

MUNICIPALITY OF RUSSELL BINSCARTH

BY-LAW NO. 91/02/23

A BY-LAW TO REGULATE AND CONTROL ANIMALS WITHIN THE
MUNICIPALITY OF RUSSELL BINSCARTH

WHEREAS under Paragraphs 231(b), 232(k), and 236 of the Municipal Act, the Municipality of Russell Binscarth is authorized to pass by-laws regulating wild and domestic animals and activities in relation to them;

AND WHEREAS Paragraph 130 of the Municipal authorizes the establishment of a position to carry out the powers, duties and functions of a designated officer under a by-law, the Municipal Act or any other Act;

AND WHEREAS Paragraphs 239, 240, 244, and 245 provide for inspection, remedying, and enforcement of by-laws, the Municipal Act, or any other Act;

AND WHEREAS the Council of the Municipality of Russell Binscarth deems it necessary and in the best interests of the residents of the Municipality to enact such a by-law;

NOW THEREFORE the Council of the Municipality of Russell Binscarth, in Council assembled, enacts as follows:

PART I: DEFINITIONS AND INTERPRETATION

1. Definitions:

In this by-law:

- (1) "Animal" means any creature that is not human.
- (2) "Animal Control Officer" means the person appointed by the Municipality of Russell Binscarth under paragraph 2 to carry out the enforcement of this by-law;
- (3) "At Large" as applied to a dog or cat means off the premises where the Owner resides or carries on business and not under the control of a person competent to control it.
- (4) "Cat" means any feline, male or female;
- (5) "C.A.O." means Chief Administrative Officer of the Municipality of Russell Binscarth;
- (6) "Dog" means any canine, male or female;
- (7) "Service Dog" means a dog specially trained for and actually used to assist people who have a wide variety of mobility impairments and other disabilities including but not limited to sight, hearing, seizures and other medical problems.
- (8) "Domestic Pet" means any animal other than a dog or cat that has been domesticated and is kept or harboured within the municipality.
- (9) "Livestock" means any animals kept for farming or other purposes whether or not intended for profit and includes but is not limited to:
 - i) Dairy and beef cattle
 - ii) Swine including wild boar, goats, sheep, bison, horses
 - iii) All cervids on game production farms
 - iv) All of the family Camelidae (Llamas, Alpacas)
 - v) All domestic poultry (chickens, turkeys, ducks, geese) and specialty fowl (guinea fowls etc.)
- (10) "Owner" means any person who keeps or harbours a dog, cat, or livestock;
- (11) "Pound" means any enclosure, premises or place designated by a resolution of the Council of the Municipality of Russell Binscarth for the purposes of impounding and caring for any animal(s) impounded under this or any other by-law of the Municipality of Russell Binscarth.
- (12) "Sterile" means
 - i) as it applies to male dogs/cats: neutered.
 - ii) as it applies to female dogs/cats: spayed, or having undergone

ovariohysterectomy.

- (13) "Town Sites" means the Town sites referred to as the former town of Russell and village of Binscarth.

PART II: ESTABLISHMENT OF ANIMAL CONTROL OFFICER

1. Animal Control Officer

- (1) The position of Animal Control Officer is established as a designated officer for the purposes of the enforcement of this by-law. The Animal Control Officer shall have the powers, duties and functions provided for in this by-law and those set out in sections 239, 242 and 245 of the Municipal Act for the enforcement of this by-law. Council may appoint the Animal Control Officer by resolution.

PART III: DOMESTIC PETS WITHIN THE TOWN SITES

1. Licencing

- (1) Owner of every dog or cat over the age of 10 months shall obtain a license annually from the Municipality of Russell Binscarth. The name of the person legally liable for the dog or cat shall be certified by the person taking out the licence.
- (2) Every licence shall expire on the anniversary of the date purchased.
- (3) The licence is not transferable from one dog or cat to another, and no refund shall be made on any paid-up dog or cat licence fee because of the death or sale of the dog or cat, or upon the owner leaving the Municipality before the expiration of the licence period.
- (4) Subject to subsection (5), every Owner must produce before a licence is issued a Certificate of Vaccination for Rabies for that dog or cat from a licenced Veterinarian showing that the dog or cat has been vaccinated for rabies on a date no more than three months prior to the date of application.
- (5) Where a licenced Veterinarian has stated in writing that a dog or cat, for medical reasons, cannot be vaccinated for rabies and such statement is produced to the C.A.O. or their designate, that dog or cat and the Owner thereof shall be exempt from the provisions of Subsection (4).

2. Licence Fee.

- (1) i) The annual licence fee for every sterile dog or cat shall be \$10.00, provided an applicant for the licence under this subsection furnishes, before a licence is issued, a certificate from a licenced Veterinarian showing that the dog or cat in respect of which a licence is applied has been sterilized and proof of current rabies vaccination is provided which vaccination shall be valid for one year.
- ii) The annual licence fee for every dog or cat shall be \$50.00, except as set out in (i) above.
- (2) No licence fee shall be charged for any dog or other animal specially trained as a "service dog or animal" providing that the person using such dog or animal produces to the satisfaction of the C.A.O. or his designate, proof of blindness, impairment of sight or a medical certificate from a qualified Canadian physician that states the requirement for the need of a service dog or other animal.
- (3) Where a change of ownership of a dog or cat licenced hereby occurs during the licence period, the new Owner may have the current licence transferred to his name upon payment of a transfer fee of \$5.00. Such transferred licence shall be valid for the balance of the time period remaining on the licence as issued.
- (4) If the Owner of a dog or cat loses the licence tag which was issued for the dog or cat, the C.A.O. may issue a new licence tag upon payment of a further fee of \$5.00 and upon production of the receipt issued for the licence for the current period.

3. Special Restriction.

- (1) A female dog or cat in heat shall be confined and housed in the residence of the Owner or taken to a licensed kennel for the period of time she is in heat.

4. Responsibility of Owners.

- (1) No Owner shall:
 - i) Permit his dog or cat to be at large outside the boundary of the owner's property;
 - ii) Permit his dog or cat to unduly disturb the quiet of others;
 - iii) Permit his dog or cat to defecate on any public property or any private property other than the property of the Owner;
 - iv) Permit his dog or cat to damage public or private property other than the property of the Owner;
 - v) Own, harbour or keep a dog or cat for which a license is required and has not been issued for the current license year;
 - vi) Permit a dog or cat on a school ground or playground without a leash and under the control of a person competent and able to control it;
 - vii) Permit a dog to bite any person or animal, whether or not the bite breaks the skin; or
 - viii) Harbour or keep a dog that has previously been impounded under this by-law for biting a person or animal, or a dogs whose owner has previously been convicted of an offence for contravention of subsection (1)(vii) in respect of the dog, unless such dog is securely fastened or properly muzzled or kept within an enclosure so constructed as to prevent the escape of the dog and entrance of innocent persons, and in such manner that it does not endanger the safety of any person or any other animal, and such other condition that may have been imposed by the Council or animal control officer.

- (2) Where a dog or cat defecates on property other than the property of its Owner, the Owner shall cause such excrement to be removed immediately.

- (3) Where a dog or cat does anything referred to in sections 4(1) the Owner shall be deemed to have permitted it.

- (4) An Owner whose sight is impaired or who is blind who owns a registered service dog, or who is being assisted by a service dog, shall not be subject to subsections (1)(iii) hereof.

Any dog kept where the Owner carries on business must be securely confined within an enclosure on private land and such areas are to be sufficiently posted with Danger Signs, clearly stating "Beware of Dog" or similar wording.

- (5) Any dog at the dog park shall be kept under control at all times and shall be accompanied by a competent and able person

5. Ill-Treated Animals.

- (1) No Owner shall permit an animal to be impounded, fenced, or confined without necessary food, water, or attention, or wantonly, cruelly, or unnecessarily beaten, bound, tortured, ill-treated, abused or subject to pain or discomfort, or unduly exposed to cold or overcrowding.
- (2) Where an animal is ill-treated under this by-law, an Owner shall be deemed to have permitted it.

6. Complaints.

- (1) Before any action, or legal proceedings is taken as a result of a complaint, the complainant shall give in writing notice of the complaint with sufficient details to identify the dog and/or owner and shall provide their name and address to the Animal Control Officer, or the C.A.O. complaints received without the name and address of the complainant will not be acted upon.

- (2) All complaints will be dealt with in accordance with admin policy number 29/23.

7. Enforcement.

- (1) Upon the direction by the C.A.O., the Animal Control Officer is authorized to seize and impound a dog or cat for a violation of sections 3, 4(1)(i, ii, v, vii and viii) and 5 of this by-law.
- (2) Upon impounding a dog or cat, the Animal Control Officer shall serve a written notice to the Owner thereof containing the following:
- i) a description of the impounded dog or cat;
 - ii) the day and time and place of the capturing;
 - iii) a copy of the provisions of subsection (4) hereof.
- (3) If the Owner of an impounded dog or cat cannot be ascertained after reasonable efforts, the C.A.O. may instruct the Animal Control Officer to proceed in accordance with subsection (4) hereof. Reasonable efforts shall be limited to notice on the municipal website, notice on the municipal Facebook site, and posting in the municipal offices.
- (4) Subject to subsection (7), upon the expiration of three days from the service of the notice under subsection (2) (including the day of service but excluding Saturdays and Sundays), the C.A.O. may instruct the Animal Control Officer to turn the animal over to a qualified animal rescue organization including a humane society. If a qualified animal rescue organization or humane society is unable, for whatever reason, to take possession and control of the animal, the Animal Control Officer may sell the dog or cat to any person at the discretion of the Animal Control Officer, for an amount not less than the applicable pound fees, or cause the dog or cat to be disposed of or destroyed.
- (5) Despite subsections (1-4), for a violation of section 4(1)(vii), where the dog has previously been impounded for biting a person or animal, or where the dogs Owner has previously been convicted of an offence for contravention of section 4(1)(vii) in respect of the dog, the Animal Control Officer is authorized to seize and destroy the dog.
- (6) Despite subsections (2-4), for a violation of section 5, the C.A.O. may instruct the Animal Control Officer to turn the animal over to a qualified animal rescue organization or humane society. If the animal rescue organization or humane society is unable, for whatever reason, to take possession and control of the animal, the Animal Control Officer may sell, dispose of or destroy the dog or cat in a humane manner.
- (7) Despite subsections (1-4), if it has been determined by a certified veterinarian that the dog or cat which has been impounded is "feral" and that holding the animal for the 3 day waiting period will put individuals at the Veterinarian Clinic at risk. The feral animal can be destroyed prior to completion of the 3 day waiting period. The determination of the veterinarian is final
- (8) All dogs or cats suspected of suffering from rabies shall be dealt with in accordance with the regulations under "The Public Health Act" and shall be seized, quarantined and confined separate and apart from other dogs/cats. If the said animal is well after the required quarantine period of 10 days, it can be released to its Owner. If the animal dies within the quarantine period the dead animal shall be taken to a Doctor of Veterinary Medicine for further examination and reported to the public health authorities.
- (9) If it is determined that a dog or cat has rabies it shall be destroyed by a Doctor of Veterinary Medicine and the diagnosis confirmed. Any dog or cat that bites or scratches a human being shall be quarantined for 10 days at the Owner's expense until a definite diagnosis of rabies can be confirmed by the Medical Officer of Health.
- (9) The Animal Control Officer shall provide or arrange to have provided sufficient food, water and shelter to every dog or cat captured and impounded during the time such dog or cat remains impounded.
- (10) The Animal Control Officer is authorized to carry out any inspection necessary to enforce this by-law.
- (11) The costs of an action or measure taken by the Municipality in enforcing this by-law

is an amount owing to the Municipality by a person who contravenes this by-law and may be added to the taxes on property and collected as if a tax levy.

- (12) No liability shall attach to the Animal Control Officer, the C.A.O. or the Municipality for any dog or cat destroyed or injured while being captured or during impoundment.

8. Redemption

(1) The Owner of any dog or cat impounded, except where provided otherwise in this by-law, may redeem the dog or cat at the place of impoundment provided that the animal impounded has not been sold or disposed of by purchasing the required license for the animal if one has not previously been purchased in the same year and paying the pound fee calculated as follows:

- (i) On the first impoundment, the sum of \$50.00 plus \$10.00 for each day, or any part thereof, the dog or cat has been impounded. If the dog or cat had a current license that was properly secured and displayed on the animal at the time the animal was impounded, or if the Owner of the animal can produce proof of the purchase of a license acquired for the dog or cat prior to impoundment, the first-time impoundment fee shall be reduced to \$0 plus \$10.00 for each day, or any part thereof;
- (ii) On any second impounding occurring within the same calendar year, the sum of \$100.00 plus \$10.00 for each day or any part thereof the dog or cat has been impounded;
- (iii) On any third or subsequent impounding occurring within the same calendar year, the sum of \$150.00 plus \$10.00 for each day, or any part thereof, the dog or cat has been impounded.

9. Interference with Enforcement

- (1) No person shall interfere with, or obstruct the enforcement of, any provision of this by-law by the Animal Control Officer, the CAO, or an employee of the Municipality.

10. Removal of Licence Tag

- (1) No unauthorized person shall remove the collar or licence tag of any licenced dog or cat.

11. Records

- (1) The Animal Control Officer is to keep a record of every dog or cat impounded or destroyed. Such record will show the description and particulars of the dog or cat, the day and hour of impounding, redemption or sale or disposition, the name and address of the Owner (if available), licence number (if any), the amount of all fees, fines and charges and of all monies received and expended in respect of such dog or cat, and any other particulars as the C.A.O. shall direct. All monies collected shall be remitted to the C.A.O. as and when the C.A.O. requires, together with such reports and statements as the C.A.O. may prescribe.

12. Restriction as to Number of Animals to be Kept

- (1) No person shall harbour, keep or have in his possession or in his premises more than 3 dogs or 3 cats over the age of 6 months. This provision does not apply to any approved and licenced animal kennels, animal rescue organizations or veterinarian clinics or hospitals.

13. Expenses

- (1) The C.A.O. is authorized to expend such monies as are necessary to operate the pound referred to herein.

14. Restrictions on Domestic Pets

- (1) An owner of a domestic pet other than a dog or cat shall not allow the domestic pet outside of the owner's premises unless the domestic pet is at all times while outside of the owner's premises, under the immediate charge and effective control of a person competent to control it. In the event that the animal alleged to be a domestic pet is a restricted animal or is a wild animal within the meaning of *The Wildlife Act*,

no person shall be entitled to keep or harbor such animal within the Municipality.

PART IV: LIVESTOCK

1. Responsibility of Owner

- (1) No Owner shall harbor, keep, or possess livestock on their premises, unless the use of the premises for this purpose is permitted in the Tri-Roads Planning District Development Plan or Tri-Roads Planning District Zoning By-law.
- (2) No Owner shall permit livestock to run at large within the Municipality. When livestock is found running at large, its Owner shall be deemed to have permitted the livestock to run at large.

2. Enforcement

- (1) The Animal Control Officer may establish a temporary or permanent premises for the confinement of livestock found running at large. This may include premises where the apprehension took place, and the owner of such place or other such person as may be authorized shall provide care for the livestock.
- (2) Where livestock is impounded, the Animal Control Officer shall post notice of the impoundment at the municipal office and website. The notice shall describe the livestock including any identifying tags, marks or brands, the day of impoundment, along with the location within the Municipality where the livestock were found.
- (3) If the identity of the Owner is known, the Animal Control Officer shall give the Owner a copy of the notice.
- (4) The Owner of the livestock shall be entitled to the return of the livestock upon payment of the Municipal costs incurred in apprehending and impounding the livestock.
- (5) If no person claims the livestock within 10 days of the date of the notice, or if the Owner has not paid the costs and redeemed the livestock the Animal Control Officer may sell the livestock, the proceeds of which shall be applied against any Municipal costs with any remainder sent to the Owner if known.

PART V: DANGEROUS ANIMAL

DANGEROUS ANIMAL DESIGNATIONS AND REMEDIES

- (1) The animal control officer at the direction of the C.A.O. may seize and impound any animal that is reported as dangerous to person or property. Such seized and impounded animal shall be delivered to the pound and shall be held there at the expense of the owner for 10 days.
- (2) The animal control officer shall hold a hearing with respect to any animal held pursuant to this section. The owner shall be served with notice of time, date, and place of the hearing.
- (3) The owner may be present at the hearing either in person, or by or with counsel. The owner shall be entitled to hear all evidence and reports concerning the impounded animal. Should the owner not attend, provided there is evidence of notification, the hearing can proceed without the owner's attendance.
- (4) After the hearing, the animal control officer shall issue written findings resulting from the hearing. If the dog is so found to be a dangerous animal, then the animal control officer shall issue an order declaring the animal to be dangerous and shall provide a copy of such order to the Municipality and the owner.
- (5) In reaching such decision, the animal control officer shall take into consideration the following factors:
 - i) Whether or not the dog has attempted to or caused injury to a person without provocation whether on public or private property.
 - ii) Whether or not the dog has, while off its owner's property, killed or injured a domestic animal without provocation.

- iii) The circumstances of any injury to any person or animal.
 - iv) Whether the dog has previously bitten, wounded, or injured any person or animal.
 - v) The circumstances surrounding any previous biting, wounding, or other incidents.
 - vi) Whether the dog, when unprovoked has shown a tendency to pursue, chase, or approach in a menacing fashion a person on the street, sidewalk or any public or private property.
- (6) If the animal control officer declares a dog to be dangerous, the officer shall concurrently decide whether the dog should be destroyed or released to the owner on conditions.
- (7) The animal control officer may require every owner of a dog declared dangerous to:
- i) Obtain a licence for a dangerous dog and pay the fee as required,
 - ii) Cause the dog to be tattooed upon the ear with clearly identifiable information as required by the animal control officer
 - iii) Ensure that the dog is kept while on private property either securely confined indoors or in a securely enclosed and locked pen, structure or compound which:
 - prevents the entry of young children and
 - prevents the dog from escaping and
 - has minimum dimensions suitable for the size of dog as prescribed by the animal control officer and
 - has secure sides and
 - provides protection from the elements for the dog.
- (8) Permit the dog on public property only if muzzled, restrained on a leash no longer than 4 feet, and under the direct and continuous charge and effective control of a responsible adult.
- (9) Display in a conspicuous location at the entrance to the front and rear of the property or building a sign stating "Beware of Dangerous Dog". The sign shall be posted in such a manner that it cannot be removed easily by others and is visible and can be read from the sidewalk or street or land outside the premises.
- (10) Within 3 days of selling, giving away, or otherwise disposing of the animal, notice to the animal control officer of the name, address, contact information including phone number of the new owner.
- (11) Advise the animal control officer immediately if the animal is missing, running at large, or has bitten, wounded, or attacked any person or animal.
- (12) Maintain in force to the satisfaction of the animal control officer a comprehensive liability insurance policy including liability for damage or injury caused by the dog with a minimum limit of liability of \$2,000,000 per occurrence.
- (13) Such other conditions as the animal control officer in their sole discretion deems advisable and appropriate.
- (14) Should the owner, within 3 days of being given notice of the declaration that their dog or animal has been declared a "dangerous animal", advise the animal control officer and the CAO that they wish to appeal the declaration. Whereupon the animal control officer shall submit all evidence and reports to the next meeting of Council.
- (15) Where an appeal is filed, Council of the Municipality of Russell Binscarth shall hold a hearing within 7 days to determine whether the order of the animal control officer should be upheld.
- (16) Upon hearing all representations in the matter Council may confirm the order, vary the order or dismiss the order.
- (17) The decision of Council is final.

PART VI: PENALTIES AND FINES

1. Offences

- (1) A person who contravenes any provision of this by-law is guilty of an offence, and except as otherwise provided, is liable to a fine of not less than \$25.00 and not more than \$1,000.00.
- (2) In addition to a fine for a contravention of any provision of this by-law, a person is liable to a penalty equal to the costs of the actions or measures taken by the Municipality in enforcing this by-law, including the costs incurred in the prosecution of an offence. An amount imposed by way of a fine, costs and a penalty for a contravention of any provision of this by-law, may be collected in any manner in which a tax may be collected or enforced under the Municipal Act.

PART VII: GENERAL PROVISIONS

1. Peace Officer

- (1) A peace officer is authorized to enforce this by-law, and has the powers and duties provided to the Animal Control Officer under this by-law and the Municipal Act.

2. Repeal

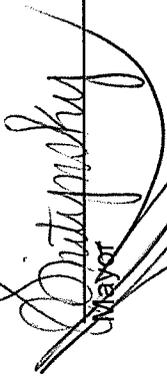
- (1) By law 42/01/17 is hereby repealed.

3. Coming Into Force

- (1) This By-law shall come into force and take effect upon its passing.

DONE AND PASSED in Council assembled at Russell, in Manitoba, this 27th day of June, 2023.

Municipality of Russell Binscarth


Mayor
C.A.O.

Read a first time this 11th day of April, 2023.
Read a second time this 13th day of June, 2023.
Read a third time this 27th day of June, 2023.