of any person whom he or she reasonably believes to be the Owner of any Dog to be in breach of this By-Law for the purpose of apprehending the Dog, but shall not enter any dwelling house located upon said lands without the consent of the Owner for the purpose of apprehending the Dog.
- (e) Any resident of the Municipality may apprehend and confine a dog which is running at large and which is on his or her property and shall immediately thereafter inform the Animal Control Officer of the apprehension and confinement of the Dog, and the Animal Control Officer shall, as soon as practical, attend upon the complainant to take possession of the Dog.

15.

- (a) No person shall break open or assist in any manner, directly or indirectly in breaking open any Dog Pound, and shall on the conviction thereof as hereinafter provided, be subject to all the penalties of this By-Law. All persons removing or attempting to remove any Dog impounded therein, and in respect of which there may be unpaid fines, costs damages or other charges, shall be subject to like penalties.
- (b) No person shall hinder, delay or obstruct any person or persons engaged in taking to the Dog Pound any Dog liable to be impounded in the Dog Pound, and any such person shall for each and every hindrance, delay or obstruction, or conviction be subject to all the penalties of this By-Law.

16.

- (a) Where a Dog has been apprehended and confined pursuant to this By –Law, the Owner may redeem the Dog at the place of impoundment by paying to the Animal Control Officer:
- (i) the sum of \$10.00 per day or part thereof, that the Dog has been in confinement;
 - (ii) the cost of the tranquilizer dart, if the use of same was, in the opinion of the Animal Control Officer, necessary to apprehend the Dog; and
 - (iii) veterinary fees necessarily incurred in connection with the Dog during its confinement.

- (b) Where the Owner of a Dog refuses to pay the costs hereinbefore set forth within 72 hours of the time he or she is notified of the confinement of his or her Dog, or where the Owner cannot be found within 72 hours of the time when the Notice provided for in clause 15 (a) (iv) of this By-Law has been posted, the Animal Control Officer may:
- (i) sell the Dog to any person who will pay the actual costs associated with the apprehension and impoundment of the Dog to a maximum of \$120.00; or
 - (ii) destroy or otherwise dispose of the Dog.

SECTION V – RESTRICTED ANIMALS

17. Except as may be permitted by the Municipality's Zoning By-Law in effect from time to time, no Person shall keep or harbour any Restricted Animals within the Municipality without the express written permission of Council of the Municipality. Upon receipt of an application to keep a Restricted Animal from any person other than the owner or operator of a Traveling Show, Council shall comply with the notice and hearing requirements applicable to variation and conditional use applications as those requirements are set out in section 57(4) of The Planning Act.

18. Council need not give notice of an application from the owner or operator of a Traveling Show to keep a Restricted Animal in the Municipality on a temporary basis but shall consider the application at the next regularly scheduled meeting of Council following receipt of the application.

19. Any person who is keeping or harbouring a Restricted Animal in the Municipality at the time that this By-Law comes into force or effect shall have 30 days from the coming into effect of this By-Law, or such longer time as may be granted by Council in writing, to sell the Restricted Animal to a buyer outside of the Municipality or otherwise dispose of the Restricted Animal.

20. Where the Animal Control Officer believes that a Person is harbouring a Restricted Animal, the Animal Control Officer shall provide the Person with notice in writing to dispose of the Restricted Animal within fourteen days of receipt of the notice or such shorter period of time that the circumstances may require and the notice may provide.

21. The onus shall be on the Person receiving the notice contemplated by paragraph 20 to establish that the animal is not a Restricted Animal.

22. Where the Person has failed or refused to dispose of the Restricted Animal within the time frame contemplated by the notice, the Animal Control Officer may enter upon the land of that Person for the purpose of removing and disposing of the Restricted Animal but shall not enter any dwelling house located on the land without the consent of the Owner. The Animal Control Officer may, if he or she requires, be assisted by any other person to apprehend the Restricted Animal.

23. If the Person harbouring a Restricted Animal believes, on reasonable grounds, that the animal is not a Restricted Animal, he or she shall not be guilty of an offence under this Section.

SECTION VI – PENALTIES

24. Any Owner who contravenes or permits the contravention of any provision of this By-Law, or who fails, refuses or neglects to comply with the requirements of this By-Law, is guilty of an offence and is liable, upon summary conviction:

- (a) to a fine of \$50.00 plus applicable costs for a first offence;
- (b) to a fine of \$100.00 plus applicable costs for a second offence;
- (c) to a fine of \$200.00 plus applicable costs, for each subsequent offence.

25. Where an infraction of any of the provisions of this By-Law continues for more than one day, the person is guilty of a separate offence of each day such infraction continues.

26. By-Law No. 760 and By-Law No. 1027 of the Municipality are hereby repealed and shall hereafter cease to have effect.

DONE AND PASSED by the Council of the Rural Municipality of Alexander, in regular session assembled, in St. Georges, Manitoba, this 23rd day of March, 1999.

THE RURAL MUNICIPALITY OF ALEXANDER

Original signed by George Harbottle

REEVE

Original signed by Rose-Marie Blanchette

CHIEF ADMINISTRATIVE OFFICER

READ A FIRST TIME this 8th day of March, 1999.

READ A SECOND TIME this 23rd day of March, 1999.

READ A THIRD TIME this 23rd day of March, 1999.

SCHEDULE "A"
TO
BY-LAW NO. 7/99

NOTICE OF BREACH OF BY-LAW NO. 7/99 OF THE RURAL MUNICIPALITY OF ALEXANDER

TO _____
(Name & Address of Owner of Dog).

You are charged that on the _____ day of _____, _____ you did unlawfully:

- (a) as Owner, permit a dog to run at large within the limits of the Rural Municipality of Alexander, contrary to paragraph _____ of By-Law _____;
- (b) fail to confine a female Dog in heat, contrary to paragraph _____ of By-Law _____;
- (c) fail to muzzle and fasten a vicious dog, contrary to paragraph _____ of By-Law _____;
- (d) _____, contrary to paragraph _____ of By-Law _____.

Disposition of this charge may be made by attending at the General Office of the Rural Municipality of Alexander, during office hours, from _____, _____, to _____, _____.

Dated at St. Georges, in the Province of Manitoba, this _____ day of _____, _____.

ANIMAL CONTROL OFFICER

Form of Notice authorized by clause 15(a)(v) of By-Law No. 7/99 of the Rural Municipality of Alexander.

NOTE: "Owner" means any adult person who owns, keeps or harbours a dog or which knowingly permits or allows any other person to own, keep or harbour a dog upon premises owned, leased or occupied, either jointly or solely, by that adult person.