

BY-LAW #31/02

OF THE

RURAL MUNICIPALITY OF ROCKWOOD

Being a By-Law of the Rural Municipality of Rockwood for the regulation and control of animals within the limits of the Rural Municipality of Rockwood.

PART I: AUTHORITY

WHEREAS subsections 232(1)(a), (k) and (o) of The Municipal Act, S.M. 1996, C. M225, (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;
- b) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;
- c) the enforcement of by-laws”;

AND WHEREAS subsections 232(2)(a) and (f) 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;
- b) 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 subsections 236(1)(a) and (b) 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 (6) months for the commission of offenses or nonpayment of fines”;

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

Animals not to run at large:

“5(1) Except when permitted by a municipal by-law passed in accordance with *The Municipal 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 ... not liable by reason only of making By-Law:

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

AND WHEREAS, subsections 31(1) and (2) of *The Disease 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, the By-Law Enforcement / 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) A By-Law Enforcement / 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 as the earliest possible opportunity.”

AND WHEREAS it is deemed expedient and in the best interest of the Municipality to pass a By-Law to regulate and control animals within the Rural Municipality of Rockwood;

AND WHEREAS it is deemed expedient and in the best interest of the Municipality to transfer the enforcement powers of this By-Law to the Rockwood-Woodlands By-Law Enforcement / Animal Control District Board;

NOW THEREFORE the Council of the Rural Municipality of Rockwood, in Council assembled, enacts as follows:

PART II: TRANSFER OF ENFORCEMENT POWERS:

1(1) That the enforcement powers of this By-Law be transferred to the Rockwood-Woodlands By-Law Enforcement / Animal Control District Board, hereinafter referred to as the “Board”.

PART III: DEFINITIONS & INTERPRETATION**2(1) DEFINITIONS:**

In this By-Law, unless the context otherwise requires,

- a) “**Aggressor Animal**” shall have the meaning ascribed thereto in Section 12 of this By-Law.
- b) “**By-Law Enforcement / Animal Control Officer**” shall mean the person employed by the Rockwood-Woodlands By-Law Enforcement / Animal Control District Board to enforce the provisions of this By-Law as well as all other By-Laws of the Rural Municipality of Rockwood and the Rural Municipality of Woodlands, and includes any person acting as an assistant to or under the direction of the By-Law Enforcement / Animal Control Officer authorized by the Board.
- c) “**Cat**” shall mean any member of the genus *Felis domesticus* (domestic cat).
- d) “**Clerk**” shall mean the Chief Administrative Officer or his/her designates for the Rural Municipality of Rockwood.
- e) “**Council**” shall mean the Council of the Rural Municipality of Rockwood.
- f) “**Current Rabies Vaccination**” shall mean 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 sixty (60) days and not greater than one (1) year after the primary vaccination, and is then subsequently vaccinated at regular intervals not exceeding three (3) years.
- g) “**Dangerous Animal**” shall mean any dog, cat or any other animal that has on at least one occasion worried, attacked, injured or killed a person, livestock or any other animal, or is for any reason determined to be a risk to any person, livestock or any other animal, or has been declared a dangerous animal under Section 12 of this By-Law.
- h) “**Dog**” means any member of the genus *Canis familiaris* (domestic dog).
- i) “**Domestic Pet**” shall mean any animal other than a dog or cat that has been domesticated and is kept or harboured within the Municipality.
- j) “**Livestock**” means:
 - a) animals kept for the purpose of:
 - i) production of meat;
 - ii) production of other products from the animals; or
 - iii) herding, protection of livestock or draft work, and breeding stock of such animals;
 - b) animals kept for the purpose of improving or preserving any species or kind of animal that may be kept for a purpose set out in subclause 2(1)(k)(a) of this definition; and
 - c) any other animal determined by the By-Law Enforcement / Animal Control Officer to be livestock for the purposes of this By-Law, whether or not intended for profit and including, without limitation:

- i) dairy cattle and beef cattle, goats, sheep, bison and horses;
 - ii) swine (including wild boar);
 - iii) all cervids on game production farms;
 - iv) all the family Camilidae (including Llamas and Alpacas);
 - v) all domestic poultry (including chickens, turkeys, ducks and geese);
 - vi) specialty fowl (including guinea fowls); and
 - vii) any other animals that are of a species or kind described as livestock in the regulations pursuant to *The Animal Liability Act*.
- k) **“Notice of Breach of By-Law”** shall mean a notice issued pursuant to section 4(g) of this By-Law in the form attached hereto as Schedule B.
- l) **“Owner”** shall include 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 attack by the animal or apprehension of the animal by the By-Law Enforcement / Animal Control Officer or any other person.
- m) **“Person”** shall include a firm or corporation.
- n) **“Pound”** shall mean any enclosure, premises or place, whether within or outside the Municipality, designated by The Board for the impoundment and care of any animal for the purposes of enforcing any provision of this By-Law.
- o) **“Poundkeeper”** shall mean the person appointed by The Board, whether on a temporary basis or permanent basis, to operate and maintain a pound, and to carry out the duties of a Poundkeeper as set out in Section 5 of this By-Law.
- p) **“Restricted Animal”** shall mean:
- i) any member of the order Primate except a human being;
 - ii) any member of the order Carnivora except dogs, cats, and domestic ferrets (*mustela putorius furo*), but including all hybrids of dogs and cats;
 - iii) any member of the order Crocodylia;
 - iv) any constrictor snake, venomous snake or venomous reptile;
 - v) any venomous amphibian;
 - vi) any wild animal or wildlife as defined in *The Wildlife Act*; and
 - vii) any other animal determined by the By-Law Enforcement / Animal Control Officer to be a restricted animal, other than a dog, cat or livestock.
- q) **“Rockwood-Woodlands By-Law Enforcement /Animal Control District Board”** shall be a Board, created by Agreement, between the Rural Municipalities of Rockwood and Woodlands to deal jointly with all matters related to By-Law Enforcement and Animal Control within the areas included in the two municipalities, hereinafter referred to as the “Board”. The joint action of Rockwood and Woodlands in the enforcing of By-Laws and controlling of animals shall be under the control, supervision, and management of this Board which shall have four (4) members, being two (2) Councillors from each Municipality appointed by the respective Municipality.

- r) **“Running at large” or “Run at large”** shall mean, in relation to an animal, that the animal is not:
- i) under the direct, continuous and effective control of a person competent to control it; or
 - ii) securely confined within an enclosure or securely fastened so that it is unable to roam at will.
- s) **“Townsite”** shall, for the purpose of this By-Law, apply to the following townsites unless otherwise provided herein:
- i) The Townsite of Stony Mountain shall be defined as the settled portion of Section One, Eleven, Twelve and Fifteen all in Township Thirteen, Range Two East of the Principal Meridian, in Manitoba.
(Note: The Townsite of Stony Mountain includes Hillcrest Trailer Park).
(1-13-2E, 11-13-2E, 12-13-2E, 15-13-2E);
 - ii) The Townsite of Komarno shall be defined as the settled portion of the North-East Quarter of Section Thirty-Three and the North-West Quarter of Section Thirty-Four, both in Township Seventeen, Range Two East of the Principal Meridian, in Manitoba.
(NE 33-17-2E, NW 34-17-2E);
 - iii) The Townsite of Gunton shall be defined as the settled portion of the South-West Quarter of Section Thirty-Three, in Township Fifteen, Range Two East of the Principal Meridian, in Manitoba.
(SW 33-15-2E);
 - iv) The Townsite of Balmoral shall be defined as the settled portion of the North-East Quarter of Section One, the South-East Quarter of Section Twelve, both in Township Fifteen, Range One East of the Principal Meridian, in Manitoba, the North-West Quarter of Section Six and the South-West Quarter of Section Seven, both in Township Fifteen, Range Two East of the Principal Meridian, in Manitoba.
(NE 1-15-1E, SE 12-15-1E, NW 6-15-2E, SW 7-15-2E);
 - v) The Townsite of Argyle shall be defined as the settled portion of the North-West Quarter of Section Seven and the South-West Quarter of Section Eighteen, both in Township Fourteen, Range One East of the Principal Meridian, in Manitoba.
(NW 7-14-1E, SW 18-14-1E);
 - vi) The Townsite of Grosse Isle shall be defined as the settled portion of the South-East and South-West Quarters of Section Six, in Township Thirteen, Range One East of the Principal Meridian, in Manitoba.
(SE 6-13-1E, SW 6-13-1E); and
 - vii) The Townsite of Stonewall Trailer Park shall be defined as the settled portion of the North-West Quarter of Section Twenty-Nine, in Township Thirteen, Range Two East of the Principal Meridian, in Manitoba.
(NW 29-13-2E).

The Council of the Rural Municipality of Rockwood may, by resolution, delete or designate areas of the Rural Municipality of Rockwood as Townsites for the purposes of paragraph numbered 2(1)(t) hereof.

2(2) **INTERPRETATION:**

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 IV: ESTABLISHMENT OF POUND & APPOINTMENT OF BY-LAW
ENFORCEMENT / ANIMAL CONTROL OFFICER & POUNDKEEPER**

3(1) ESTABLISHMENT OF POUND:

The Board 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 Board 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 Board shall be paid out of the general funds of the Board.

3(2) APPOINTMENT OF BY-LAW ENFORCEMENT / ANIMAL CONTROL OFFICER:

The Board may employ one or more By-Law Enforcement / Animal Control Officer(s) to carry out the enforcement of this By-Law. The By-Law Enforcement / Animal Control Officer(s) so appointed may be appointed on a temporary basis or permanent basis, and shall be paid out of the general funds of the Board.

3(3) APPOINTMENT OF POUNDKEEPER:

The Board may appoint one or more persons as Poundkeeper(s) to carry out the duties of the Poundkeeper as 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 Board.

3(4) COMMON BY-LAW ENFORCEMENT / ANIMAL CONTROL OFFICER & POUNDKEEPER:

At the discretion of The Board, the By-Law Enforcement / Animal Control Officer may also serve as Poundkeeper, and vice versa.

4. DUTIES OF THE BY-LAW ENFORCEMENT / ANIMAL CONTROL OFFICER:

It shall be the duties of the By-Law Enforcement / Animal Control Officer:

- a) To apprehend and confine at the pound, any animal running at large within the Municipality contrary to the provisions of this By-Law.
- b) To apprehend and confine any restricted animal being kept or harboured by, or in the possession or control of, any person contrary to the provisions of this By-Law, or running at large within the Municipality.
- c) To ensure that any restricted animal kept or harboured within the Municipality is properly licensed by the Municipality, and to apprehend and confine any such restricted animal that is not properly licensed.
- d) To apprehend any dog, cat or any other domestic pet which is running at large within the Municipality contrary to the provisions of this By-Law, or which is kept or harboured by, or in possession or control of, any person that is in breach of this By-Law or any other laws or regulations pertaining to animals or the conditions of any permit or license (including, without limitation, a kennel permit or kennel license).
- e) i) In the case of any dog being apprehended pursuant to Section 4(d), the By-Law Enforcement / Animal Control Officer shall immediately transport such dog to the Winnipeg Humane Society, 5 Kent Road, Winnipeg, Manitoba for detainment as set out in any current Agreement(s) between the Municipality, and/or the Board, and the Winnipeg Humane Society.

- ii) In the case of any cat or any other domestic pet being apprehended pursuant to Section 4(d) and pursuant to the Winnipeg Humane Society being unwilling or unable to accept such cat or other domestic pet, the By-Law Enforcement / Animal Control Officer shall impound such cat or other domestic animal in cages, in a location to be determined, for detainment. Said detainment for any cat or any other domestic animal to be the same as for dogs as set out in any current Agreement(s) between the Municipality, and/or the Board, and the Winnipeg Humane Society pursuant to Section 4(e)(i).

The By-Law Enforcement / Animal Control Officer shall provide sufficient food and clean water, adequate shelter and a safe and sanitary environment for every cat or domestic animal impounded.

- f) To make reasonable attempt to notify the owner of every animal impounded, other than a dog, cat or any other domestic pet, 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, any daily pound fees, 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 By-Law Enforcement / Animal Control Officer shall post in the general office of the Municipality a notice describing the animal, the date of apprehension and the date after which the animal will be sold, destroyed or otherwise disposed of.
- g) 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 apparently over the age of sixteen (16) years at the residence of the person who has breached the By-Law, or may be served by certified or registered mail addressed to the last known address of such person. The By-Law Enforcement / Animal Control Officer may lawfully enter upon the premises of any such person to serve a Notice of Breach of this By-Law.
- h) The By-Law Enforcement / Animal Control Officer or Poundkeeper may use a tranquilizer gun for the purpose of capturing any animal found to be running at large within the Municipality, provided however that if the By-Law Enforcement / Animal Control Officer or the Poundkeeper, as applicable, is not a licensed veterinarian, no such tranquilizer gun shall be used without the authority of a licensed veterinarian present at the time of use.
- i) To enforce the provisions of this By-Law.

5. **DUTIES OF THE POUNDKEEPER:**

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, other than any dog, cat or domestic animal as any apprehended dog, cat or domestic animal shall be immediately transported to the Winnipeg Humane Society by the By-Law Enforcement / Animal Control Officer pursuant to paragraph numbered 4(e) of this By-Law.
- 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;
 - 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 payor (if different from the owner); and
 - vi) such other particulars as the Board 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 Board, together with such reports and statements as the Board may prescribe from time to time, except where the Board 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 Board 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 Board, and the submission of all reports and statements required to be submitted to the Board under the said contract.
- e) To make suitable arrangements for the temporary impoundment and sale, disposition, or destruction of any animal other than a dog, cat or domestic pet that is apprehended within the Municipality, including any restricted animal or wild animal within the meaning of *The Wildlife Act*.
- f) The Board may vary the terms, conditions and duties of the Poundkeeper by contract with a private party, provided however that the contract shall contain (and where absent in the contract, shall be deemed to incorporate) as minimum provisions, the duties of the Poundkeeper as set out in paragraphs (a), (b) and (c) above, and further provided that the provisions in paragraphs (d), and (e), above shall continue to apply except to the extent that they are specifically modified by the contract. Where the Poundkeeper is a private party under contract with the Board, the Poundkeeper shall observe all of the terms and conditions of the contract with the Board. Where it is permitted under the contract with the Board, the Poundkeeper may, at its sole cost and expense, keep an impounded animal for longer than the minimum hold period, and may sell or otherwise dispose of the impounded animal for an amount less than the applicable pound and license fees, provided however that the Poundkeeper shall remain responsible to the Board all amounts due to the Board under its contract with the Poundkeeper.

PART V: DOGS, CATS AND OTHER DOMESTIC PETS:

LICENSING OF DOGS:

- 6(1) The owner of every dog over the age of four (4) months, located within a Townsite of the Municipality, 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.

- 6(2) The required dog license may be sold by the By-Law Enforcement / Animal Control Officer, the Clerk of the Municipality, by any veterinary clinic or animal hospital or any other place within the Municipality which is designated by the Municipality as eligible as a vendor of such licenses.
- 6(3) No person shall be permitted to remove the collar or license tag from any dog without a lawful excuse, and any such removal shall constitute an offense under this By-Law.
- 6(4) The license fee hereby imposed shall be due and payable on the 1st day of January in each year and shall expire on the 31st day of December in each year in which the license fee was levied and paid.
- 6(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.
- 6(6) Where a change in ownership of a dog licensed hereunder occurs during the license year, the new owner shall have the current license transferred to his or her 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.
- 6(7) Subsections 6(1), (2), (3), (4), (5) and (6) shall not apply to non-residents of the Municipality who bring a dog on a temporary visit into the Municipality, provided however, that nothing in this subsection 6(7) shall authorize any person to bring a dog into the Municipality that is a dangerous animal or is vicious, in heat, rabid or otherwise a risk to the public or to other animals within the Municipality, nor does it authorize any person to allow the dog to run at large or otherwise create a nuisance within the Municipality.
- 6(8) Subject to subsection 6(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. A current rabies vaccination certificate shall have a date of no more than two (2) years prior to December 31 of the current licence year.
- 6(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(10) Except where subsection 6(9) applies, the By-Law Enforcement / 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 status and, if the owner cannot produce such proof, the By-Law Enforcement / Animal Control Officer may, in the case of a dog, terminate the owner's dog license, and in the case of a dog or cat, the By-Law Enforcement / Animal Control Officer may apprehend and impound the dog or cat, and may issue a Notice of Breach of this By-Law to the owner.

KENNEL PERMITS:

- 7(1) Kennels are Conditional Uses under the Rural Municipality of Rockwood Zoning By-Law.
 - i) A Hobby Kennel is a kennel on premises containing more than three (3) animals that are maintained, boarded, or cared for in return for remuneration or are kept solely for the owner's pleasure.

- ii) A Commercial Kennel is a kennel on premises containing more than five (5) animals that are maintained, boarded, or cared for for remuneration and/or for the purpose of sale.

Any person who keeps, harbours, possesses or controls a number of animals in excess of the maximum number prescribed in Section 11 hereof without a valid Conditional Use Permit for a kennel shall have committed an offense under this By-Law.

- 7(2) Any person who wishes to keep, harbour, possess or control that number of dogs or cats in excess of the maximum number prescribed in Section 11 hereof shall apply for a Conditional Use to operate a kennel. Application for said Conditional Use shall be made at the South Interlake Planning District Office. Upon receipt of an application for a Conditional Use for a kennel is received by the South Interlake Planning District Office, a public hearing will be scheduled with the Council of the Rural Municipality of Rockwood.
- 7(3) In determining whether or not to grant a Conditional Use Permit for a kennel to an applicant, Council shall consider all relevant factors, including but not limited to the following factors:
 - a) pursuant to the applicable Zoning By-Law of the Municipality, as amended from time to time, at no time and under any condition(s) shall a kennel for dogs and/or cats be permitted in any Townsite which is part of and located within the Municipality;
 - b) the proposed maximum number of dogs and/or cats to be kept on the premises;
 - c) the intended purpose for keeping the dogs and/or cats on the premises;
 - d) the steps which will be taken to ensure that the dogs and/or cats will be adequately and safely housed;
 - e) the steps which will be taken to ensure that disturbances to neighbours from excessive noise, odour, waste disposal, traffic and any other potential nuisances are avoided;
 - f) any inspection report from the By-Law Enforcement / Animal Control Officer or the Poundkeeper as may be requested by Council;
 - g) any inspection report from the public health authorities or any other authorities as may be requested by Council;
 - h) any representations made by the owner or on behalf of the owner either in writing or at the meeting of Council where the application for a Conditional Use Permit for a kennel will be heard; and
 - i) any representations made by neighbours of the owner or any other interested parties, whether in writing or by oral submission at the Public Hearing of the Municipality at which the application for a Conditional Use Permit for a kennel is heard.
- 7(4) Should a Conditional Use for a kennel be approved by Council, it shall be subject to the registered property owner of the premises and the applicant entering into a Conditional Use Agreement with the Municipality upon terms and conditions satisfactory to the Municipality.

The terms and conditions in the Conditional Use Agreement shall cover, but not be limited to, the issues addressed in Section 7(3). It is acknowledged that an approved Conditional Use runs with the land, regardless of change of ownership of the land. Therefore, one of the conditions of the Conditional Use Agreement shall be as follows:

- a) If the approved Conditional Use ceases for a period of twelve (12) continuous months, the Conditional Use shall expire.

In addition, the Conditional Use Agreement shall state that the registered property owner and applicant shall be responsible for all costs involved in the preparation and enforcement of the Conditional Use Agreement as well as the cost of registering a caveat against the subject property evidencing the duly executed Conditional Use Agreement

Once the Conditional Use Agreement has been executed between the above-mentioned parties, then the Municipality will authorize the South Interlake Planning District to issue a Development Permit to the registered property owner and applicant to allow the establishment of a kennel and related accessory structures on the registered property owner's land.

- 7(5) Should the registered property owner and/or applicant contravene any condition(s) of the executed Conditional Use Agreement, it shall be deemed that the person has committed an offense under the Conditional Use Agreement. Should the contravention of the Conditional Use Agreement not be rectified in the time stated in the Conditional Use Agreement and to the satisfaction of the Municipality and the South Interlake Planning District, the registered property owner and applicant shall be in default of the Conditional Use Permit and the Conditional Use shall cease and the Permit shall be revoked.
- 7(6) Should the Conditional Use Permit be revoked, the owner shall be notified in writing by certified or registered mail and the owner shall be ordered to dispose of the dogs and/or cats within thirty (30) days of the date of the notice/order.

Failure to dispose of the dogs and/or cats shall result in the South Interlake Planning District Office commencing legal action. Pursuant to Section 7(4), the owner shall be responsible for all costs, including the enforcement of the Conditional Use Agreement.

- 7(7) The Board, or the By-Law Enforcement / Animal Control Officer on their behalf, may request in writing that the premises, where the kennel is located, be inspected by the By-Law Enforcement / Animal Control Officer or such other person as may be designated by The Board or the By-Law Enforcement / Animal Control Officer, at any time upon reasonable notice, and the owner shall comply with any such request. The failure by an owner to comply with such a request shall constitute an offense under this By-Law and/or the Conditional Use Agreement and is grounds for revoking an existing Conditional Use Permit.
- 7(8) Nothing in this By-Law or an executed Conditional Use Agreement shall be construed as obviating or overriding any requirement under the laws of the Province of Manitoba to obtain a license or licenses from the Government of Manitoba, and to comply with provincial licensing requirements, in order to carry on business as a boarding kennel or a commercial breeder of dogs, cats or any other animals under a Conditional Use Permit.

RESPONSIBILITY OF OWNERS REGARDING DOGS/CATS:

- 8(1) No owner shall:
- a) permit his dog/cat to run at large. When a dog/cat is found running at large, its owner shall be deemed to have failed or refused to comply with this subsection.
- b) i) 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;
- ii) permit his cat to meow or howl or in any other way unduly disturb the quiet of any person or persons anywhere in the Municipality;
- c) permit his dog/cat to defecate on any public or private property other than the property of its owner. Where a dog/cat defecates on property other than the property of its owner, the owner shall cause such excrement to be removed forthwith;

- d) permit his dog/cat to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours;
 - e) permit his dog/cat to damage public property or private property other than that of the owner. Where public or private property has been damaged by a dog/cat, its owner shall be deemed to have failed or refused to comply with this subsection;
 - f) within a Townsite of the Municipality, own, keep, harbour or have possession or control of any dog (other than a dog that is under the age of four (4) months or that is a registered guide dog for the visually impaired) for which a valid license has not been issued;
 - g) own, keep, harbour or have possession or control of any dog/cat determined to be a dangerous animal, unless such dog/cat is kept at all times in accordance with the provisions of Part VI;
 - h) permit his dog/cat to pursue, bite, wound or worry any person or animal, whether or not on the property of the owner;
 - i) permit his dog/cat on any school ground or playground;
 - j) permit his dog/cat on public property (including parkland area) unless the dog/cat is on a leash (which leash shall be no longer than six (6) feet in length, fully extended) and the dog/cat 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 The Board as land upon which dogs/cats are not required to be on a leash; and
 - k) permit his dog/cat to upset waste receptacles or otherwise litter.
- 8(2) An owner of a registered guide dog that is visually impaired or any other person who requires the assistance of a registered guide dog shall not be subject to the restrictions imposed under subsections 8(1)(c), (f), (i), and (j).

REDEMPTION:

9. a) Where a dog, which is properly licensed and tagged, is found running at large, the By-Law Enforcement / Animal Control Officer:
- i) may issue a warning to its owner, advising of the breach of this By-Law; or
 - ii) may apprehend and deliver the dog to the Winnipeg Humane Society for confinement, and advise the owner as soon as reasonably possible, of the fact of apprehension and confinement; or
 - iii) may apprehend and, when necessary, confine the dog in a location to be determined, for detainment for a limited period of time until transportation to the Winnipeg Humane Society is available.
- b) Where an unlicensed dog/cat is found running at large, the By-Law Enforcement / Animal Control Officer:
- i) shall apprehend and deliver the dog to the Winnipeg Humane Society for confinement; or
 - ii) shall apprehend and, when necessary, confine the dog in a location to be determined for detainment for a limited period of time until transportation to the Winnipeg Humane Society is available.
 - iii) shall apprehend and confine any cat or other domestic animal in cages, in a location to be determined, for detainment.

- c) Where the owner of a dog/cat apprehended and confined pursuant to this By-Law desires to reclaim the dog/cat, he shall pay to the Municipality on behalf of the Board and/or the Winnipeg Humane Society applicable charges as set out in Schedule "A" attached hereto.
- d) For the purpose of determining the impoundment and boarding fees payable under this section by the owner or harbourer of a dog/cat, the offence shall be cumulative per dog/cat but shall only be cumulated during one calendar year.
- e) Upon payment by the owner or harbourer of the impoundment and fine fees to the Municipality on behalf of the Board for a dog/cat that has been impounded, the owner/harbourer must also produce to the Municipality or the By-Law Enforcement / Animal Control Officer a certificate from a licensed veterinary surgeon stating that the dog/cat has been vaccinated against rabies on a date no more than two years prior to December 31 of the current licence year. The owner or harbourer must then attend the Winnipeg Humane Society to pay the boarding fees and any other related costs prior to the dog or cat, in the case when the cat was detained at the Winnipeg Humane Society, being released by the Winnipeg Humane Society to the owner or harbourer.
- f) Before any person shall redeem any dog, which dog lives in a Townsite, from the Winnipeg Humane Society or the By-Law Enforcement / Animal Control Officer, he shall produce for the Municipality or By-Law Enforcement / Animal Control Officer a receipt showing that a licence for such dog has been purchased for the current year.

Should the dog, which lives in a Townsite, be unlicensed, the owner or harbourer must obtain a current dog licence from the By-Law Enforcement Officer by paying the required fee prior to attending the Winnipeg Humane Society.

- g) If no one claims ownership of the dog/cat after five (5) days, disposition of the dog/cat will belong to:
 - i) the Winnipeg Humane Society if the dog/cat is impounded at the Winnipeg Humane Society; or
 - ii) the By-Law Enforcement /Animal Control Officer if the dog/cat is impounded at any other location.
- h) The Winnipeg Humane Society and/or the By-Law Enforcement / Animal Control Officer, at its/his sole option, may dispose of the dog/cat by:
 - i) in the case of the Winnipeg Humane Society, placing the dog/cat in the Society's adoption program; or
 - ii) giving the dog/cat to a new owner; or
 - iii) having the dog/cat destroyed.

RESTRICTIONS ON DOMESTIC PETS:

- 10(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 harbour such animal within the Municipality unless such person has been issued a permit by the Municipality under Section 17 of this By-Law, and also holds all other government licenses as may be required, to keep or harbour the animal within the Municipality.

DOGS:

- 10(2) Subject to subsection 10(3) and the provisions of section 8, the owner of a dog shall not permit the dog to be outside of the owner's premises unless:
- a) in the case where the owner of a dog resides in a Townsite of the Municipality, the dog has a collar which has been 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 no longer 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.
- 10(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.

CATS:

- 10(4) Subject to subsection 10(5), the owner of a cat shall not 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.
- 10(5) 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 a 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.

CAT TRAP:

- 10(6) Any person who wishes to obtain a trap from the Poundkeeper or the By-Law Enforcement / Animal Control Officer to apprehend a cat running at large shall:
- a) provide to the Poundkeeper or By-Law Enforcement / Animal Control Officer, as applicable, his or her name, address and telephone number(s);
 - 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 cat, as may be imposed by the Poundkeeper or By-Law Enforcement / Animal Control Officer, as applicable; and
 - c) pay any deposit and/or fee as may be authorized by The Board from time to time for use of the trap as set out in Schedule A hereto attached.
- 10(7) Any person who fails to comply with the terms and conditions set out in this Section 10 shall be guilty of an offense under this By-Law.

MAXIMUM NUMBER OF DOGS OR CATS:**11(1) DOGS****a) TOWNSITES:**

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 four (4) months, regardless of the number of people who may be inhabiting the premises.

b) **RURAL:**

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 holds a valid Conditional Use Permit, pursuant to the applicable Zoning By-Law of the Municipality, for a kennel authorizing him to own that number of dogs.

11(2) **CATS**a) **TOWNSITES:**

No person shall own, harbour, keep or have in his possession or control or on his premises more than two (2) cats over the age of four (4) months, regardless of the number of people who may be inhabiting the premises.

b) **RURAL:**

Premises which are zoned agricultural are not limited to a specific number of cats permitted provided however, that where, in the discretion of the By-Law Enforcement / Animal Control Officer, the number of cats on any such premises constitutes a danger to the public or to the cats, the By-Law Enforcement / Animal Control Officer may exercise his discretion to apprehend and impound all or some of the cats.

11(3) **KENNELS:**

Pursuant to the applicable Zoning By-Law of the Municipality, kennels for dogs and/or cats are not permitted in any Townsites which are part of and located within the Municipality under any conditions.

PART VI: DANGEROUS ANIMALS:**ANIMAL BITES:**

12(1) The By-Law Enforcement / Animal Control Officer:

- a) shall apprehend, impound and place in quarantine any dog or cat 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;

Whether on private premises or elsewhere, and whether or not the skin was directly punctured or lacerated by the bite, such animal shall be deemed as the aggressor animal.

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.

- 12(2) If the aggressor animal is not voluntarily surrendered to the By-Law Enforcement / Animal Control Officer by the owner, the By-Law Enforcement / 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.

- 12(3) Any aggressor animal so apprehended and impounded at the pound shall, subject to subsection 12(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").
- 12(4) The By-Law Enforcement / 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.
- 12(5) Subject to a determination by the By-Law Enforcement / Animal Control Officer, pursuant to subsection 12(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.
- 12(6) The By-Law Enforcement / Animal Control Officer shall document all bite incidents, identifying the aggressor animal and the details of the incident, and such records shall be submitted to the Board on a monthly basis, or sooner at the request of the Board or at the discretion of the By-Law Enforcement / Animal Control Officer. Such record(s) may be used in any hearing or appeal with respect to the dangerous animal provisions contained herein.
- 12(7) The head of any aggressor animal, quarantined for biting that dies while quarantined and prior to the veterinary examination required pursuant to subsection 12(8) hereof, shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 12(8) Every aggressor animal shall be examined by a licensed veterinarian approved by the By-Law Enforcement / 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 By-Law Enforcement / 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 By-Law Enforcement / Animal Control Officer, a dangerous animal and, if yes, whether or not the provisions of section 14 hereof have been complied with;
 - e) whether or not the aggressor animal is a restricted animal, and if yes, whether or not the provisions of Part VIII hereof have been complied with by the owner; and
 - f) 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.
- 12(9) Notwithstanding the provisions of subsection 12(3) herein, it shall be within the discretion of the By-Law Enforcement / 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 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 from 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 the veterinary examination from time to time as may be prescribed by the By-Law Enforcement / Animal Control Officer and shall report the results of any such veterinary examination to the By-Law Enforcement / 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 By-Law Enforcement / 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 By-Law Enforcement / Animal Control Officer may deem necessary or advisable in the interests of public safety.

DETERMINATION THAT AN ANIMAL IS A DANGEROUS ANIMAL:

- 13(1) Where the By-Law Enforcement / Animal Control Officer has reason to believe that an animal, including but not limited to an aggressor animal under Section 12, is a dangerous animal, he shall arrange a hearing before the Board to determine whether or not the said animal should be declared a Dangerous Animal and if the said animal is determined to be a Dangerous Animal, on what conditions should it be released back to the owner or if in fact it should be destroyed. In the event that an owner voluntarily accepts the Dangerous Animal declaration and the recommended disposition of the matter made by the By-Law Enforcement / Animal Control Officer, a hearing before the Board may be dispensed with, and the recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.
- 13(2) Where it is deemed necessary by the By-Law Enforcement / Animal Control Officer to protect the public or other animals pending the decision of the Board, the By-Law Enforcement / Animal Control Officer may:
- a) require that the animal be quarantined in the pound until the earlier of the date that the By-Law Enforcement / Animal Control Officer determines that it is safe to release the animal to the custody of the owner or until the Board hears the matter and issues its determination; or
 - b) may impose all or any of the conditions set out in subsection 14(1) of this By-Law upon the owner's custody of the animal, which conditions shall apply until the earlier of the date that the By-Law Enforcement / Animal Control Officer determines that it is safe to remove the conditions or until the Board hears the matter and issues its determination.
- 13(3) The Board shall provide written notice of the hearing to the owner of the animal in the form set out in Schedule "D" of this By-Law at least ten (10) days in advance of the hearing by serving notice upon the owner or by mailing the notice by registered or certified mail to the last known address provided by the owner to the Municipality 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 13 of the By-Law;
 - 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;
 - e) a statement that if the animal is determined to be a Dangerous Animal, the Board shall be making a decision whether the animal is to be destroyed or released to the owner on certain conditions; and
 - f) the recommended disposition of the animal if it were to be considered a Dangerous Animal by the By-Law Enforcement / Animal Control Officer including any conditions required for its release to the owner or its possible destruction.
- 13(4) a) The owner has the right to appear at the hearing, with or without counsel, and to make submissions to the Board 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 By-Law Enforcement / Animal Control Officer and to inspect any documents filed by or on behalf of the By-Law Enforcement / 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 13, the Board 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 the Board by notice in writing delivered by personal service or registered or certified mail in the manner set out in subsection 13(3) hereof.
 - c) In the event that an owner voluntarily accepts the Dangerous Animal declaration and the recommended disposition of the matter made by the By-Law Enforcement / Animal Control Officer, a hearing before the Board may be dispensed with and the recommended disposition of the matter shall constitute a final order in respect of which there is no appeal.
 - d) In the event that an owner voluntarily accepts the Dangerous Animal declaration but does not accept the recommended disposition of the matter made by the By-Law Enforcement / Animal Control Officer, a hearing will be held before the Board to deal with the recommended disposition of the animal only.
- 13(5) Within five (5) working days of the hearing of the Board, the Board shall issue a written decision in accordance with the following provisions:
- a) The Board 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 or not on public or private property; or
 - ii) the animal has seriously injured or killed any other domestic animal or any livestock without provocation; or
 - iii) the animal is used primarily for the purpose of guarding property and is not a police service dog owned by a public law enforcement agency.

- b) The Board 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, or is otherwise an aggressor animal;
 - ii) the circumstances surrounding any previous worrying, biting or wounding incidents; and
 - iii) whether the animal, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, any person or any other animal upon any public or private property.
 - c) In the event that an animal is declared by the Board to be a Dangerous Animal, the Board shall make an order declaring either that the animal is to be released on certain conditions as set out in subsection 13(2) or that the animal should be destroyed.
- 13(6) The Board shall deliver a copy of their decision to the owner in the manner provided in subsection 13(3). There shall be no obligation upon the Board to issue written reasons for their decision.
- 13(7) a) The decision of the Board with respect to the Dangerous Animal declaration and any conditions with respect to the animal's release shall be final and there shall be no appeal from said decision.
- b) The decision of the Board to destroy an animal declared a Dangerous Animal may be appealed to the Court of Queen's Bench within fourteen (14) days of the date that the owner was provided notice in the manner of subsection 13(3). The animal shall remain quarantined in the pound pending the outcome of the hearing.
- 13(8) Where a license is deemed to have been cancelled, the owner shall be entitled to a credit or refund on any paid-up license fee, calculated on a quarterly pro rata basis. The Board may set-off against any such refund, any fines, fees or costs owing by the owner under this By-Law.
- 13(9) Every owner who has received notification from the Board pursuant to subsection 13(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.
- 13(10) Subsection 13(9) shall not apply if the animal is impounded or the By-Law Enforcement / Animal Control Officer receives written confirmation from a licensed veterinarian that the animal has been placed in quarantine pending outcome of the hearing.
- 13(11) In the event that an animal is declared by the Board to be a Dangerous Animal and that it is to be destroyed, the By-Law Enforcement / Animal Control Officer shall impound the animal for the purpose of destruction and 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 fourteen (14) days from the date of the notice, subject to any appeal as set out in section 13(7)(b).

CONSEQUENCES OF DANGEROUS ANIMAL DECLARATION:

14(1) Every owner of an animal which has been declared to be a dangerous animal and in respect of which has been released to its owner shall:

- a) in the event that the dangerous animal is a dog, obtain 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 Board 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/or the escape of the dangerous animal;
 - ii) has minimum dimensions suitable for the size of the dangerous animal, as prescribed by the By-Law Enforcement / 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 By-Law Enforcement / Animal Control Officer with the name, address and telephone number of the new owner.
- h) advise the By-Law Enforcement / Animal Control Officer within three (3) working days of the death of the dangerous animal.
- i) advise the By-Law Enforcement / 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.

- j) maintain in force to the satisfaction of the Board 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 Board, including, without limitation, any of the conditions set out in subsection 12(9) hereof.
- 14(2) No person shall deface or remove a sign posted pursuant to subsection 14(1)(f) or subsection 12(9)(b) hereof without having first obtained the written permission of the By-Law Enforcement / Animal Control Officer.

DESTRUCTION OF DANGEROUS ANIMAL OR AGGRESSOR ANIMAL:

- 15(1) The By-Law Enforcement / Animal Control Officer may apprehend and impound an animal for the purpose of destroying it where the By-Law Enforcement / Animal Control Officer has reasonable grounds to believe that:
- a) an owner has breached a condition of this By-Law in respect of an animal that has been declared a dangerous animal; or
 - b) an animal that has previously been declared a Dangerous Animal, presents a risk to any person, property or any other animal.
- 15(2) In the event that an animal is causing an immediate risk to any person, property or any other animal, the By-Law Enforcement / Animal Control Officer is authorized to apprehend and impound or, in the absolute discretion of the By-Law Enforcement / Animal Control Officer, destroy the said animal notwithstanding that it has not been declared to be a dangerous animal by the Board at the time of its apprehension and impoundment.
- 15(3) When the By-Law Enforcement / Animal Control Officer impounds an animal under this section 15 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 fourteen (14) days from the date of the notice. The owner may, during that time period, appeal the decision of the By-Law Enforcement / Animal Control Officer to the Board by providing notice in writing to the Board, in which case the Board shall hold a hearing at a regularly scheduled meeting of the Board as to whether or not the animal should be destroyed, which hearing shall be carried out in accordance with the provisions of section 14 hereof. The animal shall remain quarantined in the pound pending the outcome of the hearing.

PART VII: LIVESTOCK:

- 16(1) The keeping of livestock shall only be permitted in those areas of the Municipality which are zoned agricultural unless otherwise permitted by the Municipality's Zoning By-Law in effect from time to time through a Conditional Use Permit. If so permitted, it shall be an offense under this By-Law and the Zoning By-Law to keep any livestock in excess of the prescribed number and kind.
- 16(2) An owner shall not permit his livestock to run at large within the Municipality. When livestock is found running at large, its owner shall be deemed to have refused or failed to comply with this By-Law.
- 16(3) The Board, or the By-Law Enforcement / Animal Control Officer on the authority of the Board, may establish from time to time a temporary or permanent 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 Board, shall provide care for the impounded animal(s) at a rate of remuneration to be fixed from time to time by the Board. The By-Law Enforcement / Animal Control Officer may authorize the establishment of a temporary pound based upon the verbal consent by telephone of the

majority of Board, which temporary pound shall be ratified at the next regularly scheduled Board meeting.

- 16(4) When livestock is impounded and the owner(s) is unknown, the By-Law Enforcement / Animal Control Officer shall post a notice of the impoundment in the Municipal Administration Office. This notice shall describe the livestock so impounded, including any identifying tags, marks or brands, the day of impoundment, along with the location within the Municipality where the livestock was found running at large.
- 16(5) If the identity of the owner is known, the By-Law Enforcement / Animal Control Officer shall serve directly upon the owner or mail a notice of impoundment to the owner at his last known address.
- 16(6) The owner of the livestock shall not be entitled to the return of the livestock until the actual costs incurred by the Board 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.
- 16(7) a) Where livestock is found running at large, the By-Law Enforcement / Animal Control Officer:
- i) may issue a warning to its owner, advising of the breach of this By-Law; or
 - ii) apprehend and confine the livestock, and advise the owner as soon as reasonably possible, of the fact of apprehension and confinement.
- b) Where the owner of the livestock apprehended and confined pursuant to this By-Law desires to reclaim the livestock, he shall pay to the Municipality on behalf of the Board the applicable charges as set out in Schedule A hereto attached
- c) For the purpose of determining the impoundment and boarding fees payable under this section by the owner or harbourer of livestock, the offence shall be cumulative per animal but shall only be cumulated during one calendar year.
- d) The owner or harbourer of the impounded livestock must pay the impoundment fees, boarding fees, fines, costs for the notice of impoundment and any other related costs incurred for each livestock animal that has been impounded prior to obtaining possession of their livestock.
- 16(8) If no person claims the livestock within fourteen (14) days of the date of the notice of impoundment, or if the owner has not paid the costs and fines referred to in subsection 16(6), the By-Law Enforcement / Animal Control Officer 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 Board.

PART VIII: RESTRICTED ANIMALS:

PROHIBITION ON RESTRICTED ANIMALS:

- 17(1) Except as may be permitted by the Municipality's Zoning By-Law in effect from time to time, no person shall keep, harbour, possess or control any restricted animals within the Municipality without a permit issued by the South Interlake Planning District Office.

APPLICATION FOR PERMISSION TO KEEP OR HARBOUR A RESTRICTED ANIMAL:

- 17(2) Upon receipt of an application from any person to keep a restricted animal, the South Interlake Planning District Office shall comply with the notice and hearing requirements applicable to Variation and Conditional Use applications as set out in subsection 57(4) of *The Planning Act* (Manitoba). Provided however, that the South Interlake Planning District Office need not give notice of an application from the owner or operator of a travelling show to keep a restricted animal in the Municipality on a temporary basis, but

shall consider the application at a regularly scheduled meeting of the Council of the Rural Municipality of Rockwood following receipt of the application.

The Council of the Rural Municipality of Rockwood shall decide, based on the application and any written or oral submissions of the application, by resolution of the Council of the Rural Municipality of Rockwood, whether or not to grant a permit to the applicant to keep or harbour the restricted animal within the Municipality and shall advise the applicant, in writing, of their decision. Council may impose conditions upon a permit to keep or harbour a restricted animal and any violation of such conditions by the owner shall invalidate the permit provided by the South Interlake Planning District Office and shall constitute an offence under this By-Law.

- 17(3) In determining whether or not to grant a Permit for a restricted animal in the Municipality, Council shall consider all relevant factors, including but not limited to the following factors:
- a) the proposed maximum number of the restricted animals on the premises;
 - b) the intended purpose for keeping the restricted animal on the premises;
 - c) the steps which will be taken to ensure that the restricted animal(s) will be adequately and safely housed/contained;
 - d) the steps which will be taken to ensure that disturbances to neighbours from excessive noise, odour, waste disposal, traffic and any other potential nuisances are avoided;
 - e) any inspection report from the By-Law Enforcement / Animal Control Officer or the Poundkeeper as may be requested by Council;
 - f) any inspection report from the public health authorities or any other authorities as may be requested by Council;
 - g) the amount of Letter of Credit required to be provided by the applicant to the Municipality in the event that a Permit is approved for a restricted animal;
 - h) the amount of liability insurance required to be provided by the applicant to the Municipality in the event that a Permit is approved for a restricted animal;
 - i) any representations made by the owner or on behalf of the owner either in writing or at the meeting of Council where the application for a Permit for a restricted animal will be heard; and
 - j) any representations made by neighbours of the owner or any other interested parties, whether in writing or by oral submission at the meeting of Council where the application for a Permit for a restricted animal will be heard.

TEMPORARY IMPOUNDMENT:

- 17(4) If deemed necessary in the interests of public safety, the By-Law Enforcement / Animal Control Officer may apprehend and impound any restricted animal pending the outcome of any hearing to decide an application made pursuant to subsection 17(2) hereof.

INVENTORY OF RESTRICTED ANIMALS:

- 17(5) Any owner who has been granted permission by Council to keep one or more restricted animals within the Municipality shall, on an annual basis and on the form prescribed by the Municipality from time to time for this purpose, provide the Municipality with an inventory of the restricted animals kept by the owner within the Municipality.

- 17(6) The Municipality may at any time and from time to time change the conditions that an owner must satisfy in order to keep a restricted animal, and any failure to comply with any such condition upon notice thereof shall invalidate the owner's permit to keep the restricted animal within the Municipality.
- 17(7) a) Any person who keeps, harbours or has possession or control of a restricted animal(s) in the Municipality on or before the time that this By-Law comes into force or effect, shall have thirty (30) days from coming into effect of this By-Law to obtain a permit from the Municipality to continue to keep the restricted animal(s) failing which the owner shall sell or give the restricted animal(s) to a person outside of the Municipality or shall otherwise dispose of the restricted animal in a manner which ensures that the restricted animal is no longer within the Municipality. Any such sale, gift or disposition shall be in accordance with all laws, rules and regulations which may pertain to the sale or disposition of restricted animals, and the Municipality accepts no responsibility for the manner of sale or disposition.
- 17(7) b) The Municipality may grant such longer period of time to an owner of a restricted animal who falls within subsection 17(7)(a) hereof as may be necessary to allow the Municipality adequate time to consider and decide the owner's application to retain the restricted animal(s) within the Municipality.

ORDER TO DISPOSE OF RESTRICTED ANIMAL(S):

- 17(8) Where the By-Law Enforcement / Animal Control Officer has reasonable grounds to believe that a person is keeping or harbouring, or has possession or control of, a restricted animal within the Municipality without a resolution and permit from the Municipality granting permission, the By-Law Enforcement / Animal Control Officer shall serve the person with an Order, in writing, to dispose of the restricted animal within fourteen (14) days of receipt of the Order or such shorter period of time as circumstances may require and the Order may provide, in which case the owner shall sell, give away or otherwise dispose of the restricted animal in accordance with subsection 17(7)(a) and any conditions imposed in the Order of the By-Law Enforcement / Animal Control Officer. Provided however, that if the owner has not already applied and been denied a permit to keep or harbour the restricted animal, the owner may make such an application in accordance with subsection 17(2), and the Order of the By-Law Enforcement / Animal Control Officer shall be suspended pending the decision of the Municipality.
- 17(9) The onus shall be on the person upon which an Order pursuant to subsection 17(8) has been served to establish either that:
- a) the animal is not a restricted animal; or
- b) the person has a permit from the Municipality to keep or harbour the restricted animal.
- 17(10) Where the person has failed to establish either that the animal is not a restricted animal or that he has a permit from the Municipality to keep or harbour the restricted animal, and the person has failed or refused to dispose of the restricted animal within the time frame contemplated by the Order of the By-Law Enforcement / Animal Control Officer, the By-Law Enforcement / Animal Control Officer may seek an Order or Warrant from a Provincial Court Judge, Magistrate or Justice of the Peace, as required, to enter upon the land and premises of that person for the purpose of removing and disposing of the restricted animal as set out in Schedule "A" attached hereto. The By-Law Enforcement / Animal Control Officer may engage the assistance of other persons if required to safely apprehend the restricted animal.

17(11) Upon apprehension and impoundment of a restricted animal, and provided that:

- a) a written Order was duly served on the owner as required by subsection 17(8); and
- b) if an application for written permission of the Municipality to retain the restricted animal has been heard and denied by the Municipality, the Board may proceed to order the animal destroyed or sold, and the By-Law Enforcement / Animal Control Officer shall carry out the order of the Board. The owner shall be liable for all costs associated with apprehension, impoundment and destruction or sale of the restricted animal. If the proceeds of the sale exceed any such costs and any fines imposed upon the owner for breach of this By-Law, then the Board shall refund the excess proceeds to the owner.

17(12) a) An owner who has received a permit to keep a restricted animal shall not permit the restricted animal to run at large within the Municipality. When a restricted animal is found running at large, its owner shall be deemed to have refused or failed to comply with this By-Law.

- b) A restricted animal found running at large and has been apprehended by the By-Law Enforcement / Animal Control Officer shall forthwith be permanently removed from the Municipality. The restricted animal shall be destroyed, given away or sold outside the Municipality.
- c) The owner shall be liable for all costs associated with apprehension, impoundment and destruction or sale of the restricted animal as set out in Schedule "A" attached hereto. If the owner of the apprehended restricted animal is known and if the proceeds of the sale exceed any such costs and any fines imposed upon the owner for breach of this By-Law, then the Board shall refund the excess proceeds to the owner.
- d) If the owner of the apprehended restricted animal is unknown and if the proceeds of the sale exceed any such costs and any fines imposed upon the owner for breach of this By-Law, the proceeds of which shall be paid to the general funds of the Board.

17(13) The Board, or the By-Law Enforcement / Animal Control Officer on the authority of the Board, may establish from time to time a temporary or permanent premises for the confinement of a restricted animal 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 Board, shall provide care for the impounded animal(s) at a rate of remuneration to be fixed from time to time by the Board. The By-Law Enforcement / Animal Control Officer may authorize the establishment of a temporary pound based upon the verbal consent by telephone of the majority of the Board, which temporary pound shall be ratified at the next regularly scheduled Board meeting.

PART IX: GENERAL PROVISIONS:

OFFENSES UNDER THIS BY-LAW:

18(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, cat or domestic pet to run at large;
- b) Keeping or harbouring dogs or cats in excess of the maximum number permitted by this By-Law in a Townsite;
- c) Keeping or harbouring dogs or cats in excess of the maximum number permitted by this By-Law in a rural area without a properly issued Conditional Use Order and duly executed Conditional Use Agreement for a Kennel contrary to section 11 of this By-Law.
- d) Failure by the property owner and/or applicant to comply with the conditions imposed upon a validly issued Conditional Use Order and/or duly executed Conditional Use Agreement;
- e) Failing to comply with an Order of the By-Law Enforcement / Animal Control Officer to dispose of any dogs or cats in excess of the prescribed limit made under subsection 7 of this By-Law;
- f) Failure by the owner of a dog to comply with any one or more of the provisions of section 8, subsection 10(2) or subsection 10(3) of this By-Law;
- g) Failing to report a bite incident or failing to voluntarily surrender the dog or cat believed to have bitten a person to the By-Law Enforcement / Animal Control Officer.
- h) Failing to voluntarily surrender a dog or cat to the By-Law Enforcement / Animal Control Officer upon a request therefor;
- i) Failure by an owner to discharge the duties of an owner as set out in subsection 2(1) of *The Animal Care Act* (Manitoba);
- j) Keeping or harbouring any wild animal or other restricted animal within the Municipality without a proper permit contrary to Section 17 of this By-Law;
- k) Violating any of the conditions or restrictions imposed upon a permit to keep or harbour any wild animal or other restricted animal within the Municipality;
- l) Failing to properly vaccinate a dog or cat against rabies;
- m) Failing to comply with any conditions imposed upon the use of a cat trap within the Municipality;
- n) Failing to comply with the requirements of subsection 10(1) of this By-Law in relation to any domestic pet;
- o) Failing to comply with the requirements of any provision of subsections 10(4), (5) or (6) in relation to any cat;
- p) Failing to comply with any requirements of Part VI of this By-Law in relation to an aggressor animal or a dangerous animal;
- q) Defacing or removing a sign required to be posted under subsection 12(9)(b) or subsection 14(1)(f) of this By-Law;
- r) Failing to comply with any of the requirements of Part VII of this By-Law in relation to livestock;
- s) Failing to comply with any of the requirements of Part VIII of this By-Law in relation to any restricted animals.

INTERFERENCE WITH ENFORCEMENT:

- 18(2) It shall be an offense under this By-Law for a person to interfere or obstruct any attempt by a By-Law Enforcement / Animal Control Officer, Poundkeeper or the Board 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 a By-Law Enforcement / Animal Control Officer, the Poundkeeper, a Police Officer or any other person authorized to apprehend and impound an animal running at large, who is attempting to apprehend or impound; or who has apprehended and impounded, any animal in accordance with the provisions of this By-Law.

- 18(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:

- 18(4) Any resident of the Municipality may apprehend and confine an animal which is running at large on his property provided that he shall immediately thereafter inform the By-Law Enforcement / Animal Control Officer or the Poundkeeper of the apprehension and confinement, and the By-Law Enforcement / Animal Control Officer shall, as soon as practical, attend upon the resident to take possession of and impound the animal.

RIGHT OF ENTRY:

- 19(1) The By-Law Enforcement / Animal Control Officer or any other person appointed by the Board 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 for a Provincial Court Judge, Magistrate or Justice of the Peace, as required to permit such entry.
- 19(2) The owner or harbourer of any dog, cat or any other domestic pet that has bitten any person or any other animal shall present the said animal to the door of his dwelling upon the request of the By-Law Enforcement / Animal Control Officer and to assist the By-Law Enforcement / Animal Control Officer to apprehend and impound the said animal.

COMPLAINANT IDENTIFICATION:

- 20(1) Any person who makes a complaint alleging an offense under this By-Law against another person shall provide to the By-Law Enforcement / Animal Control Officer his name, address and telephone number. It shall be at the discretion of the By-Law Enforcement / Animal Control Officer whether or not to proceed based on an anonymous complaint or information.

LIABILITY:

- 21(1) No liability shall attach to the By-Law Enforcement / Animal Control Officer, the Poundkeeper, the Board and/or the Municipality in carrying out their respective duties under this By-Law.

Without limiting the generality of the foregoing, no liability shall attach to the By-Law Enforcement / Animal Control Officer, the Poundkeeper, the Board and/or the Municipality for any animal destroyed, sold or otherwise disposed of pursuant to the provisions of this By-Law or killed or injured during the course of its apprehension or impoundment.

PENALTIES:

- 22(1) Without limiting the penalties or impoundment fees as set out in Schedule "A" hereof, any person who contravenes or permits the contravention of any provision of this By-Law, or who fails, refuses or neglects to comply with the requirements of this By-Law, shall be issued a Notice of Breach of By-Law and is guilty of an offence and is subject, in addition to any penalties prescribed in Schedule "A" hereto, upon conviction before a Provincial Court Judge, Magistrate or Justice of the Peace, to the following:
- a) a fine of not less than FIFTY DOLLARS (\$50.00) and not more than TWO HUNDRED DOLLARS (\$200.00), plus all applicable costs of apprehension and impoundment, for the first offence;
 - b) a fine of not less than ONE HUNDRED DOLLARS (\$100.00) and not more than FIVE HUNDRED DOLLARS (\$500.00), plus all applicable costs of apprehension and impoundment, for the second offence;
 - c) Any animal that is impounded three (3) 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 regardless of whether or not it is properly licensed, if applicable, under this By-Law.
- 22(2) Any person who interferes with or obstructs the duties of a By-Law Enforcement / Animal Control Officer, a Poundkeeper or any other person authorized to enforce any provisions of this By-Law, or who unlawfully enters any pound or unlawfully removes any animal impounded, 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 FIFTY DOLLARS (\$50.00) and not more than FIVE HUNDRED DOLLARS (\$500.00), or to imprisonment for a term of not more than thirty (30) days, for the first offense, plus all applicable apprehension and impoundment costs;
 - b) to a fine of not less than ONE HUNDRED DOLLARS (\$100.00) and not more than FIVE HUNDRED DOLLARS (\$500.00), or to imprisonment for not more than six (6) months, for each subsequent offense, plus all applicable apprehension and impoundment costs.
- 22(3) 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.
- 22(4) A person who has been served with a Notice of Breach of this By-Law, may dispose of the matter by mailing or attending to the Office of the Municipality during regular office hours within fourteen (14) days of the date of the Notice and pay to the Municipality, on behalf of the Board, the minimum fine (including applicable costs). In the event that a person does not pay the minimum fine and costs within the said fourteen (14) day period, the Board may lay an Information with respect to the By-Law infraction and a Summons may be issued for the person to attend to Provincial Court. Any person found guilty of a breach of this By-Law as set out in the said Notice may be liable to the Board for the maximum penalty set out in this By-Law including court costs.

22(5) All fines and penalties collected under the provisions of this By-Law, except as herein otherwise provided, shall be paid to the Municipality, on behalf of the Board.

23(1) Wherever the provisions of any other By-Law, rule, regulation, statute imposes overlapping or contradictory regulations over the control of animals, prohibition of animals, or contain any restrictions covering any of the same subject matter contained herein, the most restrictive standard shall apply.

SEVERABILITY:

24(1) If any provision of this By-Law is held to be invalid by any Court of competent jurisdiction, the remaining provisions of this By-Law shall not be invalidated.

EFFECT:

25(1) This By-Law shall come into force and effect on and from the date of its enactment.

24(2) That By-Law #17/01 is hereby repealed.

DONE AND PASSED in Council assembled in the Council Chambers of the Rural Municipality of Rockwood, at Stonewall, in the Province of Manitoba, this 25th day of September, A.D., 2002.

THE RURAL MUNICIPALITY OF ROCKWOOD

LEON VANDEKERCKHOVE, REEVE

JACK DOUGLAS, CAO

GIVEN First Reading this 11th day of September, A.D., 2002.
GIVEN Second Reading this 11th day of September, A.D., 2002.
GIVEN Third Reading this 25th day of September, A.D., 2002.