

# THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

## BY-LAW NO. 23-73

Being a By-law to regulate and prohibit livestock running at large.

**WHEREAS** Section 11(3)9 of the Municipal Act, 2001, S.O.2001, c. 25, as amended, provides that a lower-tier municipality may pass by-laws subject to the rules set out in Section 11(4), respecting matters within the sphere of jurisdiction of "Animals";

**AND WHEREAS** Section 103 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass a by-law regulating or prohibiting the being at large or trespassing of animals, the seizure and impounding of animals being at large or trespassing contrary to the by-law, and the sale of impounded animals;

**AND WHEREAS** the Council of the Corporation of the Township of Malahide considers it desirable and expedient that such a by-law be passed.

**NOW THEREFORE** the Council of the Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

### 1. DEFINITIONS:

- (1) "Avian Livestock" shall mean livestock that have the ability to fly.
- (2) "Bridge" shall mean a public bridge, and includes a bridge forming part of a Highway or on, over or across which a Highway passes.
- (3) "Highway" shall mean a common and public Highway, and includes a street and a bridge trestle, viaduct or other structure forming part of a Highway and, except as otherwise provided, includes a portion of a Highway.
- (4) "In charge" shall mean a person having care and control or responsibility for Livestock.
- (5) "Livestock" shall mean any member of the animal kingdom, other than human, and without limiting the generality of the foregoing includes Cattle, Sheep, Horses, Donkeys, Swine, Laying Hens, Chickens, Turkeys, Goats, Geese, Ducks, Rabbit or any other non-domesticated animal.
- (6) "Municipality" shall mean the Corporation of the Township of Malahide.
- (7) "Non-domesticated Animal" shall mean any animal but does not include a Dog or Cat.

- (8) "Officer" shall mean a Municipal Law Enforcement Officer, Ontario Provincial Police Officer, Contracted Animal Control Officer, or other persons appointed by the Township of Malahide for the purposes of By-law Enforcement.
- (9) "Permit" shall mean a direct act or omission which allows the livestock to run at large.
- (10) "Poundkeeper" shall mean a person or corporation and any agent thereof who have been appointed by the Township of Malahide for the purposes of impoundment of livestock.
- (11) "Running at Large" shall mean any animal or animals on a Highway or bridge, or public or private property other than the owners, when unattended by a competent person or persons capable of controlling the animal.
- (12) "Trespass" shall mean to enter wrongfully or without proper authority or consent upon the real property of another.
- (13) "Unattended" shall mean not watched or looked after, lacking a guard, escort, or physical control.

## **2. SCOPE**

- (1) No person shall permit livestock to run at large or trespass upon a Highway.
- (2) No person shall permit livestock to trespass upon public or private property.
- (3) Every owner or person in charge of livestock shall be required to erect and maintain a fence in accordance with good fencing techniques and such fence shall be adequate enough to contain such livestock within the fenced area, yard, field or pasture. Notwithstanding the generality of the foregoing, an electric barrier or electric fence may be used provided such barrier or fence is electrified by a constant source of power.
- (4) Each fenced area, yard, field, or pasture shall include a gate or gates comprising of a swinging or sliding barrier used to fill or close an access, and such gate or gates shall be closed at all times except for the purpose of moving the livestock under the direction of the owner or person in charge.
- (5) In the case of Avian Livestock, every owner or person in charge shall be required to construct a pen or cage complete with a roof that is capable of preventing the Avian Livestock from escape by flight.

## **3. ENFORCEMENT**

- (1) An Officer shall be responsible for the Enforcement of this By-law.

- (2) No person shall hinder or obstruct or attempt to hinder or obstruct any Officer while exercising a power or authority under this By-law.
- (3) Where livestock is found to be at large, an Officer may engage the services of a Poundkeeper for the purposes of impoundment, and cause the livestock to be impounded at a suitable location in accordance with the Pounds Act, R.S.O. 1990, c. P.17.
- (4) Where livestock has been impounded, the provisions of the Pounds Act, R.S.O. 1990, c. P.17 and regulations made thereto related to the care, storage, release or sale of the impounded animal shall be adhered to.
- (5) Where livestock has been impounded, costs shall be recoverable in accordance with the Pounds Act, R.S.O. 1990, c. P.17.
- (6) All provisions of the Pounds Act, R.S.O. 1990, c. P.17 shall apply within the Township of Malahide.

#### 4. PENALTY

Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33.

#### 5. SEVERABILITY

That all sections of this By-law shall be deemed to be separate and independent and the validity of any section or provision thereof shall not affect the remaining sections.

#### 6. EFFECTIVE DATE

This By-law shall take effect upon being passed and enacted.

**READ a FIRST and SECOND** time this 19<sup>th</sup> day of October 2023.

**READ a THIRD** time and **FINALLY PASSED** this 19<sup>th</sup> day of October 2023.

  
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Mayor, Dominique Giguere

  
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Clerk, Allison Adams

**TOWNSHIP OF MALAHIDE**

**SET FINE SCHEDULE**

**PART 1 – PROVINCIAL OFFENCES ACT**

By-law No. 23-73 (Livestock Running at Large By-law)

<b>Item</b>	<b>COLUMN 1</b> <b>Short Form Wording</b>	<b>COLUMN 2</b> <b>Provision</b> <b>Creating or</b> <b>Defining Offence</b>	<b>COLUMN 3</b> <b>Set Fine</b>
1	Permit livestock to run at large	2(1)	\$ 300.00
2	Permit livestock to trespass upon a highway	2(1)	\$ 300.00
3	Permit livestock to trespass upon private property	2(2)	\$ 300.00
4	Permit livestock to trespass on public property	2(2)	\$ 300.00
5	Fail to erect a fence adequate enough to contain livestock	2(3)	\$ 400.00
6	Fail to maintain a fence adequate enough to contain livestock	2(3)	\$ 400.00
7	Fail to construct a pen or cage capable of preventing avian livestock from escape by flight	2(5)	\$ 400.00
8	Hinder or obstruct an officer exercising a power or authority	3(2)	\$ 500.00
9	Attempt to hinder or obstruct an officer exercising a power or authority	3(2)	\$ 500.00

Note: The general penalty provision for the offences listed above is Section 4 of By-law No. 23-73, a certified copy of which has been filed.