

VILLAGE OF/DE ST-PIERRE-JOLYS

BY-LAW 2009-11

*BEING A BY-LAW TO PROVIDE FOR THE REGULATION AND CONTROL OF ANIMALS
WITHIN THE LIMITS OF THE VILLAGE OF ST-PIERRE-JOLYS*

WHEREAS subsection 232(1) of *The Municipal Act, S.M. 1996, c. 58 (the “Act”)* provides, in relevant part, as follows:

Spheres of jurisdiction

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- a) the safety, health, protection and well-being of people and the safety and protection of property;
- ...
- k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size and weight;
- ...
- o) the enforcement of by-laws.

AND WHEREAS subsection 232(2) of the *Act* provides, in relevant part, as follows:

Exercising By-Law making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- a) the safety, health, protection and well-being of people and the safety and protection of property;
- d) establish fees or other charges for services, activities, or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;
- e) subject to the regulations, provide for a system of licenses, permits or approvals, including any or all of the following:
 - i) establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the costs of regulation;
 - ii) establishing fees for licenses, permits, and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality;
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 - iv) providing that terms and conditions may be imposed on any license, permit or approval, and providing for the nature and the terms and conditions and who may impose them,
 - v) providing for the duration of licenses, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and
- f) except where a right of appeal is already provided in this or any other *Act*, provide for an appeal and the body that is to decide the appeal, and related matters.

AND WHEREAS, subsection 236(1) of the *Act* provides, in relevant part, as follows:

Content of by-laws under clause 232 (1)(o)

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions

- a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- b) remedying contravention of by-laws, including
 - i) creating offenses;
 - ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offense that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offense, or related to enforcing the by-law,
 - iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this *Act*,
 - iii) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things relating to a contravention,
 - v) charging and collecting cost incurred in respect of acting under subclause (iv),
 - vi) imposing a sentence of imprisonment for not more than six months for the commission of offenses or nonpayment of fines.

AND WHEREAS subsections 5(1), (2) and (3) of *The Animal Liability Act, S.M. 1998 c.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* or a by-law of a local government district passed in accordance with *The Local Government Districts 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 or LGD not liable by reason only of making By-Law

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

AND WHEREAS, subsections 31(1) and (2) of the *Diseases and Dead Bodies Regulation, 338/88R* of *The Public Health Act, R.S.M. 1987 c. P210* provide, in relevant part, as follows:

31(1) In the event of an animal bite to a person in which physician determines that there is a possibility of transmission of rabies, the person bitten or any duly qualified medical practitioner or registered nurse attending that person shall forthwith notify the medical officer of health or the animal control officer of the municipality in which the biting incident occurred or a peace officer of the details of the biting incident.

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

THEREFORE BE IT RESOLVED AND HEREBY ENACTED as a By-Law of the Village of St-Pierre-Jolys, in council duly assembled, as follows:

DEFINITIONS

By-Law Name

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

Definitions

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

“**Police Constable**” includes any member of the RCMP or a peace officer appointed by the Council of the Village of St-Pierre-Jolys;

“**serious injury**” means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery;

“**dog**” means any member of the genus *Canis familiaris* (domestic dog) whenever used in this By-Law, unless the context otherwise requires, includes “bitch”;

“**vicious dog**” means any dog, when unprovoked, in an aggressive manner, inflicts severe injury or kills a human being;

- any dog previously determined to be and currently listed as a potential dangerous dog;

“**potentially dangerous dog**” means any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog;

- any dog which, when unprovoked, bites a person causing a less severe injury than as defined in the definitions

- any dog which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog;

“**pound**” means any enclosure, premises or a place designated by the municipality for the purpose of impounding and caring for animals, found running at large in violation of this By-Law.

“**Poundkeeper**” means a person or persons appointed by Council to act as poundkeeper, his deputy and any one or more of his assistants or any other person authorized to perform any of the duties of Poundkeeper;

“**running at large**” means an animal that is not under the direct and continuous charge and effective control of a person competent to control it.

“**owner**” includes any person who keeps or harbors a dog;

“**Animal Control Officer**” means the person appointed by Council from time to time to carry out the duties of such officer as set forth in this by-law, and include his deputy assistant, or other delegates.

All Dogs To Be Licensed

1(3) The owner of every dog shall annually register the dog and procure a license therefore from the Municipal Office or agent authorized by the Council of the Village of St-Pierre-Jolys and for such a license shall pay the fees set out in the “current Fees & Changes By-Law”. No owner shall keep or harbor more than two dogs at the same time.

The owner shall place and keep around the neck of every dog a collar to which shall be securely fastened the current license plate or tag issued by the Municipality. No other tag or plate, purporting to show that the dog is licensed is permitted to be attached to the collar.

Every dog license shall become due on the first day of January in each year and shall expire on the next thirty-first day of December after the same became effective. Any dog acquired after the first day of January in any year shall be forthwith registered and licensed.

All dogs must have collars and license tags and under the control when on the street. No owner shall permit a dog to be anywhere than on the owner's premises without a collar and the proper license tag or plate, unless the dog is accompanied by and is under the immediate charge and control of some competent person.

If the Poundkeeper or his assistant pursues an unlicensed dog on the property of the owner or of a person known to have harbored the dog, the Poundkeeper or his assistant shall give the said owner or harbinger forty-eight hours notice that he must purchase a license for the said dog and pay a fine. If the owner or harbinger failed to purchase the said license and paid said fine within 48 hours, the owner or harbinger shall upon conviction be liable to the penalties as set out in the "current Fees & Charges By-Law".

LICENSE FEES

The Annual License for dogs shall be as set out in the "current Fees & Charges By-Law" providing that the Municipal Office or agent authorized by the council may issue a license for a spayed female or neutered male for the fee provided for a dog if the applicant therefore produces a satisfactory certificate from a qualified veterinary surgeon showing that the bitch has been spayed or the male neutered, and a valid rabies vaccination certificate.

SPECIAL RESTRICTIONS RELATING TO CERTAIN DOGS

No owner shall permit a dog to a at large or on any public thoroughfare unless on a leash or under the complete control of some competent person, and no owner shall allow a bitch of any breed to be on a public highway or any other public place while she is in heat, nor shall they allow her to be a nuisance and during such period shall keep the dog under control in confined quarters.

RUNNING AT LARGE

1. In this By-Law "run at large" or "running at large" means under control by either being:

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

2. No owner or person in charge of a dog shall permit it to run at large at any time within the Municipality;

3. Where a dog is found running at large contrary to subsection (2), on the hearing of an information and complaint against the owner or person in charge thereof for breach of that subsection, the owner or person in charge shall be deemed to have permitted the dog to run at large unless he satisfied the presiding Magistrate that he took all reasonable precautions to prevent it from running at large.

IMPOUNDING AND REDEMPTION

It shall be the duty of the Poundkeeper to capture and confine in a Pound all dogs found running at large contrary to the provisions of this By-Law.

The owner of any dog impounded may redeem the same at any time within three (3) working days of the time of capture by paying the Poundkeeper the pound fee as set out in the "current Fees & Charges By-Law".

Whenever a dog is impounded wearing a tag furnished by the Municipality in connection with a current license for such an animal, the Poundkeeper shall forthwith after the impounding, contact the owner whose name appears on such license at the address as shown thereon, shall send notice that the dog has been impounded and that if it is not redeemed within three (3) working days of the date of notice, it may be sold or destroyed.

If the tag was issued by another Municipality, the Poundkeeper shall notify the Clerk or Secretary thereof that such animal has been impounded and will be disposed of if not redeemed within three (3) working days of the date of such notification.

Any person interfering with the Poundkeeper or his assistant while he is carrying out the duties set out in this By-Law shall upon conviction be liable to the penalties set out in the "current Fees & Charges By-Law".

INTERFERENCE WITH ENFORCEMENT

No person shall interfere with or attempt to obstruct a Poundkeeper, Animal Control Officer or a Police Constable who is attempting to capture or who has captured any animal in accordance with the provisions of this by-law.

DISPOSAL OF IMPOUNDED DOGS

The Poundkeeper may sell any dog not redeemed to any person for an amount not less than the applicable pound fees set forth in the "current Fees & Charges By-Law" or may cause the dog to be disposed of; provided, however, that if the dog is not licensed and the purchaser intends to remove it from the Municipality immediately, the amount of the license fee need not be included as part of the selling price. The Poundkeeper shall not sell a bitch which he has in custody unless the new owner undertakes to have the animal spayed.

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

Any owner of a dog or person deemed to be the owner of a dog by reason of his harboring the dog, who wishes to dispose of the dog must personally bring the animal to the pound and give written authority for its destruction and pay the applicable fees if any.

IMPOUNDED DOGS TO BE FED AND WATERED

The Poundkeeper shall provide every dog captured and impounded with sufficient shelter, food, and water during the time such dog remains impounded.

ANY DOG THAT BITES A PERSON TO BE KEPT UNDER OBSERVATION

Any dog which bites any person, whether on private premises or elsewhere, shall, unless the owner thereof forthwith delivers the same to the Municipal Pound, or to some place where dogs are kept under the personal supervision of a licensed veterinary surgeon, be taken by the Poundkeeper to the Municipal Pound.

Any such dog so delivered or taken to the Pound or a licensed veterinary surgeon shall be kept therein at the owner's expense for a period of ten days (10) from the date of the bite, unless the Medical Officer of Health sooner certifies that all danger of infection has ceased.

Any dog thought to be rabid shall be impounded for fourteen days (14) or until it dies.

Any such dog that dies shall have the head examined for rabies by the health of Animals Division of Canada.

DOGS MUST NOT BE ALLOWED TO BECOME NUISANCES

No owner shall allow a dog to bite a person or persons anywhere;

No owner shall allow a dog to annoy the quiet of others anywhere by barking or howling;

No owner shall allow a dog to chase a dog on a leash.

If a bitch while in heat shall be deemed a nuisance, the license shall be canceled forthwith and terminated by the Poundkeeper unless the dog is placed in a public kennel operated for the care and maintenance of dogs.

If in the reasonable opinion of the Poundkeeper a dog may become a nuisance or menace whereby property, public safety or order may become damaged or endangered, said Poundkeeper may arrange for said dog's apprehension, and/or destruction and, without restricting the generality of the foregoing may to that end use tranquilizer guns, drugs, or other means reasonable necessary to effect said apprehension and/or destruction.

POTENTIALLY DANGEROUS OR VICIOUS DOGS

No person shall keep or harbor in the Village of St-Pierre-Jolys a **POTENTIALLY DANGEROUS OR VICIOUS DOG** regardless of age or breed.

COMPLAINANT MUST IDENTIFY HIMSELF

Before any action, whether to impound a dog or institute legal proceedings, is taken by the Poundkeeper as the result of a complaint, the complainant shall give his name and address to the Poundkeeper.

REMOVING COLLAR OR TAG PROHIBITED

No person shall remove the collar or license plate or tag from any licensed dog.

LOCATION OF THE POUND

The location of the pound for the Village of St-Pierre-Jolys and the Poundkeeper shall be appointed by resolution of the Municipal Council.

PENALTY

Any person found guilty of an infraction of any of the provisions of this By-Law shall be liable upon conviction thereof to the penalties set out in the “current Fees & Charges By-Law”.

RECORDS TO BE KEPT

The Poundkeeper shall keep a record of every dog destroyed. Such record shall show description and particulars of every such dog, the day and hour of its destruction, the name and address of the owner, (if known), the license number (if any) received in respect of such dog and the name and address of the person paying the same and such other particulars as the Council may direct. All moneys collected by the Poundkeeper shall be remitted to the Clerk of the Village of St-Pierre-Jolys, together with such reports and statements as the Council may prescribe.

REPEAL

That By-Law 2002-4 is repealed.

DONE AND PASSED by the Council for the Village of St-Pierre-Jolys, in Council duly assembled, at St-Pierre-Jolys in the province of Manitoba, this 16th day of September, 2009.

VILLAGE DE/OF ST-PIERRE-JOLYS

LE MAIRE / MAYOR

DIRECTRICE GÉNÉRALE /
CHIEF ADMINISTRATIVE OFFICER

Given 1st Reading on September 2, 2009
Given 2nd Reading on September 16, 2009
Given 3rd Reading on September 16, 2009