



Rural Municipality of De Salaberry

By-law No. 2327 -14

DOG CARE AND CONTROL BYLAW

Being a By-Law to provide for the regulation, control and well-being of dogs within the limits of the Rural Municipality of De Salaberry.

PART I: AUTHORITY

WHEREAS subsection 232(1) of The Municipal Act, C.C.S.M., cap. M225 (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;
- (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
 - (i) creating offenses,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offense that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offense, or related to enforcing the by-law,
 - (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offenses or nonpayment of fines."

AND WHEREAS subsections 5(1), (2) and (3) of The Animal Liability Act, C.C.S.M., cap. A95 provides, in relevant part, as follows:

"Animals not to run at large

5(1) Except when permitted by a municipal by-law passed in accordance with The Municipal Act or a by-law of a local government district passed in accordance with The Local Government Districts Act, no owner or person in charge of an animal shall allow it to run at large.

By-Law does not limit owner's liability

5(2) An owner's liability under section 2 is not limited or otherwise affected by a by-law referred to in subsection (1).

Municipality or LGD not liable by reason only of making By-Law

5(3) A municipality or local government district that makes a by-law referred to in subsection (1) is not liable, by reason only of having made the by-law, for damages for any harm that an animal causes to a person or property while running at large in the manner permitted under the by-law."

AND WHEREAS, subsections 31(1) and (2) of the Diseases and Dead Bodies Regulation, 338/88R of The Public Health Act, C.C.S.M., cap. P210 provide, in relevant part, as follows:

31(1) In the event of an animal bite to a person in which a physician determines that there is a possibility of transmission of rabies, the person bitten or any duly qualified medical practitioner or registered nurse attending that person shall forthwith notify the medical officer of health or the animal control officer of the municipality in which the biting incident occurred or a peace officer of the details of the biting incident.

31(2) An animal control officer or peace officer receiving a report pursuant to subsection (1) shall notify the medical officer of health of the details of the report at the earliest possible opportunity."

PART II: DEFINITIONS AND INTERPRETATION

By-Law Name

1(1) This By-Law may be referred to as the "ANIMAL CARE and CONTROL By-Law".

Definitions

1(2) In this By-Law, unless the context otherwise requires,

"aggressor animal" shall have the meaning ascribed thereto in section 10 of this By-Law;

"animal control officer" or "ACO" means person/persons appointed or employed by the Rural Municipality of De Salaberry, or contracted by the Municipality and includes any person acting as an assistant or an agent of the Government to carry out any provisions of this By-Law or any contracts or agreements entered into for the purpose of carrying out any provision of this By-Law.

"commercial dog kennel" means any premises upon which dogs are raised, trained or kept whether for gain or not;

"Council" means the council of the Rural Municipality of De Salaberry;

"current rabies vaccination" means that the dog has been vaccinated for rabies in accordance with international veterinary protocol which calls for a primary vaccination, which is then followed with a booster vaccination not sooner than 60

days and not greater than one year after the primary vaccination, and is then subsequently vaccinated at regular intervals not exceeding three years;

"dangerous animal" means any dog that has on at least one occasion, worried, attacked, injured or killed a person, livestock or any other animal, or that is for any other reason determined to be a risk to any person, livestock or any other animal, and that has been declared a dangerous animal under Part V of this By-Law;

"dog" means any member of the genus *Canis familiaris* (domestic dog);

"dog guide" means any dog specially trained for and actually used as a dog guide by a person whose sight is impaired or is blind.

"Municipality" means the Rural Municipality of De Salaberry;

"owner" includes any person who owns, keeps, harbors or has possession or control of an animal, or who owns, leases or occupies, either solely or jointly with others, any premises containing the animal or which contained the animal immediately prior to an attack by the animal or apprehension of the animal by the animal control officer or any other person;

"person" means any person, firm, corporation or partnership;

"pit bull" means

- i. Pit Bull Terrier or
- ii. Staffordshire Bull Terrier or
- iii. American Staffordshire Terrier or
- iv. American Pit Bull Terrier or
- v. Any dog which has the appearance and/or physical characteristics and predominately conforming to the ten(100 standards for any of the above breeds, as established either by the Canadian Kennel Club or the American Kennel Club or the United Kingdom Club which standards are attached as Schedule "A", as determined by a veterinarian licensed to practice in Manitoba.

"police officer" means any person who is a police officer within the meaning of the Criminal Code of Canada;

"pound" means any enclosure, premises or place, whether within or outside the Municipality, designated by Council for the impoundment and care of any animal for the purposes of enforcing any provision of this By-Law;

"poundkeeper" means the person appointed by Council, whether on a temporary or permanent basis, to operate and maintain a pound, and to carry out the duties of a poundkeeper as set out in section 4 of this By-Law;

"running at large" or "run at large" means, in relation to an animal, that the animal is not:

- (a) under the direct, continuous and effective control of a person competent to control it; or
- (b) securely confined within an enclosure or securely fastened so that it is unable to roam at will;

"rural area" means an area of the Municipality that is designated as being Rural Residential, Rural or Agricultural pursuant to the Zoning By-law of the Municipality;

"urban area" means an area of the Municipality that is designated as being Commercial, Industrial or Urban pursuant to the Zoning By-law of the Municipality (which include the definition of an L.U.D.).

Interpretation

- 1(3)** In all parts of this By-Law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

PART III: ESTABLISHMENT OF POUND AND APPOINTMENT OF AN ANIMAL CONTROL OFFICER (ACO) AND POUNDKEEPER

Establishment of Pound

- 2(1)** Council may establish and maintain a pound or pounds for the impoundment and care of animals apprehended pursuant to the enforcement of any provision of this By-Law. The location of the pound shall be at such place as the Council by resolution from time to time designates. Moreover, the Council may enter into an agreement with any person (including with any other municipality, city, town or organization) to establish and maintain a pound or pounds on their behalf. The costs associated with the pound(s) operated by or for the Municipality shall be paid out of the general funds of the Municipality.

Appointment of Animal Control Officer (ACO)

- 2(2)** Council may appoint one or more persons as animal control officer(s) to carry out the enforcement of this By-Law. The animal control officer(s) so appointed may be appointed on a temporary or permanent basis, and shall be paid out of the general funds of the Municipality.

Appointment of poundkeeper

- 2(3)** Council may appoint one or more persons as poundkeeper(s) to carry out the duties of the poundkeeper set out in this By-Law. The poundkeeper(s) so appointed may be appointed

on a temporary or permanent basis, and shall be paid out of the general funds of the Municipality.

Common animal control officer and poundkeeper

2(4) At the discretion of Council, the Animal Control Officer (ACO) may also serve as poundkeeper, and vice versa.

Duties of the Animal Control Officer (ACO)

3. It shall be the duty of the animal control officer(ACO):
 - (a) to apprehend and confine at the pound(s) , any dog found running at large contrary to the provisions of this By-Law and all dogs for which a tag has not been obtained in accordance with the provisions of this By-Law. The Animal Control officer (ACO) shall only pick up a dog on the request of the municipal office administration or his delegate.
 - (b) to make a reasonable attempt to notify the owner of every dog impounded if the identity of the owner is known, by direct contact with the owner or by leaving a notice at the last known address of the owner, which notice shall be in the form set out in *Schedule "C"* hereto attached and shall state the place and time that the dog was apprehended, the place and time when the dog can be redeemed from the pound, the impoundment fee, any daily pound fees and other costs or fines to be charged to the owner, the method of payment required, and the date after which the dog will be sold, destroyed or otherwise disposed of if not redeemed. Where the identity of the owner of the dog is not known, the animal control officer (CAO) shall post in the general office of the municipality a notice describing the dog and municipal website the date of apprehension and the date after which the animal will be sold, or otherwise disposed of or could decide to inform the public by any other electronic informational means.
 - (c) to enforce the provisions of this By-Law.

Duties of poundkeeper

- 4(1) It shall be the duty of the poundkeeper:
- (a) To provide sufficient food and clean water, adequate shelter and a safe and sanitary environment for every animal impounded;
 - (b) To establish and maintain the pound(s) in a manner in keeping with The Animal Care Act (Manitoba), and without limiting the generality of the foregoing, to discharge the duties of an owner as set out in subsection 2(1) of The Animal Care Act (Manitoba) while an animal is in the custody of the poundkeeper;
 - (c) To keep a record of every animal impounded, which record shall include the following minimum information:

- (i) a description in reasonable detail of the animal (including, the approximate weight, height and color of the animal, as well as the order and breed of the animal);
 - (ii) the day and hour of its impoundment;
 - (iii) the day and hour of its redemption, sale, disposition or disposal together with the details of redemption, sale, disposition or disposal;
 - (iv) the name and address of the owner (being the person to whom the animal was sold or released), and the license number on the animal's tag (if applicable);
 - (v) the amount and particulars of all fees, fines and other charges invoiced to, and received from or on behalf of, the owner and the name and address of the payor (if different from the owner); and
 - (vi) such other particulars as the Chief Administrative Officer of the Municipality shall direct from time to time in writing;
- (d) To collect all fees charged by the pound, and to remit all monies received by the pound to the Chief Administrative Officer of the Municipality or his delegate, together with such reports and statements as the said Chief Administrative Officer or delegate may prescribe from time to time, except where the Municipality has entered into a contract with a private party for the operation of the pound, in which case the poundkeeper shall observe all terms and conditions of the contract with the Municipality for the operation of the pound, including, without limitation, the provisions concerning the charging and collection of fees, the remittance of amounts due to the Municipality, and the submission of all reports and statements required to be submitted to the Municipality under the said contract;
- (e) To keep any impounded dog for a minimum period of: (i) three (3) days, which shall include the day of impoundment but shall exclude Sundays and any statutory holidays during which the pound is closed to the public, or (ii) where the Municipality has entered into a contract with a private party for the operation of a pound, the minimum hold period established under the poundkeeper's contract with the Municipality;
- (f) If, after expiration of the minimum period of impoundment set out in paragraph (e), a dog has not been redeemed, it will be the duty of the poundkeeper to do one of the following with the impounded animal:
- (i) sell, or otherwise dispose of the impounded animal to any person for an amount not less than the applicable pound fees accrued in respect of the impounded animal as set forth in this By-Law, unless such fees are otherwise waived in writing by the Municipality or by the poundkeeper on the express written authority of the Municipality; or

- (ii) give away the dog to a person (“*new owner*”) or a dog shelter or any recognize and well-established organization like the Winnipeg Human Society;
- (iii) cause the impounded animal to be humanely disposed of at the cost of the municipality;

unless the Municipality, or the poundkeeper on the express authority of the Municipality, agrees to or directs an extended period of impoundment, in which case the impounded animal will be held until the earlier of the date that it is sold or otherwise give away or otherwise disposed of to a person in accordance with sub-paragraph (g)(i) or until expiry of the extended period of impoundment, before it is humanely disposed of.

- (g) The Municipality may vary the terms, conditions and duties of the poundkeeper who is employed by the Municipality by contract with a private party, provided however that the contract shall contain (and where absent in the contract, shall be deemed to incorporate) as minimum provisions, the duties of the poundkeeper set out in paragraphs (a), (b) and (c) above, and further provided that the provisions in paragraphs (d), (e), and (f) above shall continue to apply except to the extent that they are specifically modified by the contract. Where the poundkeeper is a private party under contract with the Municipality, the poundkeeper shall observe all of the terms and conditions of the contract with the Municipality. Where it is permitted under the contract with the Municipality, the poundkeeper may, at its sole cost and expense, keep an impounded animal for longer than the minimum hold period, and may sell or give away or otherwise dispose of the impounded animal for an amount less than the applicable pound fees, provided however that the poundkeeper shall remain responsible to the Municipality for all amounts due to the Municipality under its contract with the poundkeeper.
- (h) To make sure that, any dog impounded has current rabies vaccination (deemed the “proof of vaccination”) before it is released by the pound keeper.
- (i) To make a monthly report showing the amount of fines collected, the proceeds of the sale of dogs and the names and address of the parties to whom dogs were sold or the proof of the new ownership and the name and address of the parties to whom the dog was given or released;
- (j) The pound keeper will have the authority to “give away” any dog to a shelter (called a “dog rescue shelter”) rather than having it euthanized.

Provisions for the dog owner

- 4(2) The owner of a dog that is captured or impounded is liable for and shall reimburse the Municipality for all costs incurred with respect thereto, including all costs incurred in capturing, impounding, feeding, advertising or destroying such dog and the Municipality may by By-Law add the said costs to the taxes of the owner.

PART IV: RESPONSABILITIES OF DOG OWNERSHIP

Responsibility of Owners Regarding Dogs

5(1) No owner shall:

- (a) permit his dog to run at large. When a dog is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection;
- (b) permit his dog to bark or howl or in any other way unduly disturb the quiet of any person or persons anywhere in the Municipality;
- (c) permit his 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 forthwith;
- (d) permit his dog to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbors;
- (e) permit his dog to damage public property or private property other than that of the owner. Where public or private property has been damaged by a dog, its owner shall be deemed to have failed or refused to comply with this subsection;
- (f) own, keep, harbor or have possession or control of any dog determined to be a dangerous animal, unless such dog is kept at all times in accordance with the provisions of Part V;
- (g) permit his dog to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner;
- (h) permit his dog on any school ground or playground;
- (i) permit his dog on public property (including parkland area) unless the dog is on a leash (which leash shall be no longer than six (6) feet in length, fully extended) and the dog is in the actual custody and effective control of the owner or a person competent to control it, unless the said public property has been specifically designated by Council as land upon which dogs are not required to be on a leash;
- (j) permit his dog to upset waste receptacles or otherwise litter;
- (k) permit his dog to worry, attack, kill or injure any livestock or other animal.
- (l) Dog owners are required to have their dogs licensed and have the municipal dog tag attached to the dog's collar at all times .

5(2) A visually impaired owner of a registered guide dog or any other person who requires the assistance of a registered guide dog shall not be subject to the restrictions imposed under subsections 5(1)(c), (h) and (i).

Redemption

6. Unless the impounded animal is determined to be a dangerous animal, the owner of any dog impounded by the animal control officer may be redeemed within three (3) days of the apprehension and impoundment by applying to the poundkeeper for redemption and paying:
 - (a) the impoundment fee as set out in Schedule A;
 - (b) the pound fee calculated in accordance with Schedule A;
 - (c) in the event that the impounded animal is a dog that is unlicensed at the time of apprehension, the relevant municipal license fee should be collected by the council or Chief Administrator Officer or his delegate or the Animal Control Officer or the poundkeeper before the release of the dog; and
 - (d) all outstanding fines, damages or costs relating to the impounded animal.

Dogs

- 7(1) Subject to subsection 7(2) and the provisions of section 5, the owner of a dog shall not permit the dog to be outside of the owner's premises unless: (a) the dog is on a leash that is less than six (6) feet in length fully extended; and (b) the dog is under the immediate charge and effective control of a person competent to control it.
- 7(2) A female dog in heat shall be confined to the premises of the owner or a person having control of the dog, or shall be housed in a kennel, for the period of time that the dog is in heat. The said dog's confinement shall be in such a manner as to prevent any contact between the dog in heat and any other dog except other dogs owned by the same owner or by another owner who voluntarily permits such contact.

Pit Bull Dogs

- 7(3) (a) Notwithstanding anything to the contrary herein contained, any Pit Bull dog, and as per definition, within the Municipality is and shall be conclusively deemed a dangerous dog.
 - (b) No person shall keep or harbor any Pit Bull dog regardless of age on or after January 1st, 2002 (Reference to *By-Law 2202-04*) except where the owner has a valid dangerous dog license for that dog which has been issued prior to that date.
 - (c) A person may temporary keep or harbor in the Municipality a Pit Bull dog only for the purpose of showing such a Pit Bull dog in a place of public exhibition, contest, or show sponsored by a *bona fide* dog club association, provided that when such Pit Bull dog is not being show at the place of said public exhibition, contest, or show, it shall be:
 - (i) securely kenneled;

(ii) muzzled, restrained by a chain or leash not exceeding six(6) feet in length and under the control of a responsible person.

(d) The owner of a Pit Bull dog shall notify the pound keeper within two(2) working days in the event that the Pit Bull dog has a litter. The owner shall deliver the offspring to the pound for destruction, or permanently remove the offspring from the Municipality by the time the offspring are weaned and provide sufficient evidence of such removal to the pound keeper. In no event shall the owner keep or harbor within the Municipality a Pit Bull born after January 1st, 2002 (Reference to *By-Law 2202-04*) that is more than twelve weeks old.

Maximum Number of Dogs

7(4) No person shall own, harbor, keep or have in his possession or control or on his premises, more than three (3) dogs over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, unless such person operates a kennel authorizing him to own that number of dogs.

Offence

7(5) Any person who fails to comply with the terms and conditions set out in this section 7 shall be guilty of an offence under this By-Law.

PART V: DANGEROUS ANIMALS

Animal Bites

8(1) The animal control officer:

(a) shall apprehend, impound and place in quarantine any dog that he has reason to believe has bitten a person; whether on private premises or elsewhere, and whether or not the skin was directly punctured or lacerated by the bite. This section shall not apply to a police service dog owned by a public law enforcement agency while on duty and under the control of a qualified dog handler.

8(2) If the aggressor animal is not voluntarily surrendered to the animal control officer by the owner, the animal control officer shall be empowered to apprehend and impound the aggressor animal and, if necessary, to apply to a provincial court judge, magistrate or justice of the peace, as required, in order to obtain an order to enter the personal residence of the owner for the purpose of apprehending and impounding the aggressor animal.

8(3) Any aggressor animal so apprehended and impounded at the pound shall, subject to subsection 8(9) herein, be quarantined for a minimum of ten (10) days at the owner's expense, commencing from the date of impoundment (the "quarantine period").

8(4) The animal control officer may, in his discretion, authorize the owner of the aggressor animal to quarantine the aggressor animal in a place other than the pound, provided that

such place is under the direct supervision of a licensed veterinarian and that the aggressor animal must remain at such place at the owner's expense for the quarantine period.

- 8(5) Subject to a determination by the animal control officer pursuant to subsection 8(8) hereof that the aggressor animal is not a dangerous animal, the aggressor animal may be released to the owner after expiry of the prescribed quarantine period upon payment by the owner to the poundkeeper of a pound fee calculated at the daily rate set out in Schedule A hereto attached together with any costs or fines assessed against the owner hereunder. In the event that the owner fails to redeem the aggressor animal from the pound within three (3) days after expiry of the quarantine period, the aggressor animal shall be sold, or otherwise disposed of at the discretion of the poundkeeper.
- 8(6) The animal control officer shall keep a record of all bite incidents, identifying the aggressor animal and the details of the incident, and such record may be used in any hearing or appeal with respect to the dangerous animal provisions contained herein.
- 8(7) The head of any aggressor animal quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to subsection 9(8) hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 8(8) Every aggressor animal shall be examined, at the cost of the owner, by a licensed veterinarian approved by the animal control officer prior to release from quarantine. The determination as to whether or not the aggressor animal can be released from quarantine or must be destroyed or otherwise disposed of, shall be at the discretion of the animal control officer based upon the following factors:
 - (a) the medical report of the licensed veterinarian who has examined the aggressor animal;
 - (b) whether or not the public health authorities are prepared to consent to the release of the aggressor animal;
 - (c) the severity of the bite incident, the circumstances surrounding the incident and the consequences of the incident;
 - (d) whether or not the aggressor animal is, in the opinion of the animal control officer, a dangerous animal and, if yes, whether or not the provisions of section 10 hereof have been complied with;
 - (e) proof that the aggressor animal does not have rabies, and that the aggressor animal has a current rabies vaccination status at the date of the bite incident.
- 8(9) Notwithstanding the provisions of subsection 8(3) herein, it shall be within the discretion of the animal control officer to release an aggressor animal prior to the expiry of the quarantine period and to impose conditions upon the release of an aggressor animal from quarantine, which conditions may include, without limiting the generality of the foregoing:

- (a) the owner shall take the necessary measures to ensure that the aggressor animal is confined to the owner's premises in such a manner as to prevent escapes, and to ensure that all direct contact with other animals and persons other than the owner is avoided;
- (b) the owner shall post in a conspicuous location at the entrance of the premises where the aggressor animal is confined, a sign which reads "**Beware of Dangerous Dog**";
- (c) the owner shall submit the aggressor animal, at the owner's cost, for veterinary examination from time to time as may be prescribed by the animal control officer, and shall report the results of any such veterinary examination to the animal control officer;
- (d) the owner shall take out and pay for such liability insurance, if available by an insurer on the aggressor animal as may be prescribed by the animal control officer;
- (e) the owner shall be responsible for all costs, fines and damages associated with the aggressor animal, including the costs of impoundment, quarantine, signage and veterinary fees, pound fees, and any costs associated with liability to the victim or victims of the bite incident;
- (f) such other conditions as the animal control officer may deem necessary or advisable in the interests of public safety.

Determination that an animal is a dangerous animal

- 9(1) Where the animal control officer has reason to believe that an animal, including but not limited to an aggressor animal under section 8, is a dangerous animal, he shall arrange a hearing before Council at a regularly scheduled meeting of Council to determine whether or not the said animal should be declared a dangerous animal. In the event that an owner voluntarily accepts the dangerous animal declaration and the recommended disposition of the matter made by the animal control officer, a hearing before Council may be dispensed with, and the recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.
- 9(2) Where it is deemed necessary by the animal control officer to protect the public or other animals pending the decision of Council, the animal control officer may: (i) require that the animal be quarantined in the pound until the earlier of the date that the animal control officer determines that it is safe to release the animal to the custody of the owner or until Council hears the matter and issues its determination; or (ii) may impose all or any of the conditions set out in subsection 10(2) of this By-Law upon the owner's custody of the animal, which conditions shall apply until the earlier of the date that the animal control officer determines that it is safe to remove the conditions or until Council hears the matter and issues its determination.

- 9(3) Council shall provide written notice of the hearing to the owner of the animal at least ten (10) days in advance of the hearing by serving notice upon the owner or by mailing the notice by registered mail to the last known address of the owner. In the case where the animal alleged to be a dangerous animal is a dog, the animal control officer shall be entitled to mail the said notice to the last address provided by the owner to the Municipality in relation to the licensing of the said dog. The notice shall include the following minimum information:
- (a) the time, place and purpose of the hearing;
 - (b) a summary of the reasons in support of the allegation that the animal is dangerous;
 - (c) a copy of the section 9 of the By-Law; and
 - (d) a statement that if the owner does not attend the hearing, the matter will be dealt with in his absence and that he will not be entitled to any further notice or appeal in regard to the proceedings concerning the animal.
- 9(4) (a) The owner has the right to appear at the hearing, with or without counsel, and to make submissions to Council and call evidence (whether *viva voce* or documentary) on his behalf. The owner also has the right to hear all of the evidence and submissions presented at the hearing by or on behalf of the animal control officer and to inspect any documents filed by or on behalf of the animal control officer, and to respond to same.
- (b) Where the owner does not attend at the hearing, having been given notice as provided in accordance with this section 9, Council shall be entitled to deal with the matter in his absence, and the owner shall not be entitled to any further notice or appeal in regard to the proceedings concerning the animal. The owner shall be notified of the decision of Council by notice in writing delivered by personal service or registered mail in the manner set out in subsection 9(3) hereof.
- 9(5) Within five (5) working days of the hearing of Council, Council shall issue a written decision in accordance with the following provisions:
- (a) The Council shall make an order declaring the animal to be a dangerous animal if in their opinion:
 - (i) whether or not the dog has caused injury to or killed a person, without provocation, whether on public or private property;
 - (ii) the dog has seriously injured or killed any other domestic animal or any livestock without provocation;
 - (iii) the animal is used primarily for the purpose of guarding property and is not a police service dog owned by a public law enforcement agency;

- (iv) the circumstances surrounding the injury of such a person or animal;
 - (v) whether or not the dog has previously bitten, wounded or injured any person or animal;
 - (vi) the circumstances surrounding any previous biting or wounding incidents; and
 - (vii) whether or not the dog, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, persons or animal upon the street, sidewalk or any public property.
- (b) The Council may make an order declaring the animal to be a dangerous animal if, in their opinion, there is a material risk that the animal may cause damage or injury to person or property or any other animal, taking the following non-exhaustive factors into account:
- (i) whether the animal has worried, bitten, wounded or injured any person or animal, or is otherwise an aggressor animal;
 - (ii) the circumstances surrounding any previous worrying, biting or wounding incidents; and
 - (iii) whether the animal, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, any person or any other animal upon any public or private property.
- 9(6) The Council shall deliver a copy of their decision to the owner in the manner provided in subsection 9(3). There shall be no obligation upon Council to issue written reasons for their decision.
- 9(7) The decision of Council shall be final. There shall be no appeal from the decision of Council.
- 9(8) Every owner who has received notification from Council pursuant to subsection 9(3) that a determination hearing will be held with respect to his animal, shall ensure that the animal remains confined upon the premises of the owner pending the final outcome of the hearing.
- 9(9) Subsection 9(8) shall not apply if the animal is impounded or the animal control officer receives written confirmation from a licensed veterinarian that the animal has been placed in quarantine pending outcome of the hearing.

Consequences of dangerous animal declaration

- 10(1) Council shall determine whether the dangerous animal should be disposed of or released to the owner subject to the conditions set out in subsection 10(2). The decision of Council shall be final and not subject to appeal.

- 10(2) Every owner of an animal that has been declared to be dangerous and in respect of which Council has decided to release the dangerous animal to its owner, shall:
- (a) cause the dangerous animal to be tattooed upon the ear with clearly identifiable information as set out by the Council and provide a copy of such information to the poundkeeper.
 - (b) ensure that the dangerous animal, while on private property, is kept either securely confined indoors or in a securely enclosed and locked pen, structure or compound which:
 - (i) is capable of preventing the entry of young children and the escape of the dangerous animal;
 - (ii) has minimum dimensions suitable for the size of the dangerous animal, as prescribed by the animal control officer;
 - (iii) has secure sides and top; and
 - (iv) provides protection from the elements for the dangerous animal.
 - (c) permit the dog upon public property only if: (i) it is muzzled; (ii) it is restrained by a chain or leash not exceeding six (6) feet in length, fully extended; and (iii) the dog is at all times under the effective control of a person competent to control it.
 - (e) display in a conspicuous location at each entrance to the premises upon which the dangerous animal is kept, a sign stating: WARNING: BEWARE OF DANGEROUS DOG. The sign shall be posted in such a manner that it cannot be removed easily by a passersby and will be visible and capable of being read from outside of the premises.
 - (f) within three (3) working days of selling, giving away or otherwise disposing of the dangerous animal, provide the animal control officer with the name, address and telephone number of the new owner.
 - (g) inform and invite the animal control officer to verify within three (3) working days of the death of the dangerous animal. Provide the animal control officer to have a proof to visually verify himself the death of the dangerous animal – this visual proof is bearing of the dog owner in collaboration with the animal control officer.
 - (h) advise the animal control officer forthwith if the dangerous animal has gone missing or is running at large or has bitten, worried or attacked any person or animal.
 - (i) Every owner of a dog that has been declared to be dangerous shall advise the animal control officer and the By-Law Enforcement Officer (*if it is the case*) of a

period of no less than three (3) days prior to a physical change in address within the Municipality and all previous conditions imposed by a resolution order remain in effect, unless the resolution order amended and approved by the Council of the Municipality prior to the change of physical address.

- (j) such other conditions as may be prescribed by order of the Council, including, without limitation, any of the conditions set out in subsection 9(9) hereof.

10(3) No person shall deface or remove a sign posted pursuant to subsection 10(2)(e) or subsection 8(9)(b) hereof without having first obtained the permission of the animal control officer.

Destruction of dangerous animal or aggressor animal

11(1) Where it appears on reasonable grounds that an owner has breached a condition of this By-Law in respect of an animal that has been declared dangerous or if an aggressor animal has caused injury or damage to any person, property or any other animal or if the animal control officer otherwise has reasonable grounds to believe that an animal presents a risk to any person, property or any other animal and such animal has been declared a dangerous animal by Council, the animal control officer may apprehend and impound the animal for the purpose of disposing of it. In the event that an animal is causing an immediate risk to any person, property or any other animal, the animal control officer is authorized to apprehend and impound the said animal notwithstanding that it has not been declared to be a dangerous animal by Council at the time of its apprehension and impoundment.

11(2) When the animal control officer impounds a dog under this section 11 for the purpose of destruction of the animal, he shall give the owner written notice, delivered to the last known address of the owner, that the animal will be disposed of after the expiry of ten (10) days from 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 of the Municipality, in which case Council shall hold a hearing at a regularly scheduled meeting of Council as to whether or not the animal should be disposed of, which hearing shall be carried out in accordance with the provisions of section 10 hereof. The animal shall remain quarantined in the pound pending the outcome of the hearing. The humanly disposal of the dog, if case may be, will be at the sole cost of the dog owner.

PART VI: DOG LICENSING / TAGS

12(1) (a) Every dog owner in the Rural Municipality of De Salaberry must produce, before a license tag is issued, a certificate of vaccination for rabies for that dog from a licensed veterinarian in Manitoba showing that the dog has been vaccinated at every two years (24 months) intervals prior to the anniversary date of the last vaccination. Identification is mandatory in the event the dog is picked up by the animal control officer. In all cases, if a dog is picked up, licensing and vaccination of the animal will be a requirement prior to the release or prior arrangements made with the veterinarian to have the animal

vaccinated immediately after release. A proof of this arrangement has to be shown to the animal control officer or poundkeeper prior to the releasing of the dog.

(b) Notwithstanding subparagraph (a) above, no certificate of vaccination for rabies shall be required where the dog owner produces a statement in writing from a licensed veterinarian in Manitoba stating that the dog, for medical reasons, cannot be vaccinated for rabies.

(c) No unauthorized person shall be permitted to remove the tag from any tagged dog.

PART VII: LICENSE FEES:

13(1) The annual commercial dog kennel license fees shall be set through Schedule “A” as attached.

(a) The cost of a dog license application fee shall be set through Schedule “A” as attached.

(b) Dog owners are required to have their dogs licensed and have the municipal dog tag attached to the dog’s collar at all times .

(c) The cost of the license is based on the life of the dog and is not based on a yearly renewal principle. Only a new application will require a license fee for the addition of a new dog. To keep our license database up-to-date, it is the responsibility of the dog owner to advise the municipality for any change of address within the municipality or any change of ownership. A change of ownership of a dog , if licensed, will not require a new license fee but will required that the previous owner contact the Chief Administrative Officer (CAO) to make appropriate corrections.

PART VIII: DOG KENNELS

14. (a) No more than 3 dogs over the age of 4 months may be harbored in any household, unless and until a dog kennel license for such household has been approved and issued by the Council of the Municipality.

(b) The council of the Municipality shall not issue a dog kennel license if it is the opinion that the operation of such dog kennel may be injurious riots to the interest of occupants or owners of property in the vicinity.

(c) No dog kennel license shall be issued except with the approval of the Council of the Municipality by resolution.

(d) Every dog kennel license shall expire on the 31st day of December next after the license became effective.

(e) Provide to the Chief Administrative Officer (CAO) or the By-Law Enforcement Officer (*if case may be*), an acceptable kennel inspection by a qualified Manitoba Veterinarian prior to a kennel license being issued and on a yearly basis before the

expiry date of December 31st. Inspections are required for pre-existing kennels and all new applications.

- (f) Any person who intends to establish a commercial dog kennel shall apply in writing to the Chief Administrative Officer (CAO) the location of the kennel, the number of dogs to be kept and the intended purpose of the commercial dog kennel in accordance with the Zoning By-Law.
- (g) On receipt of an application, the Chief Administrative Officer shall,
 - (i) Fix a day for the consideration by Council of the application which shall be not later than 30 days after the date of receipt of the application;
 - (ii) Notify the applicant of the time and place at which the Council will consider the application;
 - (iii) Not later than 10 days before the day fixed for consideration of the application, give notice of the application by regular mail to each assessed owner according to the latest revised assessment roll, of property within a radius of 100 meters from the proposed site affected; to each owner of land adjoining the proposed site affected or across the street or lane if any; and give such notice in any other manner that Council deems advisable.
- (h) On the day and at the time and place stated in the notice, the Council shall receive representation of the applicant and any other person, who desires to make representations either on his own behalf or on behalf of another.
- (i) On completion of the receipt of representation, the Council may by way resolution:
 - (i) reject the application; or
 - (ii) approve the application with or without conditions which in the sole opinion of the Council may be necessary or desirable to ensure the location of commercial dog kennel is compatible with the neighborhood.
- (j) The Chief Administrative Officer shall send a copy of the decision of Council to the applicant and to any person who made representations at the meeting of Council.
- (k) The decision of Council is final and binding on all persons and the commercial dog kennel license may be revoked by Council for any violation of any conditions imposed by it.
- (l) In pursuance of his duties, a dog control officer under contract for the municipality and if located within the municipality, is exempted of the condition under this section 14.

PART IX: GENERAL PROVISIONS

Offenses under this By-Law

15(1) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offenses under this By-Law:

- (a) Allowing or failing to prevent a dog from running at large;
- (b) Keeping or harboring dogs in excess of the maximum number permitted by this By-Law;
- (c) Failing to comply with an order of the animal control officer to dispose of any dogs in excess of the prescribed limit made under section 8 of this By-Law;
- (d) Failure by the owner of a dog to comply with any one or more of the provisions of section 5, subsection 7(2) or section 7(3) of this By-Law;
- (e) Failing to report a bite incident or failing to voluntarily surrender the dog believed to have bitten a person to the animal control officer or poundkeeper;
- (f) Failing to voluntarily surrender a dog to the animal control officer upon a request therefor;
- (g) Failure by an owner to discharge the duties of an owner as set out in subsection 2(1) of The Animal Care Act (Manitoba);
- (h) Failing to properly vaccinate a dog against rabies;
- (i) Failing to comply with any requirements of Part V of this By-Law in relation to an aggressor animal or a dangerous animal;
- (j) Defacing or removing a sign required to be posted under subsection 8(9)(b) or subsection 10(2)(e) of this By-Law;
- (k) Failing to comply with the requirements of Part VII of this By-Law in relation to licensing.
- (l) Failing to comply with requirements of Part VI of this By-Law in relation to Tags.
- (m) Failing to comply with any requirements of Part VIII of this By-Law in relation to Dog Kennels.

Interference with enforcement

15(2) It shall be an offense under this By-Law for a person to interfere or obstruct any attempt by the animal control officer, poundkeeper or the Council from carrying out its duties and obligations hereunder. Without limiting the generality of the foregoing, no person shall interfere or obstruct or attempt to interfere or obstruct an animal control officer, the poundkeeper, a police officer or any other person authorized to apprehend and impound an animal running at large, who is attempting to apprehend or impound, or who has

apprehended and impounded, any animal in accordance with the provisions of this By-Law.

15(3) It shall be an offense under this By-Law:

- (a) to break into, or assist another person in any manner, directly or indirectly, to break into, any pound; and
- (b) to remove or attempt to remove any impounded animal, or to otherwise cause or assist an escape of any impounded animal.

Apprehension by Resident

15(4) Any resident of the Municipality may apprehend and confine an animal which is running at large on his property, provided that he promptly notifies the animal control officer or Chief Administrative Officer or his/her delegate of the Municipality of the apprehension and confinement, and the animal control officer shall as soon as practical, attend upon the resident to take possession of and impound the animal.

Complainant Identification

15(5) A complainant must give to the Council or the Chief Administrative Officer(CAO) or his/her delegate, his or her name, address, and telephone number before any action will be taken to either impound a dog or to institute or initiate any legal proceedings under this present By-Law.

Right of Entry

16(1) The animal control officer or any other person appointed by the Municipality to enforce the provisions of this By-Law or any other law, rule or regulation pertaining to animal care or custody, may lawfully enter upon the land and buildings of an animal owner or any other person, other than the personal residence of an individual, for the purposes of apprehending an animal running at large, to ensure compliance with this By-Law or to otherwise enforce the provisions of this By-Law, but shall not enter the personal residence of any individual without the consent of the owner or occupant of the personal residence or a valid warrant or order from a provincial court judge, magistrate or justice of the peace, as required to permit such entry.

16(2) The owner of any dog that has bitten any person or any other animal shall present the said animal to the door of his dwelling upon the request of the animal control officer, to assist the animal control officer to apprehend and impound the said animal.

Complainant Identification

17(1) Any person who makes a complaint alleging an offense under this By-Law against another person shall provide to the Chief Administrative Officer or his/her delegate his name, address and telephone number.

Liability

- 18(1) No liability shall attach to the animal control officer, the poundkeeper, the Council and/or the Municipality in carrying out their respective duties under this By-Law. Without limiting the generality of the foregoing, no liability shall attach to the animal control officer, the poundkeeper, the Council and/or the Municipality for any animal, sold or otherwise disposed of pursuant to the provisions of this By-Law or killed or injured during the course of its apprehension or impoundment.

Penalties

- 19(1) Without limiting the penalties for specific offenses set out in subsections 19(2) and (3) hereof, any person who contravenes any provision of this By-Law is guilty of an offense and is liable to a fine as described in Schedule "A".
- 19(2) Any animal that is impounded three times within any 12-month period while owned by the same owner, shall be sold or disposed of to a new owner or shall be disposed of regardless of whether or not it is properly licensed under this By-Law.
- 19(3) Any person who interferes with or obstructs the duties of an animal control officer, a poundkeeper or any other person authorized to enforce any provisions of this By-Law, or who unlawfully enters any pound or unlawfully removes any animal impounded, is guilty of an offense and is liable to a fine of not less than \$500.00 and not more than \$1000.00.
- 19(4) Where a corporation commits an offense under this By-Law, each director or officer of the corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in, the doing of the act that constitutes the offense, is likewise guilty of the offense and liable for the penalties provided for herein.
- 19(5) Where the contravention, disobedience, refusal or neglect continues for more than one (1) day, the person is guilty of a separate offense for each day that the contravention, disobedience, refusal or neglect continues.
- 19(6) Council of the Municipality may, by resolution, after the passage of this By-Law change the penalties and impoundment fees found in Schedule "A" from time to time.

PART X: SPECIAL CONSIDERATIONS IN CASE OF AN EMERGENCY

- 20(1) In the event of an outbreak or the threat of an outbreak of rabies or any other diseases which can be transmitted through dogs, Council may require every owner to confine his dog upon his premises for such period of time as Council in their sole discretion may determine.

PART XI: GENERAL PROVISIONS AND REPEAL

- 21(1) A Notice of breach of By-Law in the form set forth in Schedule "B" to this By-Law may be served by the Animal Control Officer or/and poundkeeper to an owner whose dog has

not been apprehended, or shall be served on the owner, where he is known where the dog has been apprehended.

- 21(2) This By-Law should not be interpreted so as to limit, restrict or curtail in any manner the rights of any person contained in the provision of *The Animal Husbandry Act* of Manitoba and amendments thereto.
- 21(3) If any provision of this By-Law is held to be invalid by a court of competent jurisdiction, the remaining provisions of this By-Law shall not be invalidated.
- 21(4) That the By-Law No.2202-04 of the Rural Municipality of De Salaberry is hereby repealed in its entirety.
- 21(5) This By-Law shall come into force and effect on the date of its passing.

DONE AND PASSED as a By-Law of the Municipality of De Salaberry by the Reeve and Council in open session assembled this October 14, 2014.

Original Signed

Reeve, Ron Musick

Original Signed

Chief Administrative Officer, Larissa Love

Read a first time September 9, 2014
Read a second time September 30, 2014
Read a third time October 14, 2014



SCHEDULE A – PENALTIES, FEES, AND IMPOUNDMENT FEES

KENNEL FEES (AS TO BE RENEWED YEARLY)	\$250.00
DOG LICENCE FEES (NOT SPAYED OR NEUTERED)	\$40.00
DOG LICENCE FEE (SPAYED OR NEUTERED)	\$20.00

NOTE¹: As per By-Law, before releasing any unlicensed dog, the dog owner has to obtain a licence for his dog and present the proof of vaccination against rabies. The license can be obtained at the R.M. office at regular hours or the animal control officer after the R.M.'s regular hours.

NOTE¹: Dog license fees will be at no charge from the date of the By-Law enactment until December 31st, 2015. Fees will commence on January 1st, 2016. Dog license fee is for the whole duration of the life of the dog independently of the change of ownership of the dog. If there is a change in ownership of the dog then the new owner, if he is a resident of the R.M. of De Salaberry, will be responsible to contact the R.M.'s office to make the appropriate corrections.

Penalties and Impoundment Fees

For any dog that was apprehended running at large or that was for any other reason, impounded by the animal control officer

For first impoundment:

Licensed	\$50.00
Unlicensed	\$100.00

For second impoundment:

Licensed dog	\$100.00
Untagged licensed dog	\$200.00

For third impoundment

Licensed dog	\$350.00
Untagged licensed dog	\$450.00

NOTE¹: After the **third** offense, any future and successive impoundment of the dog (4th, 5th, ... xth, the fine will be increased by \$100.00 increment for either the Licensed or the Untagged dog.

Impoundment Fee	\$20.00/day
Animal disposal charge* (inc. possible <i>euthanasia</i>)	\$150.00/day
Impoundment fee for quarantined animals:	\$40.00/day
Complaint received for dog barking (if the complaint <i>after verification</i> is legitimate):	
<i>(Reference: Article 5.1 (b))</i>	
First complaint	Warning
Second complaint	\$25.00
Third complaint	\$50.00
For all subsequent complaints	Add \$50.00 (increment to the last Fee collected)



SCHEDULE B

NOTICE OF IMPOUNDMENT

Owner: _____

(Name and Address of Owner of animal)

Description of Animal: _____

Date of Apprehension: _____

Time of Apprehension: _____

Location Animal Apprehended: _____

Place of Impoundment: _____

Hours of Operation of Pound: _____

Phone No. of Pound: _____

Daily Pound Fee: _____

Impoundment Fee and/or Fine: _____

License Fee: _____

Method of Payment Required: _____

Day the animal will be sold or disposed of: _____

Date: _____ Animal Control Officer: _____

Signature: _____