

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF MORRIS
FOR RESTRAINING, PROHIBITING AND REGULATING THE RUNNING AT LARGE
OF ANIMALS OR TRESPASSING OF SAME AND FOR PROVIDING FOR MUNICIPAL
POUNDS AND THE APPOINTMENT OF POUNDKEEPERS AND APPRAISERS.

WHEREAS it is deemed expedient to pass a by-law for restraining, prohibiting and regulating the running at large of animals and providing for impounding them, and for causing them to be sold within the time limit hereinafter prescribed, if they are not claimed within a reasonable time, or if damages, fines and expenses are not paid, and for providing sufficient yards and enclosures for the safe keeping of impounded animals, and for appraising damages to be paid by the owners of the animals so impounded and for the release of animals from pounds upon payment of all damages, fines and expenses for which a poundkeeper has the right to detain them, and for providing a method in which damages are to be ascertained or appraised and by whom, and for determining the compensation to be allowed for services rendered in the carrying out of the provisions of this by-law, with respect to animals impounded or restrained and detained in the possession of the distrainer, and for the appointment by resolution or by-law of poundkeepers and appraisers.

NOW THEREFORE the Council of the Rural Municipality of Morris in council duly assembled enacts as follows-

In this by-law unless the context otherwise requires the expression,

(a) "Animal" means any animal of husbandry and more specifically includes stallion, horse, colt, mule, ass, jackass, ox, bull, cow, steer, heifer, boar, swine, ram and sheep, and the plural thereof shall mean the singular to prevent any evasion of the ownership or possession thereof.

(b) "Fowl" means domesticated fowl of all kinds.

(c) "At large", "run at large", or "running at large" means not being under control by confinement within an enclosure except in the case where animals are being driven from one enclosure to another in direct or continuous charge of a herder.

(d) "Pound" shall mean and include such place or places, enclosure or enclosures within the Rural Municipality of Morris as the Council shall from time to time select and approve of by by-law or resolution.

1. That there shall be established in the Rural Municipality of Morris, Public Pounds, which pounds shall be situate on the premises occupied by the respective parties appointed Poundkeepers, by the by-law of the Municipality appointing officers each year, or by resolution as the case may be.

2. That the Council shall from time to time as occasion shall or may require appoint by by-law or resolution poundkeepers and appraisers for the due enforcement of this by-law.

3. That the said Poundkeepers and Appraisers shall receive as remuneration such fees and charges as each shall be entitled to under the provisions of this by-law.

4. The Poundkeeper or Poundkeepers so appointed shall maintain and keep up said pounds so established, said pounds to be so suitably constructed and enclosed as to prevent the escape of impounded animals and the poundkeeper shall be liable to the person or persons aggrieved for the escape thereof and any expenses connected therewith.

5. That the said Pounds shall be for the impounding of animals at large or trespassing contrary to the provisions of this by-law, which said impounding may be done by the Poundkeeper or any other person.

6. It shall be unlawful

6. It shall be unlawful for any person or persons to allow any animal or fowl hereinbefore described to run at large within the confines of the Rural Municipality of Morris between the 1st day of January and the 31st day of December in any year.

7. The owner or occupant of any land within the Rural Municipality of Morris, may distrain any animal or animals, or fowl, trespassing or doing damage to his or her lands, and when such distress is made the distrainer shall at once take the animal, animals or fowl to the nearest of most convenient public pound and shall at the same time leave with the poundkeeper of such pound his or her claim for damages in writing and a statement of the costs of the said distrainer in taking such animal, animals or fowl from the place of trespass to the said pound, according to the scale of tariff hereinafter set out.

8. That whenever any animal is impounded it shall be the duty of the Poundkeeper to detain same until the owner or owners thereof shall have paid as follows-

- (a) The fees payable to the Poundkeeper or other person for driving and delivering said animal to the pound.
- (b) The Poundkeepers fees for receiving and impounding the animal.
- (c) The allowance due the Poundkeeper for the care and maintenance of said animal.
- (d) The amount of damage (if any) claimed for the trespass.

9. That the fees to the Poundkeeper or other person for the driving and delivering of animals to the Poundkeeper shall be as follows-

- For each Stallion or Jackass. \$2.00
 - For each Bull. 2.00
 - For each goose, duck, chicken or turkey. .10
 - For each other animal. .50
- plus ten cents per mile each way for any miles necessarily travelled, to and from the place of trespass to the pound, such fees not to be payable unless and until realized.

10. That the fees payable to the Poundkeeper for receiving and impounding animals shall be as follows-

- For each stallion or Jackass. \$1.00
- For each Bull. 1.00
- For each goose, duck, chicken or turkey .10
- For each other animal. .50

That the fees for posting notices of swine, geese and poultry impounded, each said notice to include all animals impounded at one distress and seizure and date and place of sale shall be \$1.00. For posting notices of impounding, mules, horses, sheep and cattle, each such notice to include all such animals impounded at one distress and seizure \$1.00. For Notice in the Manitoba Gazette \$1.00 and for the current rate in a local newspaper, and for posting notices of sale \$1.00, for selling impounded animals and applying the proceeds as directed by this By-Law the fee shall be five per cent commission upon the amount realized on the sale, That the fee for attending for summonses and serving same on appraisers shall be seventy-five cents. That the charge for mileage necessarily travelled by a Poundkeeper in the performance of his duty, or in the case of other persons impounding shall be ten cents per mile.

11. That the amount to be allowed the Poundkeeper for the care and sustenance of each animal for each day such animal is impounded shall be as follows-

- For each stallion, Jackass or Bull. \$1.00
- For each goose, duck, chicken or turkey. .05
- For each other animal. .50

12. That whenever any animal is impounded it shall be the duty of the Poundkeeper daily to furnish such animal with good and sufficient food, water and shelter during the whole time such animal continues impounded.

13. In the event of milch cows being impounded the Poundkeeper shall at least twice in each day milk said cow or cows, and for so doing he shall be entitled to keep the milk for his own use.

14. Any Poundkeeper shall be guilty of an infraction of this by-law who-

(a) Impounds or confines any animal and neglects or refuses to find, provide and supply the same with good and sufficient feed, water and shelter as hereinbefore provided.

(b) Impounds or incites or employs any person or persons to impound any animal in the Municipality unless such animal is at large or trespassing contrary to the provisions of this by-law.

(c) Contrary to the provisions of this by-law purchases in person or by his agent or has any interest of any kind in any animal sold at the Pound of which he is at the time of said sale the Poundkeeper.

(d) Demands or receives any sum for giving notice, sustenance, or collects fees not authorized by this by-law.

(e) Fails to pay over, any surplus proceeds of a sale after deducting expenses, to the Secretary-Treasurer of the Municipality.

15. Pursuant to section 7 herein any person or persons claiming damage for trespass by any animal impounded at any time before the animal is released, deliver to the Poundkeeper a statement in writing of his demand against the owner of such animal for trespass and shall at the same time give his written agreement under seal, (with satisfactory surety if required by the Poundkeeper) in the following, or words to the same effect, I (or we) do hereby agree that I (or we) will pay the owner of (description of animal) (or animals) by me A.B. or us A.B. and C.D., this day impounded all costs to which the said owner may be put in case the distress by me the said A.B. (or us the said A.B and C.D.) prove to be illegal, or in case the claim for damage now put in by me (or us) fails to be established.

16. If the owner of any distress taken attends, or any person on his or her behalf shall appear and dispute the amount of damage claimed, it shall and may be lawful for the Poundkeeper to apply to the Reeve or any one of the Councilors of the Municipality who is hereby authorized and required to forthwith summon three appraisers, and such three persons or any two of them shall within twenty-four hours after notice as aforesaid, view the ground on which the animal or animals was found doing the damage and shall appraise the damage committed and the determination of the majority of the said three persons shall be conclusive as to such damages, and they shall within twenty-four hours after having made the view give in writing to the Poundkeeper a statement of the amount of damage assessed by them.

17. The fee for appraisers shall be the sum of \$2.00 per day each whilst making said appraisalment and ten cents per mile for miles necessarily travelled in the execution of their said duties.

18. In the case of swine, geese and other poultry the Poundkeeper shall within twenty-four hours and not before six hours after the animals shall have been impounded, cause a written notice thereof, to be affixed to the Pound gate and in three other conspicuous places in the vicinity which notice shall give a proper description of the distress and shall specify when and where the same shall be sold. AND if the owner of such distress or some other person on his or her behalf shall not within ten days, after such notice has been affixed and posted as aforesaid, redeem the same by paying the charges of the Poundkeeper and such other charges as may be affixed by this By-Law (and damages if any), it shall be lawful for such Poundkeeper to sell such distress by auction, and after deducting his own charges and such other charges as may be affixed by this by-law and the damage (if any) and costs, to pay the surplus, if any; to the Secretary-Treasurer of the Municipality to be retained by him in a special fund or account for one year and if not claimed it shall then go to the general funds of the Municipality.

19. In the case of mules, horses, sheep or cattle, the Poundkeeper shall within twenty-four hours and not before six hours after the animals shall have been impounded, cause a written notice

thereof to be applied to the pound gate and in three other places in the vicinity, and shall immediately cause to be inserted in The Manitoba Gazette and in the nearest local newspaper, a notice, describing the animal or animals impounded, the age as near as possible, sex and color, with brand or any mark of identification and the said notice may be as follows-

IMPOUNDED

The Rural Municipality of Morris. Pound No---
on Section Township Range
Impounded on the day of A.D.19
(Kind of animal and number of same, color, age,
sex, brand or other identification.

POUNDKEEPER.

and no such sale of said animal or animals shall be made before the expiration of thirty days after such animals have been impounded.

20. When any mules, horses, sheep or cattle shall not have been released from the Pound within thirty days after the distress, such animals shall be sold by public auction after notice of such sale shall have been posted for eight days in three conspicuous places in the locality, one of which shall be the Post Office nearest to the Pound and at such sale the Poundkeeper shall be the Auctioneer and such sales shall be held at the Pound and shall commence at the hour of two o'clock in the afternoon and the Poundkeeper shall neither in person or by his Agent purchased any animal or animals at such sale or have any interest of any kind in any animal so purchased.

21. If more than one animal is impounded and the owner thereof is known the Poundkeeper shall not sell any more of such animals after he has realized from the sales sufficient to satisfy the claims for damages, expenses and fees chargeable against the animals, and the owner of the animals shall be entitled to the remainder of those remaining unsold. If the owner of the animal is unknown the Poundkeeper shall sell all the animals impounded, The Poundkeeper shall immediately after said sale send to the Secretary-Treasurer of the Municipality a description of the animal or animals sold, the date of sale, the amount realized, statement of amount retained and shall give to the Secretary-Treasurer any surplus arising out of said sale.

22. Notwithstanding anything herein contained to the contrary if at any such sale or sales the Poundkeeper receive no bid, or be not bid for any animal or animals brought to sale a sufficient amount to pay the lawful pound fees, such Poundkeeper may in such case only, bid in and purchase any such animal or animals for the amount of the lawful pound fees and other expenses.

23. No Poundkeeper making a sale under the provisions of this by-law shall be liable to the penalties for selling without a license as an auctioneer.

24. The proceeds of the sale of any animal or animals sold under the provisions of this by-law shall be applicable in payment, with priority, as follows, (a) of any costs and charges attending such sale, (b) of any sustenance charges, (c) to the impounder of such animal of the amount due to him for driving and delivering such animal to the pound, (d) to the account of the appraisers (if any), (e) to the Party claiming the damage the amount of his claim and (f) the residue if any to the Secretary-Treasurer of the Municipality to be retained by him in a special fund or account for a period of one year from the date thereof, and if not then claimed it shall then go to the general funds of the Municipality.

25. Any person who shall break open or in any manner directly or indirectly aid or assist any person or persons to break open any Pound in the Municipality shall be guilty of an infraction of this by-law.

26. Any person who shall hinder, delay or obstruct any person engaged in taking any animal or animals to Pound shall for each hindrance, delay or obstruction be guilty of an infraction of this by-law.

27. Any person who leaves open any gate or lets down any bars or makes a gap in any fence for the purpose of permitting any animal to trespass or otherwise cause any animal to trespass shall be guilty of an infraction of this by-law.

28. The Poundkeeper shall enter in a book kept for the purpose, the number and description of every animal including geese, ducks and other poultry impounded by him with the name of the person who delivered the same, the day and hour on which same was received, redeemed or sold, and the amount of the damages, penalty and fees paid by the party redeeming the same or the proceeds of the sale (if any sale) and he shall make all entries therein as soon after the doing of the several things required to be entered therein, as is possible, and shall not make any entry after any dispute after the subject matter of such entry shall have arisen. AND the said Pound Book and a copy of this by-law which the Poundkeeper is required to keep, shall at all reasonable times be open for inspection of any person free of charge.

29. The Poundkeeper shall at his own cost provide yards and enclosures for the safe-keeping of such animals as may be impounded and shall keep such premises clean and in good repair.

30. Whenever any animal has been captured or distrained by any person under the provisions of this by-law for the purpose of impounding the same, if the owner of the animal or some person on his or her behalf pay or tender to the person seizing or having charge of such animal before the same has actually been impounded the charge for which the said animal has then become liable under this by-law with the damages claimed, if any, the person having charge of said animal shall forthwith deliver up the same to the owner or the person tendering the charges on his behalf, and if such person does not so deliver up such animal he shall be guilty of an infraction of this by-law.

31. The Poundkeeper shall make a return to the Secretary-Treasurer of the Municipality in writing of the number and description of all distress received by him with the names of the persons taking the same to the pound, the day on which received by him, redeemed or sold, the amount received for damages, penalties and fees, at least once in each year and oftener if called upon by the Council so to do.

32. Any animal found at large contrary to the provisions of this by-law of the said Municipality shall be liable to be impounded and sold in accordance with the provisions of this by-law respecting pounds and poundkeepers unless the expenses of impounding the same and the lawful pound fees are sooner paid.

33. Any person owning or having the custody of any animal who knowingly or willfully suffers, allows or permits such animal to run or be or remain at large contrary to the provisions of this by-law shall be guilty of the provisions of this by-law and on conviction thereof shall be liable to the penalties herein provided.

34. Nothing contained in this by-law shall deprive the owner of any animal impounded of any action, remedy or right that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded.


35. Nothing herein contained shall prevent the owner of any lands trespassed on or upon or of any property destroyed from waiving rights created by this by-law and bringing his action in any competent court in consequence of any trespass or damages.

36. Nothing in this by-law shall prevent any person from seeking the rights, remedies and penalties contained in the provisions of The Animal Husbandry Act being Cap. 5.R.S.M. 1940 and amendments thereto

37. Any person or persons guilty of an infraction of any of the provisions of this by-law, shall, upon conviction, before a Police Magistrate or any Justice or Justices of the Peace, having jurisdiction, be liable for each offence to a fine not exceeding \$50.00 and costs, and in default of payment thereof, it shall be lawful for the Police Magistrate or Justice or Justices of the Peace so convicting, to issue a warrant under his hand and seal or in the case of two or more of them acting thereon under the hand and seal of one of them, to levy the said fine and costs or fine or costs only, by distress and sale of the offender's or offenders' goods and chattels, and in the case of no sufficient distress to satisfy the fine and costs, or fine or costs only, it shall and may be lawful for the Police Magistrate, Justice or Justices of the Peace so convicting as aforesaid or any one of them to commit such person or persons to imprisonment in the Common Gaol of the Eastern Judicial District of the Province of Manitoba for a period not exceeding twenty-one days unless the said fine and costs, or fine or costs only, be sooner paid.

38. By-Law number 53 of the Rural Municipality of Morris and amendments thereto are hereby repealed.

DONE AND PASSED IN COUNCIL duly assembled at the Town of Morris in the Province of Manitoba this 8th day of April A.D. 1949.



MAYOR



SECRETARY-TREASURER.