

**Rural Municipality of Gilbert Plains
By-law No. 2005-06**

Being a By-Law to prohibit animals from running at large.

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

Spheres of jurisdiction

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

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

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

Exercising By-Law making powers

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

- (a) regulate or prohibit;

AND WHEREAS *subsection 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 owners 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 or any harm that an animal causes to a person or property while running at large in the manner permitted under the by-law.

Definitions:

That for the purposes of this by-law the following definitions shall apply:

- (A) "animal" means any animal kept in domestication or captivity, including any part of an animal, whether it is dead or alive but not including a dog or cat.
- (B) "run at large" or "running at large" means not being under the direct and continuous control of the owner or his agent or employee 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 driver.

NOW THEREFORE THE COUNCIL OF THE RURAL MUNICIPALITY OF GILBERT PLAINS IN OPEN SESSION ASSEMBLED HEREBY ENACTS AS A BY-LAW AS FOLLOWS:

That no person, persons, corporation, firm, association, cooperative, or any other entity owning, or having the care and custody of any animal shall allow such animal(s) to run at large within the limits of The Rural Municipality of Gilbert Plains.

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. If so permitted, Council may specify the number and kind of livestock which may be kept on any such premises within the Municipality, and it shall be an offense under this by-law to keep any livestock in excess of the prescribed number and kind.

When livestock is found running at large, its owner shall be deemed to have refused or failed to comply with this by-law.

That the Council of The Rural Municipality of Gilbert Plains shall:

- a) Appoint, by resolution, an "Animal Control Officer" pursuant to this by-law;
- b) Revoke, by resolution, the appointment of the Animal Control Officer under this by-law passed at any time;
- c) In the event of a vacancy, or in the event of a need for additional Animal Control Officers, the Council of the Rural Municipality of Gilbert Plains may appoint an Animal Control Officer by resolution passed any time during the year.

That the animal control officer will record information required pertaining to any person in violation of this by-law.

The animal control officer on the authority of Council, 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 Council, shall provide care for the impounded animals at a rate of remuneration to be fixed from time to time by the Council.

When livestock is impounded, the animal control officer shall publish notice of the impoundment in a newspaper that is generally distributed within the Municipality as well as post a notice at the office of the Municipality. 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 were found running at large.

If the identity of the owner is known, the animal control officer shall serve directly upon the owner or mail a notice of impoundment to the owner at the last known address.

The owner of the livestock shall not be entitled to the return of the livestock until the actual costs incurred by the Municipality in apprehending and impounding the livestock, together with the costs of caring for the livestock and any fines imposed pursuant to this by-law, have been paid in full.

If no person claims the livestock within ten (10) days of the date of the notice of impoundment, or if the owner has not paid the costs and fines referred to in this by-law, the 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 Municipality.

It shall be an offence under this by-law for a person to interfere or obstruct any attempt by the animal control officer from carrying out its duties and obligations hereunder. Without limiting the generality of the foregoing, no person shall interfere or obstruct or attempt to interfere or obstruct an animal control officer 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.

It shall be an offence 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.

Any resident of the Municipality may apprehend and confine an animal which is running at large on their property, provided that they shall immediately thereafter inform the animal control officer of the apprehension and confinement, and the animal control officer shall as soon as practical, attend upon the resident to take possession of and impound the animal.

The animal control officer or any other person appointed by the Municipality to enforce the provisions of the by-law, 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 or to otherwise enforce the provisions of this by-law, but shall not enter the personal residence of any individual without the consent of the owner or occupant of the personal residence or a valid warrant or order from a provincial court judge, magistrate or justice of the peace, as required to permit such entry.

Complainant Identification

Any person who makes a complaint alleging an offense under this by-law against another person shall provide to the animal control officer an affidavit in writing as per Schedule A indicating their name, date, location of animal(s) and owner of animal(s) if known and nature of incident. It shall be at the discretion of the animal control officer whether or not to proceed based on an anonymous complaint or information.

Liability

No liability shall attach to the animal control officer, the Council 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 animal control officer, the Council 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.

Penalty

The penalty for allowing animals to run at large within the Rural Municipality of Gilbert Plains shall be:

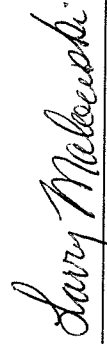
- (A) Written warning for the first offence
- (B) \$500.00 for the second offence and for each subsequent offence
(Each separate 24 hour period will be considered a separate offence)

Any amount owing to a Municipality may be collected in any manner in which a tax may be collected or enforced under *The Municipal Act*.

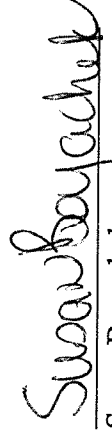
That in the event the owner of the animal(s) does not own real property within the boundaries of the Rural Municipality of Gilbert Plains, the Municipality may recover all costs, remuneration and fines as a debt through any court of competent jurisdiction.

DONE AND PASSED BY THE COUNCIL OF THE RURAL MUNICIPALITY OF GILBERT PLAINS THIS 12th DAY OF July, 2005, AD.

THE RURAL MUNICIPALITY OF GILBERT PLAINS



Larry Malowski,
Reeve



Susan Boyachek,
Chief Administrative Officer

Read this first time this 16th day of June, 2005
Read this second time this 16th day of June, 2005
Read this third time this 12th day of July, 2005

Schedule A
By-Law #2005-06 - Animals Running At-Large

(Form to be completed by complainant.)

Animal(s) type:

Nature of incident:

Current location of animal(s):

Identifying factors (color, size, tags, etc.):

Owner:

Report is being made to:

Date & time of report:

Name of Animal Control Officer report is being/will be made to:

Date & time report made to Animal Control Officer:

Complainant Name & Address:

Signature of Complainant