

**RURAL MUNICIPALITY OF ELTON
BY-LAW NO. 1565**

Being a By-Law to provide for the regulation and control of animals within the limits of the Rural Municipality of Elton and to repeal By-Law No. 1177.

PART I: AUTHORITY

WHEREAS subsection 232(1) of *The Municipal Act*, S.M. 1996, c. M2258 (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 subsections 5(1), (2) and (3) of *The Animal Liability Act*, S.M. 1998 c. A95 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.

NOW THEREFORE the Council of the Rural Municipality of Elton, in session assembled, hereby enacts as follows:

PART II: DEFINITIONS AND INTERPRETATION

By-Law Name

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

Definitions

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

"animal" means any domestic or wild animal, domestic or wild fowl or bird, or any species, class or type of such animal or fowl or bird, and either generally or of any kind or class.

"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 CAO as authorized by the Council.

"cat" means any member of the genus *Felis domesticus* (domestic cat).

"CAO" means the Chief Administrative Officer appointed by the Rural Municipality of Elton Council pursuant to the Manitoba Municipal Act chapter M225 of the Revised Statutes of Manitoba 1988.

"Council" means the Council of the Rural Municipality of Elton.

"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 then subsequently vaccinated at regular intervals not exceeding three years.

"dangerous animal" means any 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 section 12 of this By-Law.

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

"livestock" means animals kept or raised for use or pleasure, including farm animals kept for use and/or profit.

"Municipality" means the Rural Municipality of Elton.

"owner" means:

- (a) in respect to a dog or cat, a person who has actual or constructive possession or control for the time being of a dog or cat;
- (b) in respect to real property, a registered owner or a lawful occupier.

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

"Pound Keeper" means the person appointed by Council, whether on a temporary or permanent basis, to operate and maintain a pound, and to carry out the duties of a Pound Keeper as set out in sections 4 and 5 of this By-Law.

"rural settlement zone" means Forrest, Douglas and Justice and more particularly being those areas that are classified as either "GD" General Development, "RG" Residential General or lands within the settlement zones as identified in the Municipality's Zoning By-Law as may be in effect from time to time.

"running at large" or "run at large" means, in relation to a dog or cat, that the dog or cat 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.

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: APPOINTMENT AND DUTIES OF ANIMAL CONTROL OFFICER

Appointment of Animal Control Officer

2(1) The Municipality may appoint one or more persons as Animal Control Officer(s) to carry out the enforcement of this By-Law.

Duties of the Animal Control Officer

3(1) It shall be the duties of the Animal Control Officer:

- (a) to apprehend and confine at the pound, any dog or cat running at large within the Municipality contrary to the provisions of this By-Law, or which is kept or harboured 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 dogs or cats.
- (b) to make reasonable attempt to notify the owner of every dog or cat impounded if the identify 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 A hereto attached and shall state:
 - (i) the place and time that the dog or cat was apprehended;
 - (ii) the place and contact information to redeem the dog or cat from the pound;
 - (iii) the impoundment fee and other costs to be charged to the owner;
 - (iv) the method of payment required, and the date after which the dog or cat will be sold, destroyed or otherwise disposed of if not redeemed.

Where the identity of the owner of the dog or cat is not known, the Animal Control Officer and CAO may post notice(s) in the Municipal office and other places deemed appropriate, including at relevant community locations and/or other digital media means available. The notice shall describe the dog or cat and the date of apprehension.

- (c) to enforce the provisions of this By-Law.

3(2) The Animal Control Officer or Pound Keeper may use a tranquilizer gun for the purpose of capturing any animal found to be running at large within the Municipality provided however that if the Animal Control Officer or the Pound Keeper, as applicable, is not a licensed veterinarian, no such tranquilizer gun shall be used without the authority of a licensed veterinarian present at the time of use.

PART IV: ESTABLISHMENT OF POUND AND APPOINTMENT AND DUTIES OF POUND KEEPER

Appointment of Pound Keeper

4(1) The Municipality may appoint one or more persons as Pound Keeper(s) to carry out the duties of the Pound Keeper set out in this By-Law.

Common Animal Control Officer and Pound Keeper

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

Duties of Pound Keeper

5(1) It shall be the duties of the Pound Keeper:

- (a) To establish and maintain the pound in a manner in keeping with *The Animal Care Act*.
- (b) To keep a record of every dog or cat impounded, which record shall include the following minimum information:
 - (i) a description in reasonable detail of the dog or cat (including, the approximate weight, height and color of the dog or cat, as well as the order and breed of the dog or cat);
 - (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 dog or cat was sold or released), and the license number on the dog or cat's tag (if applicable);
 - (v) the amount and particulars of all fees, fines and other charges invoiced to, and received from or on behalf of, the owner and the name and address of the payor (if different from the owner); and
 - (vi) such other particulars as the CAO of the Municipality shall direct from time to time.

- (c) To collect all fees charged by the pound and to remit to the CAO of the Municipality such reports and statements as the 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 Pound Keeper 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 and the submission of all reports and statements required to be submitted to the Municipality under the said contract.
- (d) To keep any impounded dog or cat 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.
- (e) If, after expiration of the minimum period of impoundment set out in subsection 5(1)(d), a dog or cat has not been redeemed, it will be the duty of the Pound Keeper to do one of the following with the impounded dog or cat:
 - (i) sell or otherwise dispose of the impounded dog or cat to any person for an amount not less than the applicable pound fees accrued in respect of the impounded dog or cat as set forth in this By-Law, unless such fees are otherwise waived by the Municipality or by the Pound Keeper on the express authority of the Municipality; or
 - (ii) cause the impounded dog or cat to be humanely destroyed;unless the Municipality, or the Pound Keeper on the express authority of the Municipality, agrees to or directs an extended period of impoundment, in which case the impounded dog or cat will be held until the earlier of the date that it is sold or otherwise disposed of to a person in accordance with subsection 5(1)(e)(i) or until expiry of the extended period of impoundment, before it is humanely destroyed.
- (f) The Municipality may vary the terms, conditions and duties of the Pound Keeper by contract with a private party, provided however that the contract shall contain (and where absent in the contract, shall be deemed to incorporate) as minimum provisions, the duties of the Pound Keeper set out in subsections 5(1)(a) and (b), and further provided that the provisions in subsections 5(1)(c), (d) and (e) shall continue to apply except to the extent that they are specifically modified by the contract. Where the Pound Keeper is a private party under contract with the Municipality, the Pound Keeper 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 Pound Keeper may, at its sole cost and expense, keep an impounded dog or cat for longer than the minimum hold period, and may sell or otherwise dispose of the impounded dog or cat for an amount less than the applicable pound fees.

PART V: REGULATIONS AND RESTRICTIONS FOR DOGS AND CATS

Rabies Vaccination

- 6(1) The Animal Control Officer may at any time request that an owner provide proof that the owner's dog or cat has a current rabies vaccination.

Redemption

- 6(2) Except in the case of an impounded animal determined to be a dangerous animal, the owner of any dog or cat impounded by the Animal Control Officer may redeem his impounded dog or cat within three (3) days of the apprehension and impoundment by applying to the Pound Keeper and CAO for redemption and paying:
- (a) The impoundment and any other pound fees charged by the Pound Keeper;
 - (b) All other outstanding fines, damages or costs relating to the impounded dog or cat charged by the Municipality.

Responsibility of Owners Regarding Dogs within the Municipality

- 7(1) No owner shall:
- (a) Suffer or 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) Suffer or permit his dog to bark or howl or in any other way unduly disturb the quiet of any person or persons anywhere in the Municipality.
 - (c) Suffer or 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) Suffer or permit his dog to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours.

- (e) Suffer or 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 determined to be a dangerous animal, unless such dog is kept at all times in accordance with the provisions of Part VI.
- (g) Suffer or permit his dog to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner.
- (h) Suffer or permit his dog on any school ground or playground.
- (i) Suffer or permit his dog on public property (including parkland area) unless the dog is on a leash (which leash shall be no longer than six (6) feet in length, fully extended) and the dog is in the actual custody and effective control of the owner or a person competent to control it, unless the said public property has been specifically designated by Council as land upon which dogs are not required to be on a leash.
- (j) Suffer or permit his dog to upset waste receptacles or otherwise litter.

7(2) An owner of a guide dog shall not be subject to the restrictions imposed under subsections 7(1) (c), (h) and (i).

Restrictions on Dogs

7(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 except other dogs owned by the same owner or by another owner who voluntarily permits such contact.

Responsibility of Owners regarding Cats within the Municipality

8(1) No owner shall:

- (a) Subject to subsection 8(2), permit the cat to be outside of the owner's premises unless the said cat is under the immediate charge and effective control of a person competent to control it. When a cat is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection.
- (b) Suffer or permit his cat to disturb the quiet of any person or persons anywhere in the Municipality.
- (c) Suffer or permit his cat to defecate on any public or private property other than the property of its owner. Where a cat defecates on property other than the property of its owner, the owner shall cause such excrement to be removed forthwith.
- (d) Suffer or permit his cat to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours.
- (e) Suffer or permit his cat to damage public property or private property other than that of the owner. Where public or private property has been damaged by a cat, its owner shall be deemed to have failed or refused to comply with this subsection.
- (f) Suffer or permit his cat to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner.
- (g) Suffer or permit his cat to upset waste receptacles or otherwise litter.

Restrictions on Cats

8(2) 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 or by another owner who voluntarily permits such contact.

Animal Trap

9(1) Any person who wishes to obtain a trap to apprehend a dog or cat running at large from the Pound Keeper or the Animal Control Officer, shall:

- (a) Provide to the Pound Keeper or Animal Control Officer, as applicable, his or her name, address and telephone number;
- (b) Agree to comply with the terms and conditions for the use of the trap, including any terms and conditions governing the treatment and disposition of any trapped animal, as may be imposed by the Pound Keeper or Animal Control Officer, as applicable; and
- (c) Pay any deposit and/or fee as may be authorized by Council from time to time for use of the trap, as set by resolution or policy of Council.

Maximum Number of Dogs or Cats

- 10(1) (a) No person shall own, harbour, keep or have in his possession or control or on his premises, more than three (3) dogs over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, unless such person has authorization in accordance with applicable provisions of the Municipality's Zoning By-Law as may be in effect from time to time.
- (b) No person shall own, harbour, keep or have in his possession or control or on his premises, more than five (5) cats over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, unless such person has authorization in accordance with applicable provisions of the Municipality's Zoning By-Law as may be in effect from time to time.

PART VI: BITING INCIDENTS AND DANGEROUS ANIMALS

Dog or Cat Bites

- 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 or any animal; and
- (b) May apprehend a cat that he has reason to believe has bitten a person if, in his discretion, such action in respect of the cat is necessary for the protection of the public;
- 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 dog or cat is not voluntarily surrendered to the Animal Control Officer by the owner, whether or not a Notice to Surrender (Schedule "B") has been issued, the Animal Control Officer shall, with the approval of the CAO, be empowered to apprehend and impound the dog or cat 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 dog or cat.
- 11(3) Any dog or cat 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, with the approval of the CAO, authorize the owner of the dog or cat to quarantine the dog or cat in a place other than the pound, provided that such place is under the direct supervision of a licensed veterinarian and that the dog or cat 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 and CAO pursuant to subsection 11(8) hereof that the dog or cat is not dangerous, the dog or cat may be released to the owner after expiry of the prescribed quarantine period upon payment by the owner:
- (a) To the Pound Keeper of a pound fee calculated at the daily rate together with any costs assessed against the owner hereunder; and
- (b) To the Municipality of any fine assessed or other costs or damages.
- In the event that the owner fails to redeem the dog or cat from the pound within three (3) days after expiry of the quarantine period, the dog or cat shall be sold, or otherwise disposed of, or destroyed at the discretion of the Pound Keeper.
- 11(6) The Animal Control Officer shall keep a record of all bite incidents, identifying the dog or cat 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 dog or cat 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 dog or cat shall be examined by a licensed veterinarian approved by the CAO prior to release from quarantine. The determination as to whether or not the dog or cat can be released from quarantine or must be destroyed or otherwise disposed of, shall be at the discretion of the veterinarian based upon the following factors:
- (a) The medical report of the licensed veterinarian who has examined the dog or cat;
- (b) Whether or not the public health authorities are prepared to consent to the release of the dog or cat;
- (c) The severity of the bite incident, the circumstances surrounding the incident and the consequences of the incident;
- (d) Whether or not the dog or cat is, in the opinion of the Animal Control Officer and CAO, a dangerous dog or cat and, if so, whether or not the provisions of sections 12 and 13 hereof have been complied with;
- (e) Proof that the dog or cat does not have rabies, and that the dog or cat has a current rabies vaccination 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 and CAO to release a dog or cat prior to the expiry of the quarantine period and to impose conditions upon the release of a dog or cat 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 dog or cat 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) In the case of a dog, the owner shall post in a conspicuous location at the entrance of the premises where the dog is confined, a sign which reads **"WARNING: BEWARE OF DANGEROUS <insert type of animal>"**;
 - (c) The owner shall submit the dog or cat for veterinary examination from time to time as may be prescribed by the Animal Control Officer and CAO, and shall report the results of any such veterinary examination to the Animal Control Officer;
 - (d) In the case of a dog, the owner shall take out and pay for such liability insurance on the dog as may be prescribed by the Animal Control Officer and CAO;
 - (e) Such other conditions as the Animal Control Officer and CAO may deem necessary or advisable in the interests of public safety.

Determination that an animal is a dangerous animal

- 12(1) The Animal Control Officer where he has reason to believe that an animal, including but not limited to a dog that has been the subject of action taken under section 11, is a dangerous animal, shall arrange a hearing by Council at a regularly scheduled meeting 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 and CAO may:
- (a) Require that the animal be quarantined in the pound until the earlier of the date that the Animal Control Officer and CAO 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) Impose all or any of the conditions set out in subsection 13(2) of this By-Law upon the owner's custody of the animal, which conditions shall apply until the earlier of the date that the Animal Control Officer and CAO 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, in person, by posting the notice at the dwelling or by mailing the notice by registered mail to the last known address of the owner. 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 sections 11 and 12 of this 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 [oral] or documentary [written]) 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.
- 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 pet animal or any livestock without provocation; or

- (b) The Council may make an order declaring the animal to be a dangerous animal if, in their opinion, there is a material risk that the animal may cause damage or injury to person or property or any other animal, taking the following non-exhaustive factors into account:
 - (i) whether the animal has worried, bitten, wounded or injured any person or animal;
 - (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.
- 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 no appeal from the decision of Council.
- 12(8) 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.

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) 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 Pound Keeper.
 - (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) Permit the animal 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 animal is at all times under the effective control of a person competent to control it.
 - (d) 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.
 - (e) 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.
 - (f) Advise the Animal Control Officer within three (3) working days of the death of the dangerous animal.
 - (g) 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.
 - (h) 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 a sign posted pursuant to subsection 11(9)(b) or subsection 13(2)(d) hereof without having first obtained the permission of the Animal Control Officer.

Destruction of dangerous animal

- 14(1) Where it appears on reasonable grounds that an owner has breached a condition of this By-Law in respect of an animal that has been declared dangerous or if an 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 Municipality, in which case Council shall hold a hearing at a 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 VII: LIVESTOCK

- 15(1) Any livestock found running at large in the Municipality shall be impounded by an officer designated by the CAO. When livestock is found running at large, its owner shall be deemed to have refused or failed to comply with this By-Law.
- 15(2) Council may establish from time to time a temporary premises for the confinement of livestock apprehended pursuant to the provisions of this By-Law. This may include the premises where the apprehension took place, and the owner of such premises, or any other such person as may be authorized by the CAO, shall provide care for the impounded animals at a rate or remuneration to be fixed from time to time by Council. The CAO may authorize the establishment of a temporary pound, which temporary pound shall be ratified at the next meeting of Council.
- 15(3) When livestock is impounded and the identity of the owner is not known, the CAO shall publish notice of the impoundment by posting in the Municipal Office and other methods deemed appropriate, including at relevant community locations and/or other digital media means available. This notice shall describe the livestock so impounded, including any identifying tags, mark or brands, the day of impoundment and the location within the Municipality where the livestock was found running at large.
- 15(4) If the identity of the owner is known, the CAO shall serve a Notice of Impoundment (Schedule "A") either directly upon the owner or by mail to the owner at his last known address.
- 15(5) The owner of the livestock shall not be entitled to the return of the livestock until the actual costs incurred by the Municipality in apprehending and impounding the livestock, together with the costs of caring for the livestock and any fines imposed pursuant to this By-Law, have been paid in full.
- 15(6) If no person claims the livestock within ten (10) days of the date of the notice of impoundment, or if the owner has not paid the costs referred to in subsection 15(5), the CAO may sell or otherwise dispose of the livestock without further notice to the owner, the proceeds of which shall be paid to the general funds of the Municipality.

PART VIII: GENERAL PROVISIONS

Offenses under this By-Law

- 16(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 or cat to run at large;
 - (b) Keeping or harbouring dogs or cats in excess of the maximum number permitted by this By-Law unless such number in excess of the maximum number permitted by this By-Law has been approved under authority of the Municipality's Zoning By-Law;
 - (c) Failing to comply with the requirements of any provision of:
 - (i) Part V (Regulation and Restrictions for Dogs and Cats),
 - (ii) Part VI (Biting Incidents and Dangerous Animals),
 - (iii) Part VII (Livestock).
 - (d) Failing to report a bite incident or failing to voluntarily surrender the dog or cat believed to have bitten a person or any animal to the Animal Control Officer or Pound Keeper;
 - (e) Failing to surrender a dog or cat to the Animal Control Officer upon a request therefor under subsection 17(2) of this By-Law;
 - (f) Failing to properly vaccinate a dog or cat against rabies;

- (g) Defacing or removing a sign required to be posted under subsection 11(9)(b) or subsection 13(2)(d) of this By-Law.

Interference With Enforcement

- 16(2) It shall be an offense under this By-Law for a person to interfere or obstruct any attempt by the Animal Control Officer, Pound Keeper, CAO or the Council from carrying out its duties and obligations hereunder. Without limiting the generality of the foregoing, no person shall interfere or obstruct or attempt to interfere or obstruct an Animal Control Officer, the Pound Keeper, a police officer or any other person authorized to apprehend and impound a dog or cat running at large, who is attempting to or who has apprehended and impounded any dog or cat in accordance with the provisions of this By-Law.
- 16(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 dog or cat, or to otherwise cause or assist an escape of any impounded dog or cat.

Apprehension by Resident

- 16(4) Any resident of the Municipality may apprehend and confine a dog or cat which is running at large on his property, provided that he shall immediately thereafter inform the Animal Control Officer, Pound Keeper or the CAO 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 dog or cat.

Right of Entry

- 17(1) The Animal Control Officer or any other person appointed by the Municipality to enforce the provisions of this By-Law or any other law, rule or regulation pertaining to animal care or custody, may lawfully enter upon the land and buildings of a dog or cat owner or any other person, other than the personal residence of an individual, for the purposes of apprehending a dog or cat running at large to ensure compliance with this By-Law or to otherwise enforce the provisions of this By-Law, but shall not enter the personal residence of any individual without the consent of the owner or occupant of the personal residence or a valid warrant or order from a provincial court judge, magistrate or justice of the peace, as required to permit such entry.
- 17(2) The owner of any dog or cat that has bitten any person or any other animal shall present the said dog or cat 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 dog or cat.

Complainant Identification

- 18(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 CAO whether or not to proceed based on an anonymous complaint or information.

Liability

- 19(1) No liability shall attach to the Animal Control Officer, the Pound Keeper, the Council and/or the Municipality and its officers and employees in carrying out their respective duties under this By-Law. Without limiting the generality of the foregoing, no liability shall attach to the Animal Control Officer, the Pound Keeper, the Council and/or the Municipality and its officers and employees for any dog or cat 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.

Financial Responsibility of Owner

- 20(1) The owner of an animal shall be responsible for all costs, fines and damages associated with impoundment, quarantine, signage, veterinary fees, pound fees attributable to such animal, and any liability to the victim or victims of a bite incident.

Penalties

- 21(1) Without limiting the penalties for specific offenses set out in subsections 21(2) and 21(3) hereof, any person who contravenes any provision of this By-Law is guilty of an offense and is liable to:
- (a) A fine structure as approved by resolution or policy of Council; and
 - (b) All applicable costs and penalties.
- 21(2) Any dog or cat that is impounded three 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 under this By-Law.

- 21(3) Any person who interferes with or obstructs the duties of an Animal Control Officer, a Pound Keeper or any other person authorized to enforce any provisions of this By-Law, or who unlawfully enters any pound or unlawfully removes any dog or cat impounded, is guilty of an offense under this By-Law and is subject to:
- (a) a fine structure as approved by resolution or policy of Council; and
 - (b) All applicable costs and penalties.
- 21(4) Where a corporation commits an offense under this By-Law, each director or officer of the corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in the doing of the act that constitutes the offense, is likewise guilty of the offense and liable for the penalties provided for herein.
- 21(5) Where the contravention, disobedience, refusal or neglect continues for more than one (1) day, the person is guilty of a separate offense for each day that the contravention, disobedience, refusal or neglect continues.

PART IX: ENACTMENT AND REPEAL

Not limit Manitoba Legislation provisions

22(1) This By-law shall not be interpreted so as to limit, restrict or curtail in any manner the rights of any person contained in the provisions of *The Animal Care Act c. A84*, *The Animal Diseases Act c. A85*, *The Animal Liability Act c. A95*, or any other act of the continuing consolidation of the Manitoba Statutes and any amendments thereto.

Effective date

22(2) This By-Law shall come into force and effect on the day it receives Third and Final reading by Council of the Rural Municipality of Elton.

Repeal By-Law

- 22(3) (a) By-Law No. 1177 and any other By-Law whose provisions are inconsistent with those contained herein are hereby repealed.
- (b) The repeal of the By-Law(s) in the last preceding subsection shall not revive any By-Law or any provision of any By-Law repealed by it, nor shall the said repeal prevent the effect of any saving clause in the said By-Law or the application of the said By-Law or any other By-Law or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

DONE AND PASSED as a By-Law of the Municipality of Elton by the Reeve and Council in open session duly assembled this 10th day of July, 2018.

RURAL MUNICIPALITY OF ELTON



Reeve



CAO

Read a first time this 22nd day of August, 2018.

Read a second time this 13th day of September, 2016.

Read a third time this 10th day of July, 2018.

SCHEDULE "A"

**RURAL MUNICIPALITY OF ELTON
By-Law No. 1565**

NOTICE OF IMPOUNDMENT

You are hereby notified that an animal was impounded as more particularly described below, and further that, unless the said Animal is claimed and all impoundment charges and fines/costs incurred have been paid on or before the specified date, the said Animal will be sold, destroyed or otherwise disposed of pursuant to By-Law No. 1565 of the Rural Municipality of Elton.

Animal Information	
Description of Animal	
Reason for Impoundment	
Apprehension Information	Date _____, 20____ Time _____ am / pm
	Location

Owner Information (if known)			
Owner Name			
Civic Address		Legal Description	
Mailing Address		Phone No.	

Pound Information	
Impounded at	
Contact Phone #	
Impound Fees Payable directly to the Pound	

For Other Fines & Costs	
RM of Elton	204-728-7834 or info@elton.ca

Date: _____

Authorized Officer (signature)

Authorized Officer (print name)

Signature of Owner	Date
Served by (signature)	Date

SCHEDULE "B"

**RURAL MUNICIPALITY OF ELTON
By-Law No. 1565**

NOTICE TO SURRENDER FOR IMPOUNDMENT

Owner Information (if known)			
Owner Name			
Civic Address		Legal Description	
Mailing Address		Phone No.	

Take Notice that the undersigned has reasonable and probable grounds to believe that you are in possession of an animal being a _____

_____ that did, on or about the _____ day of _____, 20_____, violate section _____ of By-Law No. 1565 of the Rural Municipality of Elton.

You are hereby ordered to surrender the said animal to:

_____ (Name) _____ (Position)

for the Rural Municipality of Elton within two (2) days of the service of the Notice herein.

Failure to surrender the animal within the time provided will result in liability for a fine each day the failure to surrender continues.

SIGNED AND SERVED THIS _____ DAY OF _____, 20_____.

Authorized Officer (signature)

Authorized Officer (print name)