

BY-LAW NO. 2957

A BY-LAW OF THE RURAL MUNICIPALITY OF PORTAGE LA PRAIRIE to regulate the running at large of dogs and to provide for the maintenance and regulation of pounds.

THE REEVE AND COUNCIL OF **THE RURAL MUNICIPALITY OF PORTAGE LA PRAIRIE** IN OPEN SESSION ASSEMBLED HEREBY ENACTS AS A BY-LAW OF THE SAID MUNICIPALITY AS FOLLOWS:

1. This By-Law may be referred to as “the Dog Control By-Law”.
2. Whenever used in this By-Law, unless the context otherwise requires:
 - (a) **CLERK:** means the Chief Administrative Officer or the Deputy Chief Administrative Officer;
 - (b) **DOG:** means any male or female dog;
 - (c) **DANGEROUS DOG:** means any dog which has been declared dangerous pursuant to this By-Law;
 - (d) **DOG CONTROL OFFICER:** means the person appointed by Council from time to time to carry out the duties of such officer as set forth in this By-Law and includes his deputy or assistant;
 - (e) **DOG POUND or DOG POUNDS:** means a pound or pounds acquired and or operated for the Rural Municipality of Portage la Prairie as the case might be;
 - (f) **KENNEL:** means a place where dogs are kept for a fee or where dogs are bred and raised or where dogs are kept for the purpose of sale;
 - (g) **PERSON:** includes corporation, firm, a partnership and association;
 - (h) **POUNDKEEPER:** means a poundkeeper for the time being of the Rural Municipality of Portage la Prairie and includes his deputy or anyone or more of his assistants or anyone performing any of the duties of the poundkeeper and includes where the context requires, the Dog Control Officer;

- (i) **OWNER:** means any person who keeps or harbours a dog;
 - (j) **RUNNING AT LARGE or RUN AT LARGE:** means that it is not under the direct and continuous charge and effective control of a person competent to control it.
3. There may be established by the Rural Municipality of Portage la Prairie a dog pound or pounds and such pound or pounds shall be located on such premises as Council may from time to time direct by resolution or By-Law.
4. (a) Every Owner of a dog over the age of three months shall on or before the 31st day of March in each year register the dog at the Office of the Rural Municipality of Portage la Prairie and procure from the Clerk a license for such dog and pay the following fee therefore:
- i) for each dangerous dog: \$250.00
 - ii) for each male dog: \$ 10.00
 - iii) for each female dog: \$ 10.00
 - iv) for each spayed female or neutered male dog
(if the Owner produces a certificate from
a licensed veterinary surgeon showing that
the dog has been spayed or neutered): \$ 5.00
 - v) for every kennel that contains not more than five dogs, a fee of \$100.00 and for every additional dog therein contained over five, an additional sum of \$25.00 for each dog over five;
- (b) A person who is registered as a blind person with the Canadian National Institute for the Blind who is the Owner of a dog shall not be required to pay the fee provided for in this section but shall be required to apply for and obtain a license for such dog and comply with all other provisions of this By-Law.
5. The Clerk shall issue with each license a plate or tag in such form as the Clerk may from time to time decide, and every Owner of a dog shall place and keep around the neck of the dog a collar to which such plate or tag shall be securely

fastened. If such plate or tag is lost, the Clerk may issue a replacement plate or tag upon payment of the sum of \$2.50.

6. The word “dog” wherever used in this By-Law shall mean an animal three or more months old.
7. No Owner of a dog shall:
 - (a) permit it to run at large within the Rural Municipality of Portage la Prairie;
 - (b) permit it to pursue, bite or wound any person or animal;
 - (c) allow it to howl or bark or do anything that creates a nuisance;
 - (d) permit it to defecate on any public or private property, except the property of the Owner. Where the dog defecates on property other than the property of its Owner, the Owner shall cause the excrement to be removed immediately.
8. Where a dog is found running at large contrary to Section 7 on the hearing of an information and complaint against the Owner or person in charge thereof for breach of that section, the Owner or person in charge shall be deemed to have permitted the dog to run at large unless he satisfies the presiding Judge that he took all reasonable precautions to prevent it from running at large.
9.
 - (a) It shall be the duty of the Dog Control Officer to enforce the provisions of this By-Law and to perform such other duties as Council may assign to him from time to time;
 - (b) The Owner of any dog impounded may redeem same at any time within 72 hours of the time of capture by paying the poundkeeper the fees calculated as follows:
 - (i) a fee, in an amount as may be determined by Council from time to time; and
 - (ii) the full amount of any cost incurred by the Rural Municipality of Portage la Prairie for the examination and treatment by a licensed veterinary surgeon of a dog that is injured or sick.

- (c) Whenever a dog is impounded wearing a tag furnished by a municipality in connection with a current year's license for such animal the poundkeeper shall forthwith after the impounding if the license was issued by the Rural Municipality of Portage la Prairie mail to the Owner whose name appears on such license at the address shown thereon a notice that the dog has been impounded and that if it is not redeemed within 72 hours it may be sold or disposed of. If the tag was issued by another municipality the poundkeeper shall notify the Clerk or secretary thereof that such animal has been impounded and will be disposed of if not redeemed within 72 hours.

- 10.
 - (a) The poundkeeper may destroy, sell or otherwise dispose of any dog not redeemed in accordance with section 9 hereof;

 - (b) Notwithstanding anything contained in this By-Law where a licensed veterinary surgeon certifies that, in his opinion, a dog in the custody of a poundkeeper is so seriously injured or sick that it would be cruel to allow it to live, the poundkeeper may cause the dog to be destroyed forthwith.

- 11. A poundkeeper shall provide each impounded dog with sufficient shelter, food and water during the time such dog remains impounded.

- 12.
 - (a) a dog which bites any person, whether on private premises or elsewhere, shall, unless the Owner thereof forthwith delivers same to a dog pound or to some place where dogs are kept under the personal supervision of a licensed veterinary surgeon, be taken to a dog pound by the Dog Control Officer;

 - (b) any dog so delivered or taken to a dog pound shall be kept therein, and in the case where delivered to some place where dogs are kept under personal supervision of a licensed veterinary surgeon, shall be kept at such place at the Owner's expense for a period of fourteen days;

 - (c) a fee, in an amount as may be determined by Council from time to time, shall be paid to the poundkeeper by the Owner before the dog may be taken out of the dog pound, and if the Owner fails to take the dog out of the dog pound within two days after the 14 day period set out in subsection (b) hereof, the dog shall thereupon be deemed to be impounded as provided in Section 9 and may be dealt with and disposed of by the poundkeeper as provided in Sections 9 and 10.

13. Any dog known to be rabid shall be destroyed immediately.
14. Before any action, whether to capture and impound a dog, or to institute legal proceedings is taken by the Dog Control Officer or a poundkeeper as a result of a complaint, the complainant shall disclose his name and address.
15. Notwithstanding any other By-Law to the contrary, the Dog Control Officer may use any method or tool, including a firearm or sedative gun, that he considers necessary in the circumstances to capture or control a dog found running at large.
16. Every poundkeeper shall keep a record of every dog impounded. Such record shall show the description and particulars of every dog, the day and hour of its impounding, redemption, sale or destruction, the name and address of the Owner, the tag or license number (if any), the amount and particulars of all fees, fines, charges and all monies received in respect of such dog and the name and address of the person paying the same, and such other particulars as the Clerk of the Rural Municipality of Portage la Prairie shall direct. All monies collected by a poundkeeper shall be remitted to such Clerk as and when he shall require, together with such reports and statement as he may prescribe.
17. In any prosecution under this By-Law a dog shall be presumed to be three or more months old and the onus shall be on the person charged to prove otherwise.

DANGEROUS DOGS

18. Where the Dog Control Officer has reason to believe that a dog has:
 - (a) bitten a person, a domestic animal or a pet;
 - (b) chased or harried livestock without the permission of the Owner of the livestock;
 - (c) chased, pursued or menaced a person on public property,

the Dog Control Officer may convene a hearing before the Clerk for the purpose of determining whether the dog should be declared to be a dangerous dog within the meaning of this By-Law.

19. The Dog Control Officer shall give to the Owner at least 5 days notice of the hearing by any effective means, which may include personal service, service on

any apparently responsible person found at the residence of the Owner, or service by certified mail. The notice shall include:

- (a) a statement of the time, place and purpose of the hearing, including a brief synopsis of the matters to be raised by the Dog Control Officer at the hearing;
 - (b) a copy of this By-Law;
 - (c) a statement that if the Owner does not attend at the hearing, the matter may be dealt with in his absence and that he will not be entitled to any further notice in this proceeding.
20. The Clerk shall preside at the hearing and the hearing may be as informal as the Clerk may allow; no order made by the Clerk may be set aside because of a lack of formality, failure to follow rules of evidence, or for any technical reason not affecting the merits of the matter.
21. The Owner is entitled to appear and participate at the hearing, with or without counsel, and the hearing will be conducted in the following order:
- (a) the Dog Control Officer or counsel on his behalf shall present his concerns regarding the dog, supported by such evidence or witnesses as may be appropriate;
 - (b) the Owner or counsel on his behalf may cross-examine the Dog Control Officer and any witnesses presented on his behalf;
 - (c) at the conclusion of the case presented by the Dog Control Officer, the Owner may present such evidence as may be relevant to the issue, including the calling of witnesses or filing of evidence;
 - (d) the Dog Control Officer or counsel on his behalf may cross-examine the Owner and any witnesses presented on the Owner's behalf;
 - (e) at the conclusion of the case presented for the Owner, the Dog Control Officer may present such rebuttal evidence as may be relevant to the issue and as may be permitted by the Clerk.

22. If the Owner does not appear and is not represented at the hearing, the Clerk, upon being satisfied that the Owner had effective notice of the hearing, may proceed with the hearing in the absence of the Owner and without further notice to the Owner.
23. Within 5 working days of the conclusion of the hearing, the Clerk:
- (a) shall declare the dog to be a dangerous dog if, in the Clerk's opinion, the dog has:
 - (i) attacked or caused injury to a person, without provocation, whether on public or private property;
 - (ii) while off its Owner's property, attacked or caused injury to a domestic animal or pet, without provocation.
 - (b) may declare the dog to be a dangerous dog if, in the Clerk's opinion, the dog may cause serious injury or harm in the future. Without limiting the factors the Clerk may consider when forming his opinion, the Clerk may consider such factors as whether the dog has:
 - (i) attacked or caused injury to a person whether on public or private property;
 - (ii) while off its Owner's property, attacked or caused injury to a domestic animal or pet;
 - (iii) displayed a tendency to chase or menace people,
- and the Clerk shall inform the Owner of his decision and his reasons for that decision by ordinary mail addressed to the last known address of the Owner.
24. The Owner, within 15 days of the mailing by the Clerk of his decision and upon payment of a filing fee of \$150 and all impoundment costs owing to date, may appeal the Clerk's decision to Council.
25. Within 3 weeks of receipt of a properly constituted appeal, a 3 member panel of Council shall convene an appeal hearing and give effective notice of the hearing date to the Dog Control Officer and the Owner.

26. At the hearing of the appeal, the panel shall consider the reasons given by the Clerk and submissions from the Owner and the Dog Control Officer and may confirm or reverse the decision of the Clerk.
27. The decision of the appeal panel or the decision of the Clerk, if not reversed on appeal in accordance with this By-Law, is final and binding on all persons, is not subject to further appeal, and is not subject to review by a court on any grounds whatsoever.
28. Any dog declared to be dangerous by the Clerk pursuant to paragraph 23(a), above, shall be destroyed at the expiry of the appeal period if no appeal is taken or, if an appeal is taken, upon a decision by Council confirming the Clerk's declaration that the dog is dangerous.
29. If Council reverses a decision of the Clerk on appeal, the Owner shall be entitled to a refund of the filing fee paid pursuant to paragraph 24, above.
30. Where a dog has been declared to be dangerous pursuant to paragraph 23(b), above, five days after the appeal panel's decision is mailed to the Owner or immediately after the expiration of the opportunity to appeal to Council if no appeal is taken:
 - (a) any licence previously issued regarding the dog shall be deemed to be cancelled;
 - (b) the Owner, unless he provides evidence satisfactory to the Dog Control Officer that the dog has been destroyed or permanently moved out of the Municipality, shall pay a licence fee for a dangerous dog, the cost of which licence may be pro rated on a quarterly basis to the next following month of March; and
 - (c) the Owner shall pay all outstanding impoundment fees and costs.
31. In the event the Owner fails to purchase the licence required for a dangerous dog, the dog shall be impounded and, if not released in accordance with the requirements of this By-Law, shall subsequently be destroyed.
32. Every Owner of a dangerous dog shall:

- (a) ensure that the dog, while on private property, is kept either securely confined indoors or in a securely enclosed and locked pen which is sufficient to prevent the escape of the dog and to prevent any contact with people, whether intentional or otherwise;
- (b) permit the dog on public property only if it is muzzled and restrained by a chain or leash not exceeding one metre in length, held by a responsible adult person;
- (c) display at each entrance to the property or building in or upon which the dog is kept a sign stating: **WARNING: BEWARE DANGEROUS DOG.**
The sign shall be posted in such a manner that it cannot be removed easily by passersby and will be visible and capable of being read from the sidewalk or street and land, if any;
- (d) within two working days of selling or giving away the dangerous dog, provide the Dog Control Officer with the name, address and telephone number of the new Owner;
- (e) advise the Dog Control Officer within two working days of the death of the dangerous dog;
- (f) advise the Dog Control Officer forthwith if the dangerous dog is loose or has bitten or attacked any person or animal.

PROHIBITED AREAS

33. No person shall:

- (a) permit a dog to enter the water of Lake Manitoba north of the area bounded on the west by the most westerly limit of Plan 930 PLTO and on the east by the most easterly limit of Plan 1132 PLTO, being the area commonly known as Delta Beach;
- (b) permit a dog to enter upon the public reserve (beach area) located in that same area unless the dog is on a leash and under the control of a responsible adult person.

PENALTIES

34. Any person who contravenes a provision of this By-Law is guilty of an offence and liable, upon summary conviction, to the following penalty:
- (a) for a first offence, a fine of not less than \$250;
 - (b) for a second offence, occurring within 12 months of the first offence, a fine not less than \$500; and
 - (c) for a third offence, occurring within 24 months of a first offence, a fine not less than \$1,000.
35. Where the Owner of a dog is found guilty of an offence under this By-Law and fails to pay the fine imposed by the Court within 30 days of its imposition, the dog may be impounded and subsequently destroyed, unless the outstanding fine and costs of impoundment are paid within 72 hours of this impoundment.
36. Where it is alleged by the Dog Control Officer that a person has contravened any provision of this By-Law, that person, upon being notified of the allegation, may dispose of the matter without prosecution by paying to the Clerk within 10 days of notification the following penalty:
- (a) for a first offence, a fine of not less than \$100;
 - (b) for a second offence, occurring within 12 months of the first offence, a fine not less than \$250; and
 - (c) for a third offence, occurring within 12 months of a second offence, a fine not less than \$500.
37. Any dog that has been impounded three times shall be destroyed upon its fourth impoundment.
38. Any Owner who has paid or been ordered to pay three penalties under this By-Law in any 12 month period shall be prohibited from owning or maintaining a dog in the Municipality and, within 14 days of having been given notice to do so, shall provide proof satisfactory to the Dog Control Officer that any dog owned or maintained by him at the time the notification was given has been destroyed or

permanently removed from the Municipality and, in default thereof, the Dog Control Officer, at the Owner's expense, shall seize and destroy any dogs owned or maintained by that Owner.

39. All expenses incurred in impounding, caring for, destroying, or disposing of a dog, and all fines and costs imposed on a prosecution under this By-Law, are a debt owed by the Owner of the dog to the Municipality and may be recovered by the Municipality in a court of competent jurisdiction or may be collected by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.
40. By-Law No. 2747 of the Rural Municipality of Portage la Prairie is hereby repealed.

DONE AND PASSED as a By-Law of the Rural Municipality of Portage la Prairie by the Reeve and Council thereof in open session assembled this 14th day of December A.D. 2004.

James A. Knight

Reeve

Richard C. Locke

Secretary-Treasurer

READ A FIRST TIME November 30th, A.D., 2004

READ A SECOND TIME December 14th, A.D., 2004

READ A THIRD TIME December 14th, A.D., 2004