

TOWN OF LAC DU BONNET

By-Law 08/18

BEING a By-Law to provide for the regulation, control and license of animals within the limits of the Town of Lac du Bonnet and to repeal By-Law 20/16.

WHEREAS Section 232 (1) of the Municipal Act and referred to as Chapter M225 of the Continuing Consolidation of the Statutes of Manitoba provides as follows:

- 232 (1)** A Council may pass by-laws for town 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 subsections 5(1), (2) and (3) of *The Animal Liability Act*, S.M. 1998 c. 58 provide, in relevant part, as follows:

Animals not to run at large

5(1) Except when permitted by a town by-law passed in accordance with *The Municipal 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).

Town not liable by reason only of making By-Law

5(3) A town 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*, R.S.M. 1987 c.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 town 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 opportunity.

THEREFORE BE IT RESOLVED THAT the Council of the Town of Lac du Bonnet, duly assembled, does enact as follows;

TITLE

1.0 This By-Law may be referred to as the "Animal Control By-Law"

DEFINITIONS

2.0 In this By-Law, unless the context otherwise requires,

- a) “Aggressor animal” shall have the meaning ascribed thereto in section 9 of this By-Law.
- b) “Animal control officer” means the person appointed by Council to enforce the provisions of the By-Law, and includes any person acting as an assistant to, or under the direction of, the animal control officer authorized by the Council.
- c) “Council” means the Council of the Town of Lac du Bonnet.
- d) “Animal” means any domestic animal.
- e) “Kennel” means wood or chain link, minimum of 6 feet high.
- f) “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.
- g) “Person” includes a firm or corporation.
- h) “Pound” means any enclosure, premises or place, whether within or outside the Town, designated by Council for the impoundment and care of any animal for the purposes of enforcing any provision of this By-Law.
- i) “Pound keeper” 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 pound keeper as set out in section 4 of the By-Law.
- j) “Proper fence” means wood or chain link, minimum of 6 feet high.
- k) “Running at large” or “run at large” means, in relation to an animal, that the animal is not:
 - (i) under the direct, continuous and effective control of a person competent to control it; or
 - (ii) securely confined within an enclosure or securely fastened so that is unable to roam at will.
- l) “Town” means the Town of Lac du Bonnet, and that enforcement of the By-Law shall be limited to those animals who are normally located within the geographic limits of the Town, or those animals who are apprehended within the geographic limits of the Town having been found to be running at large.

INTERPRETATION

3.0 In all parts of the 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.

ESTABLISHMENT OF POUND KEEPER AND ANIMAL CONTROL OFFICER

- 4.0 Council may appoint by resolution one or more persons as pound keeper(s) to carry out the duties of the pound keeper set out in this By-Law. The pound keeper(s) so appointed may be appointed on a temporary or permanent basis, and shall be paid out of the general funds of the Town.
- 4.1 At the discretion of Council, the animal control officer may also serve as pound keeper, and vice versa.
- 4.2 It shall be the duties of the animal control officer:
- a) to apprehend and confine any animal running at large within the Town contrary to the provisions of the By-Law.
 - b) to apprehend and confine any animal which is running at large within the Town contrary to the provisions of the By-Law, or which if kept or harbored by, or in the possession or control of, any person that is in breach of the By-Law or of any other laws or regulations pertaining to animals.
 - c) to make reasonable attempt to notify the owner of every animal 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, and shall state the place and time that the animal was apprehended, the impoundment fee, and daily pound fees, license fees and other costs or fines to be charged to the owner, the method of payment required, and the date after which the animal will be sold, destroyed or otherwise disposed of if not redeemed. Where the identity of the owner of the animal is not known, the animal control officer shall post in the general office of the Town, a picture describing the animal, the date of apprehension and the date after which the animal will be sold, destroyed or otherwise disposed of.
 - d) The animal control officer or pound keeper may use a tranquilizer gun for the purpose of capturing any animal found to be running at large within the Town, provided however that if the animal control officer or the pound keeper, as applicable, is not a licensed veterinarian, no such tranquilizer gun shall be used without the authority of a licensed veterinarian present at the time of use.
 - e) to enforce the provisions of this By-Law.
- 4.3 It shall be the duties of the pound keeper:
- 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 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 pound keeper.
 - c) To supply information of every animal impounded to the Clerk of Town, so as a record can be kept, and such a record shall include the following minimum information:
 - (i) satisfaction of the clerk of the Town before animal is released to the owner; and

- (ii) such other particulars as the clerk of the Town shall direct from time to time.
- d) To keep any impounded animal for a minimum period of five (5) 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 where the Town has entered into a contract with a private party for the operation of the pound, the minimum hold period established under the pound keeper's contract with the Town.
- e) To make suitable arrangements for the temporary impoundment and sale, disposition or destruction of any animal or domestic pet that is apprehended within the Town.
- f) If, after expiration of the minimum period of impoundment set out in paragraph (e), an animal has not been redeemed, it will be the duty of the pound keeper 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 and license fees accrued in respect of the impounded animal as set forth in this By-Law, unless such fees are otherwise waived by the Town; or
 - (ii) cause the impounded animal to be humanely destroyed; unless the Town, or the pound keeper on the express authority of the Town, 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 disposed of to a person in accordance with sub-paragraph (f)(i) or until expiry of the extended period of impoundment, before it is humanely destroyed.
- g) The Town may vary the terms, conditions and duties of the pound keeper 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 pound keeper 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.
- h) Where the pound keeper is a private party under contract with the Town, the pound keeper shall observe all of the terms and conditions of the contract with the Town. Where it is permitted under the contract with the Town, the pound keeper may, at its sole cost and expense, keep an impounded animal for longer than the minimum hold period, and may sell or otherwise dispose of the impounded animal for an amount less than the applicable pound and license fees, provided however that the pound keeper shall remain responsible to the Town for all amounts due to the Town under its contract with the pound keeper.

ANIMALS

- 5.0 The animal control officer may at any time require that an owner provide proof of vaccinations.

RESTRICTIONS ON ANIMALS

- 6.0 No owner shall:

- a) permit his animal to bark or howl, or his animal in any other way disturb the quiet of any person or persons;

- b) permit his animal to defecate on any public or private property other than the property of its owner. Where an animal defecates on property other than the property of its owner, the owner shall cause such excrement to be removed immediately;
- c) permit his animal to damage public or private property other than that of its owner;
- d) harbor or keep any dangerous animal unless such animal is securely fastened inside a proper fence or kennel in such place and in such manner that it does not endanger the safety of any human or animal and properly muzzled at all times when not inside the fence or kennel (upon notification from the town, compliance will be required with 30 days);
- e) permit his animal to be on any school ground or playground.

DANGEROUS ANIMALS

- 7.0 The animal control officer shall apprehend, impound and place in quarantine any animal that he has reason to believe has bitten a person; such action in respect of the domestic pet is necessary for the protection of the public; (in either case, the “aggressor animal”), whether on private premises or elsewhere, and whether or not the skin was directly punctured or lacerated by the bite, except this provision shall not apply to a police service animal owned by a public law enforcement agency while on duty and under the control of a qualified animal handler.
- 7.1 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 take the offending animal to a veterinarian and that the aggressor animal must remain at such place at the owner’s expense for the quarantine period.
- 7.2 Subject to a determination by the animal control officer pursuant to subsection 7.5 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 pound keeper 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 five (5) days after expiry of the quarantine period, the aggressor animal shall be sold, or otherwise disposed of, or destroyed at the discretion of the pound keeper.
- 7.3 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.
- 7.4 The head of any aggressor animal quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to subsection 7.5 hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 7.5 Every aggressor animal shall be examined 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 this By-Law 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.
- 7.6 Notwithstanding the provisions of subsection 7.9 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) such other conditions as the animal control officer may deem necessary or advisable in the interests of public safety.
- 7.7 Where the animal control officer has reason to believe that an animal, including but not limited to an aggressor animal, 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.
- 7.8 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;
- a) 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
 - b) may impose all or any of the conditions set out in subsection 8.1 of the 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.
- 7.9 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, the animal control officer shall be entitled to mail the said notice to the last address known. 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 this section 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.
- 7.10 The owner has the right to appear at the hearing, with or without counsel, and to make submissions to Council and call evidence (whether via voice 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.
- 7.11 Where the owner does not attend at the hearing, having been given notice as provided in accordance with this section, 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 7.9 hereof.
- 7.12 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:
 - a) whether the animal has worried, bitten, wounded or injured any person or animal, or is otherwise an aggressor animal;
 - b) the circumstances surrounding any previous worrying, biting or wounding incidents; and
 - c) 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.
- 7.13 The Council shall deliver a copy of their decision to the owner in the manner provided in subsection 7.9. There shall be no obligation upon Council to issue written reasons for their decision.
- 7.14 The decision of Council shall be final. There shall be no appeal from the decision of Council.
- 7.15 Every owner who has received notification from Council, 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.
- 7.16 Council shall determine whether the dangerous animal should be destroyed or released to the owner. The decision of Council shall be final and not subject to appeal.
- 7.17 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) 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
 - (iv) provides protection from the elements for the dangerous animal.
 - b) permit the dangerous animal upon public property only if it is under the effective control of a person competent to control it.
 - c) 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 ANIMAL.** The sign shall be posed in such a manner that it cannot be removed easily by a passerby and will be visible and capable of being read from outside of the premises.
 - d) such other conditions as may be prescribed by order of the Council.
- 7.18 No person shall deface or remove a sign posted pursuant to subsection 7.17 c) without having first obtained the permission of the animal control officer.
- 7.19 Where it appears on reasonable grounds that an owner has breached a condition of the 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 destroying 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.
- 7.20 When the animal control officer impounds an animal 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 destroyed 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 Clerk of the Town, in which case Council shall hold a hearing at a regular or special meeting of Council as to whether or not the animal should be destroyed, which hearing shall be carried out in accordance with the provisions of this By-Law. The animal shall remain quarantined in the pound pending the outcome of the hearing.

GENERAL PROVISIONS

- 8.0 For greater certainty and without limiting any provisions of the By-Law, the following shall constitute offenses under this By-Law:
- a) Allowing or failing to prevent an animal from running at large;
 - b) Failing to report a bite incident or failing to voluntarily surrender the animal believed to have bitten a person to the animal control officer or pound keeper;
 - c) Failing to voluntarily surrender an animal to the animal control officer upon a request therefore;
 - d) Failure by an owner to discharge the duties of an owner as set out in subsection 2(1) of *The Animal Care Act* (Manitoba);
 - e) Failing to properly vaccinate an animal against rabies;

- f) Failing to comply with the requirements of subsection 6 & 7 of this By-Law in relation to any domestic pet;
- g) Failing to comply with any requirements of the Dangerous Animals part of this By-Law.

8.1 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 of assist an escape of any impounded animal.

APPREHENSION BY RESIDENT

9.0 Any resident of the Town may apprehend and confine an animal which is running at large on his property, provided that he shall immediately inform the animal control officer, pound keeper or the Clerk of the Town of the apprehension and confinement, and the animal control officer shall as soon as is practical, attend upon the resident to take possession of and impound the animal.

RIGHT OF ENTRY

10.0 The animal control officer or any other person appointed by the Town to enforce the provisions of the 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 (including, without limitation, any license or permit issued pursuant to 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.

10.1 The owner of any animal 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

11.0 Any person who makes a complaint alleging an offense under this By-Law against another person shall provide to the animal control officer his name, address and telephone number. It shall be at the discretion of the animal control officer whether or not to proceed based on an anonymous complaint or information.

LIABILITY

12.0 No liability shall attach to the animal control officer, the pound keeper, the Council and/or the Town 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 pound keeper, the Council and/or the Town for any animal destroyed, sold or otherwise disposed of pursuant to the provisions of the By-Law or killed or injured during the course of its apprehension or impoundment.

PENALTIES

- 13.0 Any person who interferes with or obstructs the duties of an animal control officer, a pound keeper or any other person authorized to enforce any provisions of this By-Law, or who unlawfully enters any pound or unlawfully removed any animal impounded, is guilty of an offense and is liable as listed in attached Schedule “A”.
- 13.1 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.
- 13.2 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 as listed in attached Schedule “A”.
- 13.3 Animal License fee as listed in attached Schedule “A”
- 13.4 Any person who allows their animal to bark excessively and for extended periods of time which affects the quality of life of others will be fined as listed in attached Schedule “A”.
- 13.5 Any person who allows their animal to defecate on property other than their own private property and neglects to remove it will be charged a fee as listed in attached Schedule “A”.
- 13.6 Any person who violates, contravenes, displays, refuses, omits, neglects, or fails to observe, obey or comply with any provision of this by-law is guilty of an offence to a fine as listed in attached Schedule “A”.

DONE, PASSED AND ENACTED by the Council of the Town of Lac du Bonnet duly assembled in the Council Chambers of the Town of Lac du Bonnet in the Province of Manitoba this 10th day of January, A.D. 2019.

Mayor, Gordon Peters

CAO, Darcey Wittig

Read a first time this 8th day of November, A.D. 2018.

Read a second time this 16th day of December, A.D. 2018.

Read a third time this 10th day of January, A.D. 2019.