

RURAL MUNICIPALITY OF MINTO-ODANAH
BY-LAW NO. 2/18

Being a By-Law to provide for the regulation and control of animals within the limits of the Rural Municipality of Minto-Odanah.

PART I: AUTHORITY

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
 - 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 sub clause (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 sub clause (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, S.M. 1998 c.8 provide, in relevant part, as follows:

Animals not to run at large

5(1) Except when permitted by a by-law of a municipality, 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).

No liability by reason only of making By-Law

5(3) A municipality 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 8(1) and (2) of the Disease and Control Regulation, 26/2009 of The Public Health Act, CCSM P210 provide, in relevant part, as follows:

Notice of potential rabies transmission

8(1) If a physician or nurse, not including a medical officer or a public health nurse, believes that a person has been bitten by an animal and that there is a significant risk that rabies may have been transmitted, the physician or nurse must, as soon as practical, notify

- a. a medical officer; or
- b. a public health nurse;

and provide the medical officer or public health nurse with the information about the biting incident that he or she requests.

Further action by medical officer or public health nurse

8(2) Upon receiving notice under this section, a medical officer or public health nurse may, if he or she believes it is possible that rabies has been transmitted, take steps to ensure that

- a. the animal is secured alive and without injury in a safe place;
- b. the animal is kept under observation for 10 days or any longer period considered necessary by the medical officer or public health nurse; and
- c. the animal's head is preserved in ice and sent to a laboratory for examination, if the animal dies or shows symptoms of rabies during the observation period.

PART II: DEFINITIONS AND INTERPRETATION

By-Law Name

2(1) This by-law may be referred to as the “Animal Control By-Law”

Definitions

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

“**Aggressor animal**” shall have the meaning ascribed thereto in Part 6 of this By-Law

“**Animal control officer**” means the person appointed by Council to enforce the provisions of this By-Law, and includes any person acting as an assistant to, or under the direction of, the animal control officer authorized by the Council.

“**Cat**” means any member of the genus *Felis domesticus* (domestic cat).

“**Council**” means the council of the Rural Municipality of Minto-Odanah.

“**Current rabies vaccination**” means that the dog or cat 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 the subsequently vaccinated at regular intervals not exceeding three years.

“**Dangerous Animal**” means any dog, cat or any other animal 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 6 of this By-Law.

“**Dog**” means any member of the genus *Canis familiaris* (domestic dog)

“**Domestic Pet**” means any animal other than a dog or cat that has been domesticated and is kept or harbored within the Municipality.

“**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**” includes a firm or corporation.

“**Pound**” means any enclosure, premises or place, whether within or outside the Rural Municipality of Minto-Odanah, designated by Council for the impoundment and care of any animal for the purposes of enforcing any provision of this By-Law.

“**Poundkeeper**” mean 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 Part 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 is it unable to roam at will.

“**Municipality**” means the Rural Municipality of Minto-Odanah

Interpretation

2(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 ANIMAL CONTROL OFFICER & POUNDKEEPER

Establishment of Pound

3(1) Council may establish and maintain a pound for the impoundment and care of animals apprehended pursuant to the enforcement of any provision of this By-Law, or 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 on their behalf. The costs associated with the pound operated by or for the Municipality shall be paid out of the general funds of the Municipality.

Appointment of animal control officer

3(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.
a. The Municipality may enter into a contract with a private party as animal control officer, in which case the animal control officer shall observe all terms and conditions of the contract with the Municipality to provide the necessary services outlined in the duties of the animal control officer and the submission of all reports required to be submitted to the Municipality under the said contract.

Appointment of poundkeeper

3(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

3(4) At the discretion of Council, the animal control officer may also serve as poundkeeper and vice versa.

PART IV: DUTIES OF ANIMAL CONTROL OFFICER AND POUNDKEEPER

Duties of the animal control officer

4(1) It shall be the duties of the animal control officer:

- a. to apprehend and confine at the pound, any animal running at large within the Municipality contrary to the provisions of this By-Law.
- b. To apprehend and confine any dog, cat or any other domestic pet which is running at large within the Municipality contrary to the provisions of this By-Law, or which is kept or harbored by, or in the possession or control of, any person that is in breach of this By-Law or of any other laws or regulations pertaining to animals or the conditions of any permit or license (including, without limitation, a kennel permit or kennel license).
- c. With the assistance of the Municipality CAO, 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, which notice shall be in the form set out in Schedule B hereto attached and shall state the place and time that the animal was apprehended, the place and time when the animal can be redeemed from the pound 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 Municipality shall post in the general office of the Municipality a notice 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 poundkeeper may use a tranquilizer gun for the purpose of capturing any animal found to be running at large within the Municipality, provided however, that if the animal control officer or the poundkeeper, 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, the animal control officer shall be appointed as a Special Constable of the Municipality for the purposes of carrying out his duties as authorized by this By-Law which, without restricting the generality of the foregoing, shall include the powers to serve summons on any or all persons who might be in violation of any of the provisions of this By-Law or any amendments thereto.
- f. The Municipality may vary the terms, conditions and duties of the animal control officer 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 animal control officer set out in paragraphs (a) through (e) above to the extent that they are specifically modified by the contract. Where the animal control officer 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.

Duties of poundkeeper

4(2) It shall be the duties 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 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. To keep a record of every animal impounded, which record shall include the following minimum information: 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 destruction, together with the details of redemption, sale, disposition or destruction;
 - 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);

- d. To report to the Municipality all fees charged by the pound, together with such reports and statements as the said Chief Administrative Officer 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, cat or any other animal which is, to the knowledge of the poundkeeper, a domestic pet, 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 the pound, the minimum hold period established under the pound keeper's contract with the Municipality.
- f. To make suitable arrangements for the temporary impoundment and sale, disposition or destruction of any animal other than a dog, cat or domestic pet that is apprehended within the Municipality, including any restricted animal or wild animal within the meaning of The Wildlife Act.
- g. If, after expiration of the minimum period of impoundment set out in paragraph (e), a dog, cat or other domestic pet 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 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 Municipality or by the poundkeeper on the express authority of the Municipality; or
 - ii. Cause the impounded animal to be humanely destroyed; 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 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 destroyed.
- h. The Municipality may vary the terms, conditions and duties of the poundkeeper 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), (f) and (g) 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 otherwise dispose of the impounded animal for an amount less than the applicable pound and license 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.

PART V: DOGS, CATS AND OTHER DOMESTIC PETS

Responsibility of Owners Regarding Dogs

- 5(1) No owner shall:
- a. Permit his dog or cat to run at large. When a dog or cat 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 in any other way unduly disturb the quiet of any person or persons anywhere in the Municipality.

- c. Permit his dog, or cat to defecate on any public or private property other than the property of its owner. Where a dog or cat 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 nuisance for neighbors.
- e. Permit his dog or cat 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, harbour 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 6.
- 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 a land upon which dogs are not required to be on a leash.
- j. Permit his dog to upset waste receptacles or otherwise litter.

5(2) An owner of a registered guide dog that is visually impaired 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).

Redemption

5(3) Unless the impounded animal is determined to be a dangerous animal, the owner of any dog, cat or any other domestic pet impounded by the animal control officer may be redeemed within three (3) days of the apprehension and impoundment, providing they have a receipt issued by the Municipality showing payment for the following:

- a. the impoundment fee as set out in Schedule A;
- b. the pound fee calculated in accordance with Schedule A;
- c. All outstanding fines, damages or costs relating to the impounded animal.

Restrictions on Domestic Pets

5(4) An owner of a domestic pet other than a dog or cat shall not allow the domestic pet outside of the owner's premises unless the domestic pet is at all times while outside of the owner's premises, under the immediate charge and effective control of a person competent to control it.

Dogs/Cats

5(5) Subject to subsection 5(6) and 5(7), the owner of a dog or cat shall not permit the dog or cat to be outside of the owner's premises unless:

- a. The dog or cat is on a leash that is less than six (6) feet in length fully extended; and
- b. The dog or cat is under the immediate charge and effective control of a person competent to control it.

5(6) 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 licensed 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.

5(7) A female cat in heat shall be confined to the premises of the owner or a person having control of the cat, or shall be housed in a licensed kennel, for the period of time that the cat is in heat. The said cat's confinement shall be in such a manner as to prevent any contact between the cat in heat and any other cat except other cats owned by the same owner.

5(8) Any person who fails to comply with the terms and conditions set out in this section 5 shall be guilty of an offence under this By-Law.

Maximum Number of Dogs or Cats

5(9) No person shall own, harbour, keep or have in his possession or control or on his premises, more than two (2) dogs over the age of three (3) months, regardless of the number of people who may be inhabiting the premises.

5(10) No person shall own, harbour, keep or have in his possession or control on his premises, more than three (3) cats over the age of three (3) months, regardless of the number of people who may be inhabiting the premises.

5(11) Subsection 5(9) and 5(10) hereof shall not apply to the premises which are zoned agricultural, provided however that where, in the discretion of the animal control officer, the number of dogs or cats on any such premises constitutes a danger to the public or to the dogs or cats, the animal control officer may exercise his discretion to apprehend and impound all or some of the dogs or cats.

Teasing and Enticing

5(12). Any person teasing, taunting, baiting or throwing objects at an animal confined within the owners property is guilty of an offence hereunder and shall be assessed a fine as set out in Part 7.

Neglect or Ill-Treatment

5(13) Where there are reasonable grounds to believe that an animal is:

- a. impounded, yarded or confined without necessary food, water or attention for more than fifteen (15) consecutive hours; or
- b. Is being wantonly, cruelly or unnecessarily beaten, bound, tortured, ill-treated, abused or subjected to pain or discomfort; or
- c. Is unduly exposed to cold or overcrowding either in an enclosure or in transit;

5(14) The animal control officer may:

- a. by force, if necessary, open and enter into any place in which the animal is so impounded, yarded, or confined;
- b. Supply the animal with necessary food, water and attention, as long as it remains in that place;
- c. If he deems it necessary, remove the animal; and
- d. Recover from the owner of the animal the amount of the expense necessarily incurred by him for food and attention;

The animal control officer is not liable for any entry under 5(14)(a) or any removal under 5(14)(c).

5(15) The animal control officer shall forthwith give written notice of the action taken to the owner of the animal, if the owner is known.

5(16) Where the animal control officer has reasonable grounds for supposing that an animal is being ill-treated or neglected, he may take possession of the animal for the purpose of having it examined by a veterinary surgeon.

5(17) Where the owner can be conveniently found, the animal control officer shall notify him in writing, or verbally, where appropriate or necessary, of the time and place of the examination.

5(18) Where in the judgments of the veterinary surgeon, the animal has been neglected or cruelly treated, the animal control officer, with or without the consent of the owner, may with the approval of the veterinary surgeon, forthwith destroy it or may place it under the proper and sufficient care and treatment for a period not exceeding 30 days, during which time the owner shall have access to and the use of the animal, with the consent of the veterinary surgeon.

5(19) The owner of any such animal is liable for its food, care and treatment while so detained; and the person supplying the food, care and treatment, or responsible therefore, has a lien on the animal for the cost thereof.

PART VI: DANGEROUS ANIMALS

6(1) The animal control officer:

- a. May apprehend, impound and place in quarantine any dog or cat that he has reason to believe has caused or likely to cause serious damage or injury to a person or other animal; and
- b. Shall apprehend, impound and place in quarantine any domestic pet that he has reason to believe has bitten a person, if in his discretion, such action is 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, may be apprehended by the animal control officer (this provision 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).

6(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.

6(3) Any aggressor animal so apprehended and impounded at the pound shall, subject to subsection 6(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”)

6(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.

6(5) Subject to a determination by the animal control officer pursuant to subsection 6(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, or destroyed at the discretion of the poundkeeper.

6(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.

6(7) The head of any aggressor animal quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to subsection 6(8) hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.

6(8) 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 Section 6 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.

6(9) Notwithstanding the provisions of subsection 6(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 the other animals and persons other than the owner is avoided;
- b. The owner shall post in conspicuous location at the entrance of the premises where the aggressor animal is confined, a sign which reads "Beware of Dangerous <type of aggressor animal>";
- c. The owner shall submit the aggressor animal 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 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 license 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

6(10) Where the animal control officer has reason to believe that an animal, including but not limited to an aggressor animal under Section 6, is a dangerous animal, he shall arrange a hearing before Council at a regular 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 the respect of which there is no appeal.

- 6(11) 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 6(9) 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 that matter and issues its determination.

6(12) 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. 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 6 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.
- 6(13) 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.
- 6(14) Where the owner does not attend the hearing, having been given notice as provided in accordance with this Section 6, 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 6(12) hereof.
- 6(15) 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. The animal has caused injury to, or killed a person, whether on public or private property; or
 - ii. The animal has seriously injured or killed any other domestic animal or any livestock without provocation; or
 - 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.
 - 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 any 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.
- 6(16) The Council shall deliver a copy of their decision to the owner in the manner provided in subsection 6(12). There shall be no obligation upon Council to issue written reasons for their decision.
- 6(17) The decision of Council shall be final. There shall be no appeal from the decision of Council.
- 6(18) Every owner who has received notification from Council pursuant to subsection 6(12) 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.
- 6(19) Subsection 6(18) 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

6(20) Council shall determine whether the dangerous animal should be destroyed or released to the owner subject to the conditions set out in subsection 6(9). The decision of Council shall be final and not subject to appeal.

6(21) 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
 - iv. Provides protection from the elements for the dangerous animal.
- c. In the event that the dangerous animal is a dog, 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.
- d. In the event that the dangerous animal is other than a dog, permit the dangerous animal upon public property only if it is 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 <insert type of animal>**. 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. Advise the animal control officer within three (3) working days of the death of the dangerous animal.
- 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. Maintain in force to the satisfaction of the Chief Administrative Officer of the Municipality a comprehensive liability insurance policy, including coverage for damage or injury caused by the dangerous animal, with a minimum limit of liability of \$500,000 per occurrence.
- j. Such other conditions as may be prescribed by order of the Council.

6(22) No person shall deface or remove a sign posted pursuant to subsection 6(21)(e) or subsection 6(9)(b) hereof without having first obtained the permission of the animal control officer.

Destruction of dangerous animal or aggressor animal

6(23) 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 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.

6(24) When the animal control officer impounds an animal under this section 6 for the purpose of destruction of the animal, with the assistance of the Town Chief Administrative Officer, 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 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 destroyed, which hearing shall be carried out in accordance with the provisions of section 6 hereof. The animal shall remain quarantined in the pound pending the outcome of the hearing.

PART VII: GENERAL PROVISIONS

Offenses under this By-Law

- 7(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, cat or domestic pet from running at large;
 - b. Keeping or harboring dogs or cats in excess of the maximum number permitted in this By-Law;
 - c. Failing to comply with an order of the animal control officer to dispose of any dogs or cats in excess of the prescribed limit made under section 5 of this By-Law;
 - d. Failure by the owner of a dog to comply with any one or more of the provisions of subsection 5(12 of this By-Law;
 - e. Failing to report a bite incident or failing to voluntarily surrender the dog or cat believed to have bitten a person to the animal control officer or poundkeeper;
 - f. Failing to voluntarily surrender a dog or cat to the animal control officer upon a request therefore;
 - 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 or cat against rabies;
 - i. Failing to comply with the requirements of subsection 5(9) and 5(10) of this By-Law in relation to any domestic pet;
 - j. Failing to comply with the requirements of any provision of sections 5 in relation to any cat;
 - k. Failing to comply with any requirements of Part 6 of this By-Law in relation to an aggressor animal or a dangerous animal.
 - l. Defacing or removing a sign required to be posted under subsection 6(9)(b) or subsection 6(21)(f) of this By-law;

Interference with Enforcement

7(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 the 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.

7(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

7(4) Any resident of the Municipality may apprehend and confine an animal which is running at large on his property, provided that he shall immediately thereafter inform the animal control officer, poundkeeper or the Chief Administrative Officer 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.

Right of Entry

7(5) 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 (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.

7(6) The owner of any dog, cat or any other domestic pet 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.

Complaint Identification

7(7) 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

7(8) 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 destroyed, 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

- 7(9) Without limiting the penalties for specific offenses set out in Schedule "A" hereof, any person who contravenes any provision of this By-Law is guilty of an offense and is liable:
- a. to a fine of not less than \$50.00 and not more than \$500.00, plus all applicable costs and penalties for the first offense;
 - b. to a fine of not less than \$100.00 and not more than \$1000.00 or to imprisonment for not more than thirty (30) days, or both, plus all applicable costs and penalties for the second offense and for each subsequent offense within twelve (12) months of the first offense;
- 7(10) Any animal that is impounded five or more 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 destroyed.
- 7(11) 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:
- a. to a fine of not less than \$500.00 and not more than \$1000.00, or to imprisonment for a term of not more than sixty (60) days, or both, plus all applicable costs and penalties;

- 7(12) 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.
- 7(13) 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.

PART VIII: PRIOR BY-LAWS

- 8(1) By enacting this By-Law, all other prior animal control By-Laws are repealed with the exception of By-law No. 1/00 of the Rural Municipality of Minto and By-law No. 2/00 of the Rural Municipality of Odanah.

DONE AND PASSED as a By-Law of The Rural Municipality of Minto-Odanah at Minnedosa, MB. in the Province of Manitoba, this 11th day of October, 2018.


James A. Andersen – Reeve


Aaren Robertson – C.A.O.

Read a first time this 12th day of July, 2018.

Read a second time this 9th day of August, 2018.

Read a third time this 11th day of October, 2018.

SCHEDULE A – LICENSE AND IMPOUNDMENT FEES

Penalties and Impoundment Fees

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

For the first (1 st) impoundment, flat fee:	\$50.00
For the second (2 nd) impoundment, flat fee (if it occurs within 12 months of the 1 st offence)	\$100.00
For the third (3 rd) impoundment, flat fee (if it occurs within 12 months of the 1 st offence)	\$250.00
For the fourth (4 th) impoundment, flat fee (if it occurs within 12 months of the 1 st offence)	\$500.00

**SCHEDULE B – RURAL MUNICIPALITY OF MINTO-ODANAH
ANIMAL IMPOUNDMENT REPORT AND NOTICE OF IMPOUNDMENT**

No: _____

Cat/Dog _____

Animal Description: _____

Date Impounded: _____

Date when animal will be sold, destroyed or otherwise disposed of: _____

Location Animal Apprehended: _____

No. Days Impounded: _____

Name of Owner: _____

Address of Owner: _____

Date Released: _____

Fine Amount: _____

Place of Impoundment: _____

Hours of Pound Operation: _____

Signatures: _____

Poundkeeper _____ Animal Enforcement Officer _____

Rural Municipality of Minto-Odanah
Return above portion to Municipality when paying fines