

## RM OF COLDWELL

### ANIMAL CONTROL BY-LAW NO. 04/04

BEING A BY-LAW of the RM of Coldwell to provide for the regulation and control of animals.

#### **PART 1: 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 subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
  - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
  - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
  - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offenses or nonpayment of fines.

**AND WHEREAS** subsection 5(1),(2) and (3) of The Animal Liability Act, S.M. 1998 c.8 provide, in relevant part, as follows:

(2)

**Animals not to run at large**

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

**By-Law does not limit owner's liability**

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

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

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

**AND WHEREAS**, subsections 31(1) and (2) of the Diseases and Dead Bodies Regulation, 338/88R of The Public Health Act, 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 municipality in which the biting incident occurred or a peace officer of the details of the biting incident.

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

**PART II: DEFINITIONS AND INTERPRETATION**

**By-Law Name**

1(1) This By-Law may be referred to the "Animal Control By-Law".

**Definitions**

1(2) In this By-Law, unless the context otherwise requires,  
"aggressor animal" means a dog, cat or domestic pet which has bitten a person or the Animal Control Officer has reason to believe has bitten a person.  
"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.  
"CAO" means the Chief Administrative Officer of the RM of Coldwell.  
"cat" means any member of the genus *Felis domesticus* (domestic cat).  
"Council" means the council of the RM of Coldwell.  
"current rabies vaccination" means that the dog has been vaccinated for rabies in accordance with international veterinary protocol which calls for a primary vaccination, which is then followed with a booster vaccination not sooner than 60 days and not greater than one year after the primary vaccination, and is then subsequently vaccinated at regular intervals not exceeding three years.  
"dangerous animal" means any dog or any other animal that has on at least one occasion, 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 Section 14 of this By-law.  
"dog" means any member of the genus *Canis familiaris* (domestic dog).

**"Dog Run"** means an enclosure as defined herein and applies as provided for under Section 7(3) of this By-law.

**"domestic pet"** means any animal other than a dog that has been domesticated and is kept or harboured within the RM of Coldwell/Town.

**"enclosure"** means an area surrounded on all sides by a wall or fence which prevents the dog or domestic pet from leaving the area at its own will.

**"Notice of Breach of By-Law"** means a notice issued pursuant to section 3(f) of this By-Law in the form attached hereto as Schedule B.

**"owner"** includes any person who owns, keeps, harbours 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 attach by the animal or apprehension of the animal by the Animal Control Officer or an other person.

**"owner's premises"** means the lands either solely or jointly owned with others.

**"person"** includes an individual, partnership, firm and/or corporation.

**"personal residence"** means the structure or building within which an individual resides, but it shall not include the lands surrounding such buildings or structure nor any out buildings.

**"pound"** means any enclosure, premises or place, whether within or outside the RM of Coldwell, designated by Council for the impoundment and care of any animal for the purposes of enforcing any provision of this By-law.

**"Poundkeeper"** means the person appointed by Council, whether on a temporary or permanent basis, to operate and maintain a pound, and to carry out the duties of a Poundkeeper as set out in Section 4 of this By-law.

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

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

**"Town"** means the LUD of Lundar

#### **Interpretation**

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

### **PART III: ESTABLISHMENT OF POUND AND APPOINTMENT OF ANIMAL CONTROL OFFICER AND POUNDKEEPER**

#### **Establishment of Pound**

- 2(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 RM of Coldwell shall be paid out of the general funds of the RM of Coldwell.

#### **Appointment of Animal Control Officer**

- 2(2) Council may appoint one or more persons as Animal Control Officer(s) to carry out the enforcement of this By-Law. The Animal Control Officer(s) so appointed may be appointed on a temporary or permanent basis, and shall be paid out of the general funds of the RM of Coldwell/Town.

**Appointment of Poundkeeper**

- 2(3) Council may appoint one or more persons as Poundkeeper(s) to carry out the duties of the Poundkeeper set out in this By-Law. The Poundkeeper(s) so appointed may be appointed on a temporary or permanent basis, and shall be paid out of the general funds of the RM of Coldwell/Town.

**Common Animal Control Officer and Poundkeeper**

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

**Duties of the Animal Control Officer**

3. It shall be the duties of the Animal Control Officer:
- (a) to apprehend and return to the owner or confine at the pound, any animal running at large within the RM of Coldwell/Town contrary to the provisions of this By-Law.
  - (b) to apprehend and return to the owner or confine any dog or any other domestic pet which is running at large within the RM of Coldwell/Town contrary to the provisions of this By-Law, or apprehend and confine any dog or any other domestic pet which is kept or harboured by, or in the possession or control of many 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.
  - (c) to make reasonable attempt to notify the owner of every animal apprehended and if the identity of the owner is known, by direct contact with the owner or by leaving a notice at the last known address of the owner, which notice shall be in the form set out in Schedule C hereto attached and shall state the place and time that the animal was apprehended, the place and time when the animal can be redeemed from the pound, the impoundment fee and any daily pound fees as set out in Schedule "A" hereto attached, 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 and at a minimum of three (3) public locations, 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) to issue a Notice of Breach of this By-Law in the form set out in Schedule B hereto attached against any person that has committed an offense under this By-Law. A Notice of Breach of this By-Law may be served upon the person who has breached the By-Law personally or upon a person eighteen (18) years of age and older at the residence of the person who has breached the By-Law, or may be served by registered mail addressed to the last known address of such person. The Animal Control Officer may lawfully enter upon the premises of any such person to serve a Notice of Breach of this By-Law.
  - (e) The Animal Control Officer or Poundkeeper may, for the purpose of capturing any animal found to be running at large within the Town, retain the services of a licensed veterinarian to use a tranquilizer gun to assist in the capture of the said animal.
  - (f) to enforce the provisions of this By-Law.

**Duties of Poundkeeper**

4. 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) 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) and a description in reasonable detail of the location the animal was apprehended by the Animal Control Officer (to include the street and nearest civic address);
    - (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).
    - (v) the amount and particulars of all fees, fines and other charges invoiced to, and received from or on behalf of, the owner and the name and address of the payer (if different from the owner); and
    - (vi) such other particulars as the CAO of the RM of Coldwell shall direct from time to time.
  - (d) To collect all fees charged by the pound, and to remit all monies received by the pound to the CAO of the RM of Coldwell, together with such reports and statements as the said CAO 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 RM of Coldwell 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 RM of Coldwell, and the submission of all reports and statements required to be submitted to the RM of Coldwell under the said contract.
  - (e) To keep any impounded dog or any other animal which is, to the knowledge of the Poundkeeper a domestic pet, 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.
  - (f) To make suitable arrangements for the impoundment and sale, disposition or destruction of any animal other than a dog or domestic pet that is apprehended within the RM of Coldwell/Town, including any 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 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 a 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 RM of Coldwell or by the Poundkeeper on the express authority of the RM of Coldwell; or
    - (ii) cause the impounded animal to be humanely destroyed;

unless the RM of Coldwell, or the Poundkeeper 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 subparagraph (g) (i) or until expiry of the extended period of impoundment, before it is humanely destroyed.

#### **PART IV: DOGS AND OTHER DOMESTIC PETS**

##### **Licensing of dogs**

- 5(1) The owner of every dog over the age of six (6) months shall obtain and renew annually, a license to keep the dog, which license shall require the payment of the annual fee as set out in Schedule A hereto attached. The owner shall ensure that the license tag issued for the dog is securely fastened to a collar worn around the neck of the dog in respect of which the tag was issued. Any failure to obtain or keep current the required license or to ensure that the license tag issued for the dog is securely fastened to the dog's collar shall constitute an offense under this By-Law.
- 5(2) The required dog license may be sold by the Poundkeeper, the CAO of the RM of Coldwell, by any veterinary clinic or animal hospital within the RM of Coldwell which is designated by the Council as a veterinary clinic or animal hospital eligible as a vendor of such licenses or by any other vendor designated by the RM of Coldwell.
- 5(3) No person shall be permitted to remove the collar or license tag from any dog without a lawful excuse, and any removal without lawful excuse shall constitute an offense under this By-Law.
- 5(4) The license fee hereby imposed shall be due and payable on the 1<sup>st</sup> day of January in each year and shall expire on the 31<sup>st</sup> day of December in the year in which the license fee was levied and paid.
- 5(5) Where the license tag is lost or damaged, the owner shall forthwith apply for a replacement license tag, the cost of which is set out in Schedule A hereto attached.
- 5(6) Where a change in ownership of a dog licensed hereunder occurs during the license year, the new owner shall, within thirty (30) days of acquiring the dog, have the current license transferred to his name upon payment of the transfer fee prescribed in Schedule A hereto attached. Any failure to report a change in ownership or to pay the prescribed transfer fee shall constitute an offense under this By-Law.
- 5(7) Subsections 5(1), (2), (3), (4) and (5) shall not apply to;
- i) non-residents of the RM of Coldwell/Town who bring a dog on a temporary visit into the RM of Coldwell/Town or;
  - ii) a dog of a non-resident that is being kept on a temporary basis by a resident of the RM of Coldwell/Town
- provided however, that nothing in this Subsection 5(7) shall authorize any person to bring a dog into the RM of Coldwell/Town that is a dangerous animal or is vicious, in heat, rabid or otherwise a risk to the public or to other animals within the RM of Coldwell/Town, nor does it authorize any person to allow the dog to run at large or otherwise create a nuisance within the RM of Coldwell/Town.
- 5(8) Subject to Subsection 5(9) hereof, every dog owner must produce, before a license is issued or renewed for the dog, evidence of a current rabies vaccination status for that dog from a licensed veterinarian.

- 5(9) A dog owner does not have to produce evidence of a current rabies vaccination status in order to obtain or renew a license in respect of his dog if he can produce a statement in writing signed by a licensed veterinarian certifying that the dog cannot be vaccinated for rabies for medical reasons.

**Rabies Vaccination**

- 6(1) Except where Subsection 5(9) applies, the Animal Control Officer may at any time request that an owner provide proof that the owner's dog has a current rabies vaccination status and, if the owner cannot produce such proof, the Animal Control Officer may terminate the owner's dog license, and in the case of a dog, the Animal Control Officer may apprehend and impound the dog, and may issue a Notice of Breach of this By-Law to the owner.

**Responsibility of Owners Regarding Dogs**

- 7(1) No owner shall:
- (a) permit his dog to run at large. When a dog is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection.
  - (b) permit his dog to bark or his dog to howl or in any other way unduly disturb the quiet of any person or persons anywhere in the RM of Coldwell/Town.
  - (c) permit his dog to defecate on any public or private property other than the property of its owner. Where a dog defecates on property other than the property of its owner, the owner shall cause such excrement to be removed forthwith.
  - (d) permit his dog to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours.
  - (e) permit his dog to damage public property or private property other than that of the owner. Where public or private property has been damaged by a dog, its owner shall be deemed to have failed or refused to comply with this subsection.
  - (f) own, keep, harbour or have possession or control of any dog (other than a dog that is under the age of six months) for which a valid license has not been issued.
  - (g) 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 V.
  - (h) permit his dog to pursue, bite or wound any person or animal, whether or not on the property of the owner.
  - (i) permit his dog on any school ground or playground.
  - (j) permit his dog on public property (including parkland area) unless the dog is on a leash (which lease shall be no longer than six (6) feet in length, fully extended) and the dog is in the actual custody and effective control of the owner or a person competent to control it, unless the said public property has been specifically designated by Council as land upon which dogs are not required to be on a leash.
  - (k) permit his dog to upset waste receptacles or otherwise litter.
- 7(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 Subsection 7(1)(c) and (i).
- 7(3) Dog Runs shall be permitted in the side and rear yard only.

**Redemption**

8. Unless the impounded animal is determined to be a dangerous animal, the owner of any dog or any other domestic pet impounded by the Animal Control Officer may be redeemed within five (5) days of the apprehension

and impoundment, which shall include the day of impoundment but shall exclude Sundays and any statutory holidays during which the pound is closed to the public, by applying to the Poundkeeper for redemption and paying:

- (a) the impoundment fee as set out in Schedule A;
- (b) the pound fee calculated in accordance with Schedule A;
- (c) in the event that the impounded animal is a dog that is unlicensed at the time of apprehension, the relevant license fee; and
- (d) all outstanding fines, damages or costs relating to the impounded animal.

#### **Restrictions on Domestic Pets**

- 9(1) An owner of a domestic pet other than a dog 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.
- 9(2) Subject to Subsection 9(3) and the provisions of Section 7, the owner of a dog shall not permit the dog to be outside of the owner's premises unless: (a) the dog has a collar which has securely fastened to it a proper license tag that identifies a valid license in respect of that dog; (b) the dog is on a leash that is less than six (6) feet in length fully extended; and (c) the dog is under the immediate charge and effective control of a person competent to control it.
- 9(3) 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 exempt other dogs owned by the same owner or by another owner who voluntarily permits such contact.

#### **Maximum Number of Dogs**

- 10 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 six (6) months, regardless of the number of people who may be inhabiting the premises.

### **PART V: DANGEROUS ANIMALS**

- 11(1) The Animal Control Officer:
  - (a) shall apprehend, impound and place in quarantine any dog that he has reason to believe has bitten a person; and
  - (b) may apprehend, impound and place in quarantine any other domestic pet that he has reason to believe has bitten a person if, in his discretion, 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 that 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.
- 11(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.



- 11(3) Any aggressor animal so apprehended and impounded at the pound shall, subject to subsection 11(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").
- 11(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.
- 11(5) Subject to a determination by the Animal Control Officer pursuant to Subsection 11(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.
- 11(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.
- 11(7) The head of any aggressor animal quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to Subsection 11(8) hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 11(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 15 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.
- 11(9) Notwithstanding the provisions of Subsection 11(3) herein, it shall be within the discretion of the Animal Control Officer to release an aggressor animal prior to the expiry of the quarantine period and to impose conditions upon the release of an aggressor animal from quarantine, which conditions may include, without limiting the generality of the foregoing:
- (a) the owner shall take the necessary measures to ensure that the aggressor animal is confined to the owner's premises in such a manner as to prevent escapes, and to ensure that all direct contact with other animals and persons other than the owner is avoided;

- (b) the owner shall post in a conspicuous location at the entrance of the premises where the aggressor animal is confined, a sign which reads "Beware of Dangerous <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 interest of public safety.

**Determination that an animal is a dangerous animal**

- 12(1) Where the Animal Control Officer has reason to believe that an animal, including but not limited to an aggressor animal under Section 11, 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.
- 12(2) Where it is deemed necessary by the Animal Control Officer to protect the public or other animals pending the decision of Council, the Animal Control Officer may: (i) require that the animal be quarantined in the pound until the earlier of the date that the Animal Control Officer determines that it is safe to release the animal to the custody of the owner or until Council hears the matter and issues its determination; or (ii) may impose all or any of the conditions set out in subsection 11(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 the matter and issues its determination.
- 12(3) Council shall provide written notice of the hearing to the owner of the animal at least ten (10) days in advance of the hearing by serving notice upon the owner or by mailing the notice by registered mail to the last known address of the owner. In the case where the animal alleged to be a dangerous animal is a dog the Animal Control Officer shall be entitled to mail the said notice to the last address provided by the owner to the RM of Coldwell in relation to the licensing of the said dog. The notice shall include the following minimum information:
  - (a) the time, place and purpose of the hearing;
  - (b) a summary of the reasons in support of the allegation that the animal is dangerous;
  - (c) a copy of this section 12 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.
- 12(4) (a) The owner has the right to appear at the hearing, with or without counsel, and to make submissions to Council and call evidence (whether viva voce or documentary) on his behalf. The owner also has the right to hear all of the evidence and submissions presented at the hearing by or on behalf of

the Animal Control Officer and to inspect any documents filed by or on behalf of the Animal Control Officer, and to respond to same.

- (b) Where the owner does not attend at the hearing, having been given notice as provided in accordance with this Section 12, 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 12(3) hereof.
- 12(5) Within five (5) working days of the hearing of Council, Council shall issue a written decision in accordance with the following provisions:
- (a) The Council shall make an order declaring the animal to be a dangerous animal if in their opinion:
    - (i) 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 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 person or property or any other animal, taking the following non-exhaustive factors into account:
    - (i) whether the animal has bitten, wounded or injured any person or animal, or is otherwise an aggressor animal;
    - (ii) the circumstances surrounding any previous 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.
- 12(6) The Council shall deliver a copy of their decision to the owner in the manner provided in Subsection 12(3). There shall be no obligation upon Council to issue written reasons for their decision.
- 12(7) The decision of Council shall be final. There shall be not appeal from the decision of Council.
- 12(8) In the event that a dog is declared by Council to be a dangerous animal, any license previously issued in relation to that dog shall be deemed to have been cancelled effective as of the date of Council's decision to declare the dog to be a dangerous animal.
- 12(9) Where a license is deemed to have been cancelled pursuant to Subsection 12(8) hereof, the owner shall be entitled to a credit or refund on any paid-up license fee, calculated on a quarterly pro rata basis. The RM of Coldwell may set-off against any such refund, any fines, fees or costs owing by the owner under this By-Law.
- 12(10) Every owner who has received notification from Council pursuant to Subsection 12(3) that a determination hearing will be held with respect to his animal, shall ensure that the animal remains confined upon the premises of the owner pending the final outcome of the hearing.
- 12(11) Subsection 12(10) 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**

- 13(1) Council shall determine whether the dangerous animal should be destroyed or released to the owner subject to the conditions set out in Subsection 13(2). The decision of Council shall be final and not subject to appeal.
- 13(2) Every owner of an animal that has been declared to be dangerous and in respect of which Council has decided to release the dangerous animal to its owner, shall:
- (a) in the event that the dangerous animal is a dog obtained a dangerous dog license for the dangerous dog and pay the required fee as set out in Schedule A hereto attached.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) 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.
  - (f) 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 passerby and will be visible and capable of being read from outside of the premises.
  - (g) 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.
  - (h) advise the Animal Control Officer within three (3) working days of the death of the dangerous animal.
  - (i) advise the Animal Control Officer forthwith if the dangerous animal has gone missing or is running at large or has bitten or attacked any person or animal.
  - (j) maintain in force to the satisfaction of the CAO of the RM of Coldwell a comprehensive liability insurance policy, including coverage for damage or injury caused by the dangerous animal, with a minimum limit of liability of \$500,000.00 per occurrence.
  - (k) such other conditions as may be prescribed by order of the Council, including, without limitation, any of the conditions set out in Subsection 11(9) hereof.
- 13(3) No person shall deface or remove without having first obtained the permission of the Animal Control Officer a sign posted pursuant to Subsection 13(2)(f) or Subsection 11(9) (b) hereof.

**Destruction of dangerous animal or aggressor animal**

- 14(1) Where it appears on reasonable grounds that an owner has breached 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.
- 14(2) When the Animal Control Officer impounds an animal under this Section 14 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 CAO of the RM of Coldwell, 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 12 hereof. The animal shall remain quarantined in the pound pending the outcome of the hearing.

**PART VI: GENERAL PROVISIONS**

**Offenses under this By-law**

- 15(1) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offenses under this By-Law for which a Notice of Breach of this By-Law may be issued:
- (a) Allowing or failing to prevent a dog or domestic pet from running at large;
  - (b) Keeping or harbouring dogs in excess of the maximum number permitted by Section 10 of this By-Law;
  - (c) Failing to comply with an order of the Animal Control Officer to dispose of any dogs in excess of the prescribed limit made under Section 10 of this By-Law;
  - (d) Failure by the owner of a dog to comply with any one or more of the provisions of Section 7, Subsection 9(2) or 9(3) or Subsection 9(4) or 9(5) of this By-Law;
  - (e) Failure to report a bite incident or failing to voluntarily surrender the dog believed to have bitten a person or animal to the Animal Control Officer or Poundkeeper;
  - (f) Failing to voluntarily surrender a dog 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) Keeping or harbouring any wild animal within the RM of Coldwell/Town without a proper permit;
  - (i) Violating any of the conditions or restrictions imposed upon a permit to keep or harbour any wild animal within the RM of Coldwell/Town.
  - (k) Failing to properly vaccinate a dog against rabies;
  - (l) Failing to comply with the requirements of Subsection 9(1) of this By-Law in relation to any domestic pet;
  - (m) Failing to comply with any requirements of Part V of this By-Law in relation to an aggressor animal or a dangerous animal;
  - (n) Defacing or removing a sign required to be posted under Subsection 11(9)(b) or Subsection 13(2)(f) of this By-Law;

- (o) Failing to comply with the requirements of Subsection 7(3) of this By-Law in respect of the location of a dog run.

**Interference With Enforcement**

- 15(2) It shall be an offense under this By-Law for a person to interfere or obstruct any attempt by the Animal Control Officer, Poundkeeper or the Council from carrying out its duties and obligations hereunder.
- 15(3) It shall be an offense under this By-Law:
  - (a) to break into, or assist another person in any manner, directly or indirectly, to break into, any pound; and
  - (b) to remove or attempt to remove any impounded animal, or to otherwise cause or assist an escape of any impounded animal.

**Apprehension by Resident**

- 15(4) Any resident of the Town 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 CAO of the RM of Coldwell 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 animal.

**Right of Entry**

- 16(1) The Animal Control Officer or any other person appointed by the RM of Coldwell 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.
- 16(2) The owner of any dog 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, or take such other reasonable steps as may be requested by the Animal Control Officer to assist the Animal Control Officer to apprehend and impound the said animal.

**Complainant Identification**

- 17(1) Any person who makes a complaint alleging an offense under this By-Law against another person shall provide to the 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**

- 18(1) No liability shall attach to the Animal Control Officer, the Poundkeeper, the CAO, 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 Poundkeeper, the CAO, the Council and/or the Town 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**

- 19(1) Without limiting the penalties for specific offenses set out in Subsections 19(2), (3), (4) and (5) hereof, any person who contravenes any provision of this By-Law shall be issued a Notice of Breach 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 \$250.00, plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence, for the first offense.
  - (b) to a fine of not less than \$100.00 and not more than \$500.00, plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence, for the second offense and for each subsequent offense within twelve (12) months of the first offense, and in default of payment, to imprisonment for not more than thirty (30) days;
- 19(2) Any animal that is impounded three (3) or more times within any 12-month period may be impounded by the Animal Control Officer and disposed of in such fashion as deemed necessary by the Animal Control Officer. Without limiting the generality of the foregoing such disposal may be by means of destruction or sale to a new person.
- 19(3) Any person who contravenes Subsection 7(3) of this By-Law shall be issued a Notice of Breach of this By-Law, is guilty of an offense and is liable to a fine of not less than \$250.00 and not more than \$500.00, plus all applicable costs to remedy the contravention.
- 19(4) Any person who contravenes a provision of this By-Law relating to an animal which has been declared a dangerous animal, shall be issued a Notice of Breach of this By-Law, is guilty of an offense and is liable:
- (a) to a fine of not less than \$250.00 and not more than \$1,000.00, plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence, for the first offense, and in default of payment, to imprisonment for not more than fifteen (15) days;
  - (b) to a fine of not less than \$500.00 and not more than \$2,000.00 plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence, for the second offense and for each subsequent offense within twelve (12) months of the first offense, and in default of payment, to imprisonment for not more than thirty (30) days.
- 19(5) Any person who interferes with or obstructs the duties of an Animal Control Officer, a Poundkeeper or any other person authorized to enforce any provision of this By-Law, or who unlawfully enters any pound or unlawfully removes any animal impounded, shall be issued a Notice of Breach of this By-Law, is guilty of an offense and is liable:
- (a) to a fine of not less than \$500.00 and not more than \$2,000.00, or to imprisonment for a term of not more than thirty (30) days, for the first offense, plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence;
  - (b) to a fine of not less than \$1,000.00 and not more than \$5,000.00 or to imprisonment for not more than six (6) months, for each subsequent offense, plus all applicable costs of apprehension, impoundment and damages to public or private property which resulted from the offence.
- 19(6) Where the contravention, disobedience, refusal or neglect continuous for more than one (1) day, the person is guilty of a separate offense for each day that the contravention, disobedience, refusal or neglect continues.

- 19(7) A person who has been served with a Notice of Breach of this By-Law, may dispose of the matter by attending at the RM of Coldwell office during regular office hours within fifteen (15) days of the date of the Notice and pay to the CAO of the RM of Coldwell, the minimum fine (including applicable costs) as set out in the Notice, along with all other such charges that may have accrued as a result of enforcement of this By-Law. In the event that a person served with a Notice of Breach of this By-Law fails to pay the minimum fine as set out in the Notice (including applicable costs) within the said fifteen (15) day period, the person shall be subject to a hearing before Council, and if found guilty of the breaches of this By-Law set out in the said Notice, may be liable for the maximum penalties set out in this By-Law calculated having regard for Section 19(6) of this By-Law, together with an assessment of the costs incurred by Council to hold the hearing. The Council may proceed to collect any such fines and costs as against the person by any means available to it by law for the collection of outstanding taxes, including, without limitation, adding the fines and costs to the realty taxes on any property owned by the person within the RM of Coldwell/Town. The Council may also order that the person be sentenced to a term of imprisonment in accordance with the provisions of this Section 19.

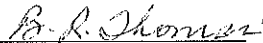
**Repeal**

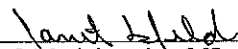
- 20(1) That By-Law No. 2/98 of the RM of Coldwell and its amendments thereto be hereby repealed in their entirety.

**Enactment**

- 21(1) That this By-Law shall come into full and effect on the 6<sup>th</sup> day of AUGUST, A.D. 2004.

**DONE AND PASSED** as a By-Law of the RM of Coldwell by the Reeve and Council in open session assembled this 5<sup>th</sup> day of AUGUST A.D. 2004.

  
Reeve

  
Chief Administrative Officer

Read a first time this 13<sup>th</sup> day of July, A.D., 2004

Read a second time this 5<sup>th</sup> day of August, A.D., 2004

Read a third time this 5<sup>th</sup> day of August, A.D., 2004