

**Town of Carman By-Law 2077**

Being a by-law to provide for the regulation and control of animals within the limits of the Town of Carman, to be known as the "Animal Control By-Law" and to repeal by-law no. 1728/2014.

**WHEREAS** subsection 232(1) of *The Municipal Act*, C.C.S.M. c. M225 (the "Act") provides, in relevant part, as follows:

**Spheres of jurisdiction**

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- 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;
  - (n) businesses, business activities and persons engaged in business;
  - (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;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;
- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:
  - (i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,
  - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
  - (iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval is granted,
  - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them;
  - (v) providing for the duration of licences, 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
  - (vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;
- (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 offences,
  - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence 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 offence, or related to enforcing the by-law,



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- (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 months for the commission of offences or nonpayment of fines.

**AND WHEREAS**, subsection 239(1) of the Act provides, in relevant part, as follows:

**Municipal inspections and enforcement**

239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;

**AND WHEREAS**, subsection 240 of the Act provides, in relevant part, as follows

**Court authorized inspections and enforcement**

240(1) The municipality may apply to the court for an order under subsection (2) if a person

- (a) refuses to allow or interferes with the entry, inspection, enforcement or action referred to in section 239; or

**Court order**

240(2) On an application under subsection (1), the court may issue any order it considers appropriate, including

- (a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action; or

**AND WHEREAS** subsections 5(1), (2) and (3) of *The Animal Liability Act*, C.C.S.M. c. A95 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).

**Town liable by reason only of making By-Law**

5(3) A Town 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*, C.C.S.M. 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 or the animal control officer of the Town 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.



AND WHEREAS, subsections 3(1) of *The Municipal By-law Enforcement Act* C.C.S.M. c. M245 provides, in relevant part, as follows:

**3(1)** A municipality may, in accordance with this Act, require administrative penalties to be paid in respect of the contravention of its by-laws.

#### **PART 1: DEFINITIONS AND INTERPRETATION**

##### **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,

**"Aggressor Animal"** shall have the meaning ascribed thereto in section 7(1) of this By-Law.

**"Animal Control Officer"** means the Person appointed by Council to enforce the provisions of this By-Law, and includes any Person acting as an assistant to, or under the direction of, the Animal Control Officer authorized by the Council. The Animal Control Officer is also responsible for any and all operations of the Pound.

**"Cat"** means any member of the genus *Felis domesticus* (domestic Cat).

**"Council"** means the Council of the Town of Carman.

**"Control"** means being restrained by a Leash.

**"Current Rabies Vaccination"** means 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 60 days and not greater than one year after the primary vaccination and is then subsequently vaccinated at regular intervals not exceeding three years.

**"Dangerous Animal"** means 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 that is for any other reason determined to be a risk to any Person, Livestock, or any other animal, and that has been declared a Dangerous Animal under section 7(8) of this By-Law.

**"Dog"** means any member of the genus *Canis familiaris* (domestic Dog).

**"Domestic Pet"** means any animal other than a Dog or Cat that has been domesticated and is kept or harboured within the Town.

**"Enabling By-Law"** means the Town of Carman By-Law 2077 and any subsequent amendment's thereto.

**"Leash"** means any rope, chain, or leather strap which is strong enough to restrain the animal.

**"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 (a) above; and

(c) any other animal determined by the Animal Control Officer to be Livestock for the purposes of this By-Law;

whether or not intended for profit and including, without limitation:



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- (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 of the family Camilidae (including, Llamas and Alpacas);
- (v) all domestic poultry (including, chickens, turkeys, ducks and geese);
- (vi) specialty fowl (including, guinea fowls);
- (vii) bees; and
- (viii) any other animals that are of a species or kind prescribed as Livestock in the regulations pursuant to *The Animal Liability Act* (Manitoba).

**"Off-Leash Area"** means an area designated by Council where animal Owners are permitted to run their animals at large, provided the animal can be brought under the direct Control of the Owner at all times, and shall be designated by signage.

**"Owner"** includes the holder of a license for a Dog or Cat and 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 Animal Control Officer or any other Person.

**"Person"** includes a firm or corporation.

**"Pound"** means any enclosure, premises or place, whether within or outside the Town, designated by Council for the impoundment and care of any animal for the purposes of enforcing any provision of this By-Law.

**"Private Party"** means a suitable agency (e.g., Pembina Valley Humane Society or Winnipeg Humane Society) or any other private kennel approved through Council.

**"Restricted Animal"** means:

- (a) any member of the order *Primate* except a human being;
- (b) any member of the order *Carnivora* except Dogs, Cats and domestic ferrets (*mustela putorius furo*), but including all hybrids of Dogs and Cats;
- (c) any member of the order *Crocodylia*;
- (d) any constrictor snake, venomous snake or venomous reptile;
- (e) any venomous amphibian;
- (f) any wild animal or wildlife as defined in *The Wildlife Act*, C.C.S.M. c. W130; and
- (g) any other animal determined by the Animal Control Officer to be a Restricted Animal, other than a Dog, Cat or Livestock.

**"Running At Large" or "Run At Large"** means, in relation to an animal, that the animal is not:

- (a) under the direct, continuous and effective Control of a Person competent to Control it; or
- (b) securely confined within an enclosure or securely fastened so that it is unable to roam at will.

**"Service Animal"** means an animal that has been trained to provide assistance to a Person with a disability that relates to that Person's disability, as defined in *The Human Rights Code*.

**"Town"** means the Town of Carman.



### **Interpretation**

1(3) 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 2: ANIMAL POUND AND ANIMAL CONTROL OFFICER**

### **Establishment of Pound**

2(1) Council may, by resolution, 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 Council may enter into an agreement with any Person (including with any other municipality, city, town or organization) to establish and maintain a Pound on behalf of the Town. The costs associated with the Pound operated by or for the Town shall be paid out of the general funds of the Town and may be charged to a person who contravenes any part of this by-law.

### **Appointment of Animal Control Officer**

2(2) Council may, by resolution, appoint one or more Persons as Animal Control Officer(s) to carry out the enforcement of this By-Law. The Animal Control Officer(s) so appointed may be appointed on a temporary or permanent basis and shall be paid out of the general funds of the Town.

### **Duties of the Animal Control Officer**

2(3) It shall be the duties of the Animal Control Officer:

- (a) to apprehend and confine any Dog, Cat or any other Domestic Pet which is Running At Large within the Town contrary to the provisions of this By-Law, or which is kept or harboured by, or in the possession or Control of, any Person that is in breach of this By-Law or of any other laws or regulations pertaining to animals or the conditions of any permit or license (including, without limitation, an Excess Animal Permit);
- (b) to apprehend and confine any Restricted Animal or Livestock being kept or harboured by, or in the possession or Control of, any Person contrary to the provisions of this By-Law;
- (c) to apprehend and confine any Restricted Animal or Livestock Running At Large within the Town;
- (d) to ensure that any Restricted Animal kept or harboured within the Town is properly licensed by the Town, and to apprehend and confine any such Restricted Animal that is not properly licensed;
- (e) to assist property owners, at the discretion of the Animal Control Officer, with apprehending and confining wild animals or wildlife as defined in The Wildlife Act that are causing a nuisance;
- (f) to make reasonable attempts to notify the Owner of every animal impounded, if the identity of the Owner is known, by direct contact with the Owner or by leaving an Impoundment Notice at the last known address of the Owner, which notice shall be in the form set out in Schedule "A" hereto attached. An Impoundment Notice issued pursuant to this subsection shall contain the following information:
  - (i) the place and time that the animal was apprehended;
  - (ii) the place and time when the animal can be redeemed from the Pound;
  - (iii) the impoundment fee;
  - (iv) any daily Pound fees, license fees and other costs or fines to be charged to the Owner;
  - (v) the method of payment required; and
  - (vi) the date after which the animal will be sold, destroyed or otherwise disposed of if not redeemed;
- (g) to issue a Penalty Notice or an Offence Notice against any Person that has committed an offence under this By-Law;
- (h) to keep a record of all bite incidents, identifying the Aggressor Animal and the details of the incident, and such record may be used in any hearing or appeal with respect to the Dangerous Animal provisions contained herein;
- (i) to use a tranquilizer gun for the purpose of capturing any animal found to be Running At Large within the Town, provided the Animal Control Officer is qualified or licensed to do so;



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- (j) to enforce the provisions of this By-Law;
- (k) to provide sufficient food and clean water, adequate shelter and a safe and sanitary environment for every animal impounded;
- (l) notwithstanding anything contained in this By-Law, where a licensed veterinarian certifies that an impounded animal is so seriously injured or sick that it would be inhumane to allow it to live, to cause the animal to be euthanized forthwith;
- (m) 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 Animal Control Officer;
- (n) 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) or photo;
  - (ii) the date and time of its impoundment;
  - (iii) the date and time 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 Chief Administrative Officer of the Town shall direct from time to time;
- (o) to direct Persons to the Administration Office of the Town to pay all fees charged by the Pound, and to remit all monies received by the Pound to the Chief Administrative Officer of the Town or his or her designate, together with such reports and statements as the said Chief Administrative Officer may prescribe from time to time, except where the Town has entered into a contract with a Private Party for the operation of the Pound, in which case the Private Party shall observe all terms and conditions of the contract with the Town 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 Town, and the submission of all reports and statements required to be submitted to the Town under the said contract;
- (p) to keep any impounded Dog, Cat or any other animal which is, to the knowledge of the Animal Control Officer a Domestic Pet, for a minimum period of:
  - (i) 72 hours, which shall include the day of impoundment; or
  - (ii) where the Town has entered into a contract with a Private Party for the operation of the Pound, the minimum hold period established under the Private Party's contract with the Town;
- (q) 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 Town, including any Restricted Animal, Livestock or wild animal within the meaning of The Wildlife Act;
- (r) if, after expiration of the minimum period of impoundment set out in paragraph (o) above, a Dog, Cat or other Domestic Pet has not been redeemed, it will be the duty of the Animal Control Officer to do one of the following with the impounded animal:
  - (i) sell or otherwise dispose of the impounded animal to any Person for an amount not less than the applicable Pound and license fees accrued in respect of the impounded animal as set forth in this By-Law, unless such fees are otherwise waived by the Town or by the Animal Control Officer on the express authority of the Town; or
  - (ii) cause the impounded animal to be humanely euthanized;unless the Town, or the Animal Control Officer on the express authority of the Town, agrees to or directs an extended period of impoundment, in which case the impounded animal will be held until the earlier of the date that it is sold or otherwise disposed of to a Person in accordance with sub-paragraph (q)(i) above or until expiry of the extended period of impoundment, before it is humanely destroyed;



- (s) The Town may vary the terms, conditions and duties of the Animal Control Officer 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 Private Party set out in paragraphs (j), (l) and (m) above, and further provided that the provisions in paragraphs (n), (o), (p) and (q) above shall continue to apply except to the extent that they are specifically modified by the contract. Where the Private Party is under contract with the Town, the Private Party shall observe all of the terms and conditions of the contract with the Town. Where it is permitted under the contract with the Town, the Private Party may, at his or her 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 Private Party shall remain responsible to the Town for all amounts due to the Town under its contract with the Private Party.

### **PART 3: LICENSING DOGS, CATS AND OTHER DOMESTIC PETS**

#### **Licensing of Dogs or Cats**

- 3(1) The Owner of every Dog or Cat over the age of four (4) months shall obtain, a license to keep the Dog or Cat, which license shall require the payment of the fee as set out in the Town of Carman Fees & Charges By-law. The Owner shall ensure that the license tag issued for the Dog or Cat is securely fastened to a collar worn around the neck of the Dog or Cat in respect of which the tag was issued.
- 3(2) The required Dog or Cat license shall be sold by the Administration Office of the Town or the Animal Control Officer.
- 3(3) No Person shall be permitted to remove the collar or license tag from any Dog or Cat without a lawful excuse.
- 3(4) The license fee hereby imposed shall be an annual fee.
- 3(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 the Town of Carman Fees and Charges By-law.
- 3(6) Where a change in ownership of a Dog or Cat licensed hereunder occurs, the new Owner shall have the license transferred to his or her name upon payment of the transfer fee prescribed in the Town of Carman Fees and Charges By-law.
- 3(7) Subsections 3(1), (2), (3), (4), (5) and (6) shall not apply to non-residents of the Town who bring a Dog or Cat on a temporary visit into the Town, provided however, that nothing in this subsection 3(7) shall authorize any Person to bring a Dog or Cat into the Town that is a Dangerous Animal or is vicious, in heat, rabid or otherwise a risk to the public or to other animals within the Town, nor does it authorize any Person to allow the Dog or Cat to Run At Large or otherwise create a nuisance within the Town.
- 3(8) Subject to subsection 3(9) hereof, every Dog or Cat Owner must produce, before a license is issued for the Dog or Cat, evidence of a Current Rabies Vaccination status for that Dog or Cat from a licensed veterinarian.
- 3(9) A Dog or Cat Owner does not have to produce evidence of a Current Rabies Vaccination status in order to obtain a license in respect of a Dog or Cat if a statement in writing can be produced that is signed by a licensed veterinarian certifying that the Dog or Cat cannot be vaccinated for rabies for medical reasons.
- 3(10) Except where subsection 3(9) applies, the 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 Animal Control Officer may terminate the Owner's Dog or Cat license and the Animal Control Officer may apprehend and impound the Dog or Cat, and may issue an Offence Notice to the Owner.
- 3(11) A Service Animal shall be licensed and shall wear the current license tag. Any Person who produces evidence satisfactory to the Town showing that the Service Animal is required as a guide or for assistance by a disabled person shall be exempt from paying the license fee.

### **PART 4: Responsibility of Owners Regarding Dogs or Cats**

#### **Responsibility of Owners Regarding Dogs or Cats**

- 4(1) No Owner shall:



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- (a) permit his or her Dog or Cat to Run At Large, except in an Off-Leash Area;
- (b) permit his or her Dog or Cat to cause a disturbance or in any other way unduly disturb the quiet of any Person or Persons anywhere in the Town;
- (c) permit his or her Dog or Cat to defecate on any public or private property other than the property of its Owner, or where a Dog or Cat defecates on property other than the property of its Owner, to fail to cause such excrement to be removed forthwith;
- (d) permit his or her Dog or Cat to defecate on his property in a manner which constitutes an environmental or health hazard or a nuisance for neighbours;
- (e) permit his or her Dog or Cat to damage public property or private property other than that of the Owner;
- (f) own, keep, harbour or have possession or Control of any Dog or Cat for which a license is validly required but has not been issued;
- (g) own, keep, harbour or have possession or Control of any Dog or Cat determined to be a Dangerous Animal, unless such Dog or Cat is kept at all times in accordance with the provisions of Part 7;
- (h) permit his or her Dog or Cat to pursue, bite, wound or worry any Person or animal, whether or not on the property of the Owner;
- (i) permit his or her Dog or Cat on public property (including park areas) unless the Dog or Cat is on a Leash (which shall be no longer than six feet in length, fully extended) and the Dog or Cat is in the actual custody and effective Control of the Owner; or
- (j) permit his Dog or Cat to upset waste receptacles or otherwise litter.
- (k) Permit his Dog or cat to be in heat on another property

4(2) Where a Dog or Cat engages in any of the conduct prohibited in section 4(1), the Owner shall be deemed to have failed or refused to comply with the applicable subsection.

**PART 5: Impounding and Redemption**

5(1) The Owner of any Dog, Cat or any other Domestic Pet (other than a Restricted Animal) impounded by the Animal Control Officer may be redeemed within seventy-two (72) hours of the apprehension and impoundment by applying to the Animal Control Officer for redemption and paying:

- (a) the impoundment fee as set out in the Town of Carman Fees and Charges By-law;
- (b) in the event that the impounded animal is a Dog or Cat that is unlicensed at the time of apprehension, the applicable license fee; and
- (c) all outstanding fines, damages or costs relating to the impounded animal.

5(2) Section 5(1) does not apply where:

- (a) the impounded animal is determined to be a Dangerous Animal; or
- (b) the release of the impounded animal would result in the Owner having excess animals.

**Dogs and Cats**

5(3) The Owner of a Dog or Cat shall not permit the animal to be outside of the Owner's premises unless:

- (a) the Dog or Cat has a collar which has securely fastened to it a proper license tag that identifies a valid license in respect of that Dog or Cat;
- (b) the Dog or Cat is on a Leash that is less than six feet in length fully extended; and



(c) the Dog or Cat is under the immediate charge and effective control of a Person competent to control it.

5(4) A female Dog or Cat in heat shall be confined to the premises of the Owner or a Person having Control of the Dog or Cat, or shall be housed in a licensed kennel, for the period of time that the Dog or Cat is in heat. The said confinement shall be in such a manner as to prevent any contact between the Dog or Cat in heat and any other Dog or Cat except other Dogs or Cats owned by the same Owner or by another Owner who voluntarily permits such contact.

5(5) Any animal that is impounded three (3) or more times within any 12-month period while owned by the same Owner, may be sold or disposed of to a new Owner or may be humanely euthanized at the discretion of the Animal Control Officer regardless of whether or not it is properly licensed under this By-Law.

#### **Restrictions on Domestic Pets**

5(6) 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 under the Control of a Person competent to control it at all times.

#### **Cat Traps**

5(7) Any resident of the Town who is annoyed with damages done to property that appears to be caused by a Cat may contact the Animal Control Officer to file a complaint and request that a Cat trap be placed on his or her Premises. The resident shall:

- (a) provide to the Animal Control Officer his or her name, address and telephone number;
- (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 Animal Control Officer, as applicable (see Trap Agreement Form in Schedule "B"); and
- (c) pay any deposit and/or fee as may be authorized by Council from time to time for use of the trap, as set out in the Town of Carman Fees and Charges By-Laws.

#### **PART 6: Restrictions on Excess Animals and Excess Animal Permits**

6(1) No Person shall own, harbour, keep or have in his possession or Control or on their premises, more than three (3) Dogs or three (3) Cats or a total of three (3) Dogs and Cats over the age of four (4) months, regardless of the number of people who may be inhabiting the premises, without obtaining an Excess Animal Permit.

#### **Excess Animal Permit**

6(2) A Person applying for an Excess Animal Permit shall fill in the application form (see Schedule "C") and return it to the Town Administration Office along with the application fee and inspection fee in accordance with the Town of Carman Fees and Charges By-Law. The Person's property shall be inspected by the Animal Control Officer, the applicant will be notified of any non-compliance and will be provided thirty (30) days to rectify any non-compliance. The application and the subject property must be in compliance with this by-law prior to proceeding to the public hearing. Failure to bring the property into compliance will result in the rejection of the application and the Person will be required to resubmit the application form and applicable fees.

6(3) Council shall set a date to review a compliant application for an Excess Animal Permit at a regular or special meeting of Council not less than thirty (30) days following receipt of the application form, payment of the application fee and inspection fee, and confirmation from the Animal Control Officer that the subject property is in compliance with this By-Law. Council shall notify the applicant and shall make reasonable attempts to notify all property owners within a one hundred (100) meter radius of the subject property of the application and the date of the hearing in respect of the application.

6(4) In determining whether or not to grant an Excess Animal Permit to an applicant, Council shall consider all relevant factors, including the following factors:

- (a) the proposed number of Dogs and/or Cats to be kept on the premises;
- (b) the intended purpose for keeping the Dogs and/or Cats on the premises;
- (c) the steps which have been taken to ensure that the Dogs and/or Cats will be adequately and safely housed;



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- (d) the steps which have been taken to ensure that disturbances to neighbors from excessive noise, odour, waste disposal, traffic and any other potential nuisances are avoided;
  - (e) any inspection report (see Schedule "D") from the Animal Control Officer as may be requested by the Council;
  - (f) any inspection report from the public health authorities or any other authorities as may be requested by the Council;
  - (g) any representations made by the applicant or on behalf of the applicant, either in writing or at the meeting of Council where the application for an Excess Animal Permit will be heard; and
  - (h) any representations made by neighbors of the applicant or any other interested party, whether in writing or by oral submission at the meeting of Council at which the application is heard.
- 6(5) Council may approve an Excess Animal Permit after the public hearing subject to such conditions as Council deems reasonable in the circumstances, including, without limitation:
- (a) the approved number of Dogs and/or Cats to be kept on the premises;
  - (b) the steps to be taken to ensure that the Dogs and/or Cats will be adequately and safely housed; and
  - (c) the steps to be taken to ensure that disturbances to neighbors from excessive noise, odour, waste disposal, traffic and any other potential nuisances, are avoided.
- 6(6) Upon approval, the Owner shall pay an annual inspection fee as per the Town of Carman Fees and Charges By-Law. Failure to pay said inspection fee shall result in the immediate cancellation of the Excess Animal Permit.
- 6(7) An Excess Animal Permit is valid only for the type and quantity of animals identified on the application and the permit holder is not permitted to increase the number or change the variety of animals and the Excess Animal Permit holder shall notify the Animal Control Officer of any decrease in the number of animals stated on the application within five (5) business days.
- 6(8) Notwithstanding subsection 6(7), the Animal Control Officer shall have the authority to make minor adjustments to the Excess Animal Permit if, in the opinion of the Animal Control Officer, the intent has not been significantly altered. If the Animal Control Officer determines that the alteration is significant in nature, the Animal Control Officer shall require that a new application be submitted for formal approval by Council.
- 6(9) Council may refuse to issue an Excess Animal Permit, revoke or refuse to renew an existing Excess Animal Permit, modify the conditions which apply to an existing Excess Animal Permit, or temporarily suspend an existing Excess Animal Permit at any time upon a finding that:
- (a) a neighbor or any other party is exposed to a nuisance as a result of excessive noise or noxious odours;
  - (b) the premises are not maintained in a condition such that animal escapes are prevented;
  - (c) the holder of the Excess Animal Permit has breached the duties of an Owner of animals under The Animal Care Act (Manitoba) including, without limitation, where the conditions are unsafe or unsanitary for the animals; or
  - (d) it is not in the public interest to allow the Owner to continue to hold an Excess Animal Permit within the Town.
- 6(10) Upon refusal to grant or renew an Excess Animal Permit, prescribing or modifying the conditions of an Excess Animal Permit, or suspending an Excess Animal Permit, the Owner shall be notified of the decision of Council by registered mail. In the event that the Owner's application for an Excess Animal Permit is denied, or the conditions of the existing Excess Animal Permit are modified such that the Owner keeps, harbours or has possession or control of a number of Dogs and/or Cats that exceeds the prescribed limit in this By-Law or in the Excess Animal Permit, as applicable, the Owner shall have thirty (30) days to dispose of the Dogs and/or Cats or to make such other modifications as may be required by Council.



- 6(11) The Animal Control Officer shall inspect the Owner's premises as soon as reasonably possible after the thirty (30) days set out in subsection 6(10) to ensure compliance with the decision of the Council and the conditions imposed on the existing Excess Animal Permit, if any. If the Owner has failed to comply with any such conditions, the Animal Control Officer shall take all such lawful steps as may be required, in his discretion, to bring the Owner into compliance with this By-Law and any such conditions, including, without limitation, impound any Dogs and/or Cats in excess of the prescribed limit.
- 6(12) The Owner may appeal the impoundment of any Dogs and/or Cats under subsection 6(11) above to Council by providing a written appeal to the Chief Administrative Officer of the Town within three (3) days of the apprehension. This appeal shall be heard by Council at the next regularly scheduled Council meeting. If the decision of Council is to deny the return of the impounded Dogs and/or Cats to the Owner, the Animal Control Officer shall arrange forthwith to sell or otherwise dispose of the said Dogs and/or Cats or to humanely euthanize the said Dogs and/or Cats. If the decision of Council is to reverse the apprehension and impoundment, the Owner shall recover the said animals, subject to payment by the Owner of all costs associated with the apprehension and impoundment of the said Dogs and/or Cats and any licensing and permit fees properly charged to the Owner under this By-Law. The decision of Council is final and not subject to appeal.
- 6(13) The Council, or the Animal Control Officer on their behalf, may request in writing that the premises of the applicant or permit holder be inspected by the Animal Control Officer or such other Person as may be designated by Council or the Animal Control Officer, at any time upon reasonable notice, and the applicant or permit holder shall comply with any such request. The failure to comply with such a request shall constitute an offence under this By-Law and is grounds for refusing to grant or renew an Excess Animal permit or for revoking, suspending or placing conditions upon an existing Excess Animal permit.

## **PART 7: DANGEROUS ANIMALS**

### **Aggressor Animals**

- 7(1) The Animal Control Officer:
- (a) may apprehend, impound and place in quarantine any animal that he has reason to believe has worried, attacked, injured or killed a Person, animal, or livestock if, in their discretion, such action is necessary for the protection of the public; and
  - (b) shall be entitled to apprehend any such animal whether on private premises or elsewhere, and whether or not the skin was directly punctured or lacerated by the bite.
- 7(2) If the Aggressor Animal is not voluntarily surrendered to the Animal Control Officer by the Owner, the Animal Control Officer may, after giving reasonable notice to the Owner, enter the land or any structure at any reasonable time for the purpose of apprehending and impounding the Aggressor Animal and may engage the assistance of other Persons if required to safely apprehend the Aggressor Animal. Where the Owner refuses to grant access or otherwise interferes with the Animal Control Officer, the Animal Control Officer may obtain a court order pursuant to s. 240 of *The Municipal Act* (Manitoba) to access the property.
- 7(3) Rather than impounding under subsection 7(2), the Animal Control Officer may immediately revoke the license for the Aggressor Animal, require the Owner to ensure the animal remains confined upon the premises of the Owner, deliver the animal to a licensed veterinarian, or impose any other condition reasonably required to minimize any threat posed by the Aggressor Animal pending a determination that the Aggressor Animal is a Dangerous Animal.
- 7(4) Any Aggressor Animal apprehended and impounded shall be quarantined for a minimum of five (5) consecutive days at the Owner's expense, commencing from and including the date of impoundment (the "Quarantine Period").
- 7(5) Subject to a determination by the Animal Control Officer that the Aggressor Animal is not a Dangerous Animal, the Aggressor Animal may be released to the Owner after the Quarantine Period upon payment by the Owner to the Animal Control Officer of an impoundment fee calculated at the daily rate set out in the Town of Carman Fees and Charges By-law 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 seventy-two (72) hours after expiry of the Quarantine Period, the Aggressor Animal shall be sold, otherwise disposed of, or humanely euthanized at the discretion of the Animal Control Officer.



- 7(6) The head of any Aggressor Animal quarantined for biting that dies while quarantined and prior to a veterinary examination shall be submitted to the Canadian Food Inspection Agency for rabies examination.
- 7(7) Every Aggressor Animal shall be examined by a licensed veterinarian approved by the Animal Control Officer prior to release from quarantine, subject to the provisions set forth in Schedule "E". The determination as to whether or not the Aggressor Animal can be released from quarantine or must be humanely euthanized, shall be at the discretion of the 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 Animal Control Officer, a Dangerous Animal and, if yes, whether or not the requirements of this part 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 8 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.

**Determination that an Animal is a Dangerous Animal**

- 7(8) Where the Animal Control Officer has reason to believe that an animal, including an Aggressor Animal, is a Dangerous Animal, the Animal Control Officer shall arrange a hearing before a committee of the whole of Council to determine whether or not the said animal should be declared a Dangerous Animal (the "Dangerous Animal Committee").
- 7(9) In the event that an Owner voluntarily accepts the Dangerous Animal declaration and the recommended disposition of the matter made by the Animal Control Officer, a hearing before the Dangerous Animal Committee may be dispensed with, and the recommended disposition of the matter shall constitute a final decision in respect of which there is no appeal.

**Quarantine**

- 7(10) Where it is deemed necessary by the Animal Control Officer to protect the public or other animals pending the decision of the Committee, the Animal Control Officer may:
- (a) require that the animal be quarantined in the Pound until the earlier of the date that the Animal Control Officer determines that it is safe to release the animal to the custody of the Owner or until the Committee hears the matter and issues its determination; or
  - (b) may impose all of or any of the conditions set out in subsection 7(24) of this By-Law upon the Owner's custody of the animal, which conditions shall apply until the earlier of the date that the Animal Control Officer determines that it is safe to remove the conditions or until the Committee hears the matter and issues its determination.

**Notice of hearing**

- 7(11) The Town shall provide written notice of the hearing to the Owner of the animal at least three (3) days in advance of the hearing by serving notice upon the Owner or by mailing the notice by registered mail to the last known address of the Owner. In the case where the animal alleged to be a Dangerous Animal is a Dog or Cat, the Animal Control Officer shall be entitled to mail the said notice to the last address provided by the Owner to the Town in relation to the licensing of the said Dog or Cat. 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 7 of the By-Law; and



- (d) a statement that if the Owner does not attend the hearing, the matter will be dealt with in the Owner's absence and that the Owner will not be entitled to any further notice or appeal in regard to the proceedings concerning the animal.

**Animal to be confined pending final outcome of hearing**

7(12) Every Owner who has received notification from the Town pursuant to subsection 7(11) above that a determination hearing will be held with respect to the Owner's animal, shall ensure that the animal remains confined upon the premises of the Owner pending the final outcome of the hearing.

7(13) Subsection 7(12) above shall not apply if the animal is impounded or the Animal Control Officer receives written confirmation from a licensed veterinarian that the animal has been placed in quarantine pending outcome of the hearing.

**Hearing**

7(14) The Owner has the right to appear at the hearing, with or without counsel, and to make submissions to the Committee and call evidence on his or her own 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 Animal Control Officer and to inspect any documents filed by or on behalf of the Animal Control Officer, and to respond to same.

7(15) Where the Owner does not attend the hearing, having been given notice as provided in accordance with this section 7, the Committee shall be entitled to deal with the matter in the Owner's 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 Committee by notice in writing delivered by personal service or registered mail in the manner set out in subsection 7(11) above.

**Decision of the committee**

7(16) The committee shall issue a written decision within five (5) working days of the hearing.

7(17) The Committee shall make declare the animal to be a Dangerous Animal if in their opinion:

- (a) the animal has caused injury to or killed a Person, whether on public or private property;
- (b) the animal has seriously injured or killed any other domestic animal or any Livestock without provocation; or
- (c) 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.

7(18) The Committee may declare 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 any Person or property or any other animal, taking the following non-exhaustive factors into account:

- (a) whether the animal has worried, bitten, wounded or killed any Person or animal, or is otherwise an Aggressor Animal;
- (b) the circumstances surrounding any previous worrying, biting or wounding incidents; and
- (c) 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.

7(19) The Committee shall deliver a copy of their decision to the Owner in the manner provided in subsection 7(11). There shall be no obligation upon the committee to issue written reasons for their decision.

7(20) The decision of the committee shall be final and not subject to appeal.

**License to be cancelled**

7(21) In the event that a Dog or Cat is declared by the Committee to be a Dangerous Animal, any license previously issued in relation to that Dog shall be deemed to have been cancelled effective as of the date of the declaration that the Dog or Cat is a Dangerous Animal.

7(22) Where a license is deemed to have been cancelled pursuant to subsection 7(21) above, the Owner shall not be entitled to a credit or refund on any paid-up license fee.



**Consequences of Dangerous Animal declaration**

7(23) The Committee shall determine whether the Dangerous Animal should be humanely euthanized or released to the Owner subject to the conditions set out in subsection 7(24) below.

7(24) Every Owner of an animal that has been declared a Dangerous Animal and released to its Owner, shall:

- (a) in the event that the Dangerous Animal is a Dog or Cat, obtain a Dangerous Animal license and pay the required fee as set out in the Town of Carman Fees and Charges By-law;
- (b) cause the Dangerous Animal to wear at all times a distinctive collar and license tag as provided by the Animal Control Officer at the Owner's expense;
- (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 the escape of the Dangerous Animal;
  - (ii) has minimum dimensions suitable for the size of the Dangerous Animal, as prescribed by the 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 at all times:
  - (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 at all times 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 ANIMAL. The sign shall be posted in such a manner that it cannot be removed easily by passersby and will be visible and capable of being read from outside of the premises;
- (g) within 72 hours of selling, giving away or otherwise disposing of the Dangerous Animal, provide the Animal Control Officer with the name, address and telephone number of the new Owner;
- (h) advise the Animal Control Officer within 72 hours of the death of the Dangerous Animal;
- (i) advise the 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 a policy of liability insurance, satisfactory to the Town, in the amount of at least \$500,000 per occurrence, covering the twelve (12) month period during which licensing is sought, for injuries caused by the Owner's Dangerous Animal. This policy shall contain a provision requiring the Town to be named as an additional insured for the sole purpose of the Town to be notified by the insurance company of any cancellation, termination or expiration of the policy; and
- (k) comply with such other conditions as may be prescribed by order of the Committee.

7(25) No Person shall deface or remove a sign posted pursuant to subsection 7(24)(f) without having first obtained the permission of the Animal Control Officer.

**Destruction of Dangerous Animal or Aggressor Animal**

7(26) The Animal Control Officer may apprehend and impound an animal for the purpose of humanely euthanizing it where the 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;



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- (b) the animal was previously determined an Aggressor Animal and has caused further injury or damage to any Person, property or any other animal; or
- (c) the animal was previously declared a Dangerous Animal and the Animal Control Officer has reasonable grounds to believe that the Dangerous Animal presents a continuing risk to any Person, property or any other animal.

7(27) In the event that an animal is causing an immediate risk to any Person, property or any other animal, the Animal Control Officer is authorized to apprehend and impound the said animal notwithstanding that it has not been declared to be a Dangerous Animal by the committee at the time of its apprehension and impoundment.

7(28) When the Animal Control Officer impounds an animal under this Part for the purpose of humanely euthanizing the animal, the Town shall give the Owner written notice, delivered to the last known address of the Owner, that the animal will be humanely euthanized after the expiry of ten (10) consecutive days from the date of the notice. The Owner may, during that time period, appeal the decision of the Animal Control Officer to Council by providing notice in writing to the Chief Administrative Officer of the Town, in which case Council shall hold a hearing at a regularly scheduled or special meeting of Council as to whether or not the animal should be humanely euthanized.

7(29) A hearing under section 7(28) shall be carried out in accordance with the provisions of section 7 hereof. The animal shall remain quarantined in the Pound pending the outcome of the hearing.

7(30) The decision of Council shall be final and not subject to appeal.

7(31) This part does 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.

**PART 8: RESTRICTED ANIMALS/LIVESTOCK**

8(1) Unless otherwise permitted by the Town's zoning by-law, no Person shall keep, harbour, possess or Control any Livestock within the Town without a permit issued by Council.

8(2)

8(3) Council, or the Animal Control Officer on the authority of Council, may establish from time to time 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 Council. The Chief Administrative Officer of the Town may authorize the establishment of a temporary Pound, which temporary Pound shall be ratified at the next regularly scheduled or special meeting of Council.

8(4) When Livestock is impounded, the Animal Control Officer shall at his or her discretion publish notice of the impoundment in a local media outlet, on the Town's website or post a notice at the Town's 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 Town where the livestock were found Running At Large.

8(5) If the identity of the Owner is known, the Animal Control Officer shall either serve a notice of impoundment directly upon the Owner or mail a notice of impoundment to the Owner at his or her last known address.

8(6) The Owner of the Livestock shall not be entitled to the return of the Livestock until the actual costs incurred by the Town 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.

8(7) If no Person claims the Livestock within 10 days of the date of the notice of impoundment, or if the Owner has not paid the costs and fines referred to in subsection 8(6) above, 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 Town.

**Prohibition on Restricted Animals or Livestock**

8(8) Unless otherwise permitted by the Town's zoning by-law, no Person shall keep, harbour, possess or Control any Restricted Animals within the Town without a permit issued by Council.

**Application for permission to keep or harbour a Restricted Animal or Livestock**



- 8(9) Upon receipt of an application (see Schedule "F") from any Person to keep a Restricted Animal or Livestock and the application fee, Council shall comply with the notice and hearing requirements applicable to variation and conditional use applications as set out in section 169 of *The Planning Act* (Manitoba).

**Application from travelling show**

- 8(10) Applications from the Owner or operator of a travelling show to keep a Restricted Animal or Livestock in the Town on a temporary basis may be considered by the Chief Administrative Officer without compliance with section 8(8) or 8(9) herein.

**Decision of Council**

- 8(11) Council (or the Chief Administrative Officer in the case of an application for a permit on a temporary basis) shall decide based on the application and any written or oral submissions of the applicant, whether or not to grant a permit to the applicant to keep or harbour the Restricted Animal or Livestock within the Town and shall advise the applicant in writing of their decision.

**Consequences of violating conditions of permit**

- 8(12) Council or the Chief Administrative Officer, as the case may be, may impose conditions upon a permit to keep or harbour a Restricted Animal or Livestock and any violation of such conditions by the Owner shall invalidate the permit and shall constitute an offence under this By-Law.

**Temporary impoundment**

- 8(13) If deemed necessary in the interests of public safety, the Animal Control Officer may apprehend and impound any Restricted Animal or Livestock pending the outcome of any hearing to decide an application made pursuant to subsection 8(9) above.

**Inventory of Restricted Animals or Livestock**

- 8(14) Any Owner who has been granted permission by Council to keep one or more Restricted Animals or Livestock within the Town shall, on an annual basis and on the form prescribed by Council from time to time for this purpose, provide Council with an inventory of the Restricted Animals or Livestock kept by the Owner within the Town, together with the annual permit fee prescribed in the Carman.

- 8(15) Council may at any time and from time to time vary the conditions that an Owner must satisfy in order to keep a Restricted Animal or Livestock, and any failure to comply with any such condition upon notice thereof shall invalidate the Owner's permit to keep the Restricted Animal or Livestock within the Town.

- 8(16) Any Person who keeps, harbours or has possession or Control of a Restricted Animal or Livestock in the Town on or before the time that this By-Law comes into force or effect, shall have thirty (30) days from the coming into effect of this By-Law to obtain a permit from Council to continue to keep the Restricted Animal or Livestock, failing which the Owner shall sell or give the Restricted Animal or Livestock to a Person outside of the Town or shall otherwise dispose of the Restricted Animal or Livestock in a manner which ensures that the Restricted Animal or Livestock is no longer within the Town. 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 or Livestock, and the Town accepts no responsibility for the manner of sale or disposition.

- 8(17) Council may grant such longer period of time to an Owner of a Restricted Animal or Livestock who falls within subsection 8(16) above as may be necessary to allow Council adequate time to consider and decide the Owner's application to retain the Restricted Animal or Livestock within the Town.

**Order to dispose of Restricted Animal or Livestock**

- 8(18) Where the Animal Control Officer has reasonable grounds to believe that a Person is keeping or harbouring, or has possession or Control of, a Restricted Animal or Livestock within the Town without the written permission of Council, the Animal Control Officer shall serve the Person with an order in writing to dispose of the Restricted Animal or Livestock within fourteen (14) days of receipt of the order or such shorter period of time as the circumstances may require and the order may provide, in which case the Owner shall sell, give away or otherwise dispose of the Restricted Animal or Livestock in accordance with subsection 8(16) and any conditions imposed in the order of the 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 or Livestock, the Owner may make such an application in accordance with subsection 8(9), and the order of the Animal Control Officer shall be suspended pending the decision of Council.



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8(19) The onus shall be on the Person upon which an order pursuant to subsection 8(18) above has been served to establish either that:

- (a) the animal is not a Restricted Animal or Livestock; or
- (b) the Person has a permit from Council to keep or harbour the Restricted Animal or Livestock.

8(20) Where the Person has failed to establish either that the animal is not a Restricted Animal or Livestock or that he or she has a permit from Council to keep or harbour the Restricted Animal or Livestock and the Person has failed or refused to dispose of the Restricted Animal or Livestock within the time frame contemplated by the order of the Animal Control Officer, the Animal Control Officer may, after providing reasonable notice to the Owner, enter upon the land and premises of that Person for the purpose of removing and disposing of the Restricted Animal or Livestock. The Animal Control Officer may engage the assistance of other Persons if required to safely apprehend the Restricted Animal or Livestock.

8(21) Where the Person refuses to grant access or otherwise interferes with the Animal Control Officer, the Animal Control Officer may obtain a court order pursuant to s. 240 of *The Municipal Act* (Manitoba) to access the property.

8(22) Upon apprehension and impoundment of a Restricted Animal or Livestock, and provided that:

- (a) a written order was duly served on the Owner as required by subsection 8(18) above; and
- (b) if an application for the written permission of Council to retain the Restricted Animal or Livestock has been heard and denied by Council.

8(23) Council may proceed to order the animal humanely euthanized or sold, and the Animal Control Officer shall carry out the order of Council. The Owner shall be liable for all costs associated with apprehension, impoundment and destruction or sale of the Restricted Animal or Livestock. If the proceeds of sale exceed any such costs and any fines imposed upon the Owner for breach of this By-Law, then the Town shall refund the excess proceeds to the Owner.

## **PART 9: GENERAL PROVISIONS**

### **Offences under this By-Law**

9(1) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offences under this By-Law enforceable pursuant to the Municipal By-Law Enforcement Act, the Enabling By-Law, and in accordance with Schedule "G" herein:

- (a) failing to comply with any license requirements as specified in section 3 of this By-Law;
- (b) removing the collar or license tag from any Dog or Cat without a lawful excuse contrary to subsection 3(3) of this By-Law;
- (c) failing to properly vaccinate a Dog or Cat against rabies contrary to subsection 3(10) of this By-Law;
- (d) allowing or failing to prevent a Dog, Cat or Domestic Pet from Running At Large as specified in subsections 4(1)(a) and 5(5) of this By-Law;
- (e) failing to comply with the requirements of any provisions of subsections 5(3) or 5(4) of this By-Law in relation to a Dog or Cat;
- (f) failing to comply with any conditions imposed upon the use of a Cat trap within the Town under subsection 5(6) of this By-Law; and
- (g) keeping or harbouring Dogs or Cats in excess of the maximum number permitted by this By-Law without an Excess Animal Permit required by subsection 6(1) of this By-Law.

9(2) For greater certainty and without limiting any provisions of this By-Law, the following shall constitute offences under this By-Law enforceable pursuant the Provincial Offences Act and in accordance with Schedule "H" of this by-law:

- (a) failing to comply with any one or more of the provisions of section 4 or subsection 5(3) of the By-Law.



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- (b) failing to comply with any one or more of the responsibilities of Owners outlined in section 4(1) or subsection 7(24) of this By-Law;
- (c) failing to report a bite incident or failing to voluntarily surrender the Dog or Cat believed to have bitten a Person to the Animal Control Officer contrary to subsection 7(2) of this By-Law;
- (d) failing to comply with an order of the Animal Control Officer to dispose of any Dogs or Cats in excess of the prescribed limit made under section 6 of the By-Law;
- (e) failing to voluntarily surrender a Dog or Cat to the Animal Control Officer upon a request therefor contrary to subsection 9(6);
- (f) keeping or harbouring any wild animal or other Restricted Animal or Livestock within the Town without a proper permit contrary to section 8 of this By-Law;
- (g) violating any of the conditions or restrictions imposed upon a permit to keep or harbor any wild animal or other Restricted Animal or Livestock within the Town contrary to subsection 8(15) of this By-Law;
- (h) failing to comply with the requirements of subsection 5(5) of this By-Law in relation to any Domestic Pet;
- (i) failing to comply with any requirements of Part 7 of this By-Law in relation to an Aggressor Animal or a Dangerous Animal;
- (j) defacing or removing a sign required to be posted under subsection 7(24)(f) of this By-Law;
- (k) failing to comply with any of the requirements of Part 8 of this By-Law in relation to any Restricted Animals or Livestock;
- (l) interfering or obstructing an Animal Control Officer or a RCMP officer while performing their duty under this By-Law contrary to subsection 9(4) or 9(5) of this By-Law;
- (m) breaking into or assisting another Person in any manner, directly or indirectly, to break into any Pound; and
- (n) removing or attempting to remove any impounded animal, or to otherwise cause or assist an escape of any impounded animal.

9(3)

9(4) Where an offence continues for more than one (1) day, the Person is guilty of a separate offence for each day that the contravention continues.

**Interference With Enforcement**

9(5) It shall be an offence under this By-Law for a Person to interfere or obstruct any attempt by the Animal Control Officer or the Council 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, a RCMP officer or any other Person authorized to apprehend and impound an animal Running At Large, or who is attempting to apprehend or impound, or who has apprehended and impounded, any animal in accordance with the provisions of this By-Law.

9(6) Any Person who interferes with or obstructs the duties of an Animal Control Officer, a RCMP officer, police officer 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, is guilty of an offence and is liable to fines as outlined in this By-Law.

**Apprehension by Resident**

9(7) Any resident of the Town may apprehend and confine an animal which is Running At Large on his or her property, provided that he or she shall immediately thereafter inform the Animal Control Officer, RCMP or police officer or the Chief Administrative Officer of the apprehension and confinement, and the Animal Control Officer shall as soon as practical, attend to the residence to take possession of and impound the animal.

**Right of Entry**



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- 9(8) The Animal Control Officer or any other Person appointed by the Town 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 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 court order obtained pursuant to s. 240 of *The Municipal Act* (Manitoba).
- 9(9) The Owner 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 or her dwelling upon the request of the Animal Control Officer, to assist the Animal Control Officer to apprehend and impound the said animal.

**Complainant Identification**

- 9(10) Any Person who makes a complaint alleging an offence under this By-Law against another Person shall provide to the Animal Control Officer his name, address and telephone number. It shall be at the discretion of the Animal Control Officer whether or not to proceed based on an anonymous complaint or information.

**Liability**

- 9(11) No liability shall attach to the Animal Control Officer, RCMP or police officer, the Council and/or the Town in carrying out in good faith 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 Town for any animal humanely euthanized, 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.

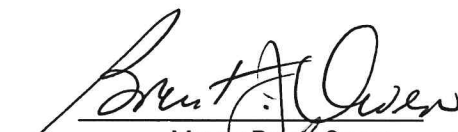
**PART 10: Penalties**

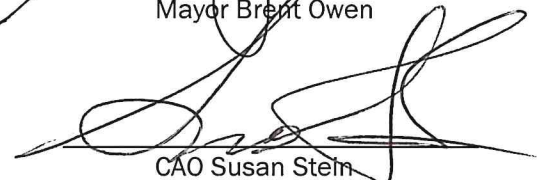
- 10(1) Any Person who contravenes a section of this by-law enumerated in 9(1) is subject to an administrative penalty as set out in the Fees and Fines section of Schedule "G" of this by-law and the Penalty Notice for such offences shall be delivered by regular mail to Owner of the animal as indicated on the animal license.
- 10(2) Any Person who contravenes a section of this by-law enumerated in 9(2) is guilty of an offence and is liable to a fine as set out in the Fees and Fines section of Schedule "H" of this by-law.
- 10(3) Where the contravention, disobedience, refusal or neglect continues for more than one (1) day, the Person is guilty of a separate offence for each day that the contravention, disobedience, refusal or neglect continues.

**PART 11: General**

- 11(1) The Animal Control Officer shall answer directly to the Chief Administrative Officer for the Town of Carman or his designate.
- 11(2) Bylaw No. 1728/2014 of the Town of Carman, and any revisions thereto are hereby repealed.

**DONE AND PASSED** as a By-Law of the Town of Carman by the Council in open session duly assembled this 19th day of September, A.D. 2024.

  
Mayor Brent Owen

  
CAO Susan Stein

Read a first time this 3<sup>rd</sup> day of September, 2024.  
Read a second time this 19<sup>th</sup>, day of September, 2024 A.D.  
Read a third time this 19<sup>th</sup>, day September, 2024 A. D



Town of Carman  
By-Law 2077

SCHEDULE "A"

TOWN OF CARMAN  
NOTICE OF IMPOUNDMENT

Owner of Animal: \_\_\_\_\_

Address: \_\_\_\_\_

Description of Animal: \_\_\_\_\_

Date of Apprehension: \_\_\_\_\_

Time of Apprehension: \_\_\_\_\_

Location of Apprehension: \_\_\_\_\_

Place of Impoundment: \_\_\_\_\_

Phone Number of Animal Control Officer: \_\_\_\_\_

Daily Pound Fee: \_\_\_\_\_

Impoundment Fee: \_\_\_\_\_

License Fee: \_\_\_\_\_

Other Costs or Fines: \_\_\_\_\_

**Payment of the above fees, costs and fines is required prior to the animal's release,  
otherwise the animal will be sold or otherwise disposed of on \_\_\_\_\_**

Date: \_\_\_\_\_

\_\_\_\_\_  
Animal Control Officer



SCHEDULE "B"

TOWN OF CARMAN  
TRAP AGREEMENT FORM

Town of Carman – Animal Control Services Trap Agreement Form

I acknowledge receipt of the following equipment and have been instructed on how to use it.

(insert number) \_\_\_\_\_ live trap(s)  
\_\_\_\_\_ other describe: \_\_\_\_\_

- 1) I have been advised on how to use the equipment, and take note of the following;
  - a) Any animal caught is my responsibility unless otherwise agreed upon.
  - b) The equipment must be monitored to ensure that any animal caught is treated humanely
  - c) When weather conditions, such as freezing temperatures, come into effect, the equipment must be checked routinely in order to prevent any animal caught from suffering from hypothermia or possible death.
  - d) Monitoring the equipment is the responsibility of the person requesting the equipment.
2. All equipment is intended to be returned 10 days after the equipment has been lent out.
3. I agree that all equipment is the property of the Town of Carman and will be returned to the location which received or as otherwise instructed by the Animal control officer or designated officer.
4. If the equipment is returned in damaged condition or lost, I agree that I am liable for the full replacement cost or any missing or damaged items.
5. I certify that I am borrowing the equipment for the sole purpose of capturing animals trespassing on my property. Equipment cannot be used to capture a healthy animal for destruction.
6. I Agree to waive, release an forever discharge the Town of carman and its directors, officers, employees, agents, representatives, contractors, and invitees and anyone else to whom it may be legally responsible ( the releasees) from any and all claims, causes of action, costs, losses, damages, demands and obligations of any losses, expenses, property damages, personal injuries, or death incurred by a third party resulting from my use of the equipment or any trapping , confining transporting or othering handling of any animals. \_\_\_\_\_ (initials)
7. I agree to indemnify and save harmless the releasees from and against any and all claims and actions , costs, losses, damages, demands and obligations of any kind whatsoever, including court costs and legal fees, by reason of any loss, expenses, property damage, personal injury, or death incurred by a third party resulting from my used of the equipment or any trapping confining, transporting, or otherwise handling of any animals. \_\_\_\_\_ (initials)
8. I hereby warrant that I have the right to enter into this agreement, that I am over eighteen (18) years of age, that I have read this Agreement carefully prior to the execution and fully understand its contents, that I am aware that this is a waiver and release of liability and an enforceable legal agreement between myself and the Town of Carman, that I am signing this agreement of my own free will.
9. This agreement is binding on the parties' respective heirs, executors, successors, assigns, or other legal representatives.

Acknowledged and agreed to:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name



Town of Carman  
By-Law 2077

**SCHEDULE "C"  
TOWN OF CARMAN  
APPLICATION FOR EXCESS ANIMAL PERMIT**

**APPLICANT:** \_\_\_\_\_

**PERMIT ADDRESS:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

I, the applicant identified above, hereby apply for a permit referred to above.

The Excess Animal Permit will cover the following animals:

Species	Name	Breed	Colour	Sex	Spayed/ Neutered?	License #

I have had a permit for excess animals: \_\_\_ denied \_\_\_ revoked \_\_\_ suspended

I hereby certify the above information to be correct and acknowledge that any false statements made upon this application may result in the revocation of the permit applied for and/or prosecution.

I hereby acknowledge all pets owned by the applicant must be licensed in accordance with the Town of Carman Animal Control By-Law No. 2077.

I hereby acknowledge that every premise, which is approved pursuant to this application, shall be inspected annually and the applicant who obtained the approval shall pay an annual inspection fee in accordance with the current Fees and Charges By-Law forthwith after such inspection.

I hereby acknowledge that Council's decision is final and that there is no appeal process.

**Date:** \_\_\_\_\_

\_\_\_\_\_  
Signature of applicant

**Fee:** \_\_\_\_\_ for: \_\_\_ application \_\_\_ annual inspection

**Received by:** \_\_\_\_\_



Town of Carman  
By-Law 2077

SCHEDULE "D"

TOWN OF CARMAN  
EXCESS ANIMAL SITE INSPECTION REPORT

Purpose:           New application                           Permit renewal

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Application date: \_\_\_\_\_                           Inspection date: \_\_\_\_\_

Description of Structure and Property: *(1, 2 storey, bungalow, basement, fence, side by side, etc.)*

\_\_\_\_\_  
\_\_\_\_\_

Condition of Structure and Property: *(cleanliness, odour, fecal matter, upkeep, etc.)*

\_\_\_\_\_  
\_\_\_\_\_

Animals presently on property:

Species	Name	Breed	Colour	Sex	Spayed/ Neutered?	License #

Animal Care Equipment and Supplies:

Food	Kennels	Outdoor runs	Miscellaneous

Recommend Approval:           Yes                           No

Conditions of approval: \_\_\_\_\_

Inspected by: \_\_\_\_\_

Signature: \_\_\_\_\_



SCHEDULE "E"

TOWN OF CARMAN  
ANIMAL BITING REPORT

<b>Owner:</b>	<b>Date:</b>
<b>Address:</b>	
<b>Home phone:</b>	<b>Cell phone:</b>
<b>Animal Description</b>	
<b>Species:</b>	<b>Breed:</b>
<b>Sex:</b>	<b>Color:</b>
<b>Tattoo:</b>	<b>Vaccinations:</b>
<b>Incident Details</b>	
<b>Date:</b>	<b>Person/Animal Bitten:</b>
<b>Contact Name:</b>	<b>Phone:</b>
<b>Address:</b>	
<b>Events surrounding incident and severity of bite:</b>	
<p>The above-described animal will be released back into the owner's care prior to the completion of a mandatory 10-day impoundment under the Animal Control By-Law provided the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. The owner has paid for all costs, fines and damages associated with the offending animal, including the costs of impoundment, quarantine, signage, veterinary fees, licence fees and any costs associated with liability to the victim or victims of the bite incident.</li> <li>2. The offending animal must be prevented from having any contact with any person or animal excepting for the owner for a period of 10 days from the date of release. Observation of any behavioral changes must be reported to the Animal Control Officer or supervising veterinarian immediately. The animal must be kept indoors or confined to a locked fenced enclosure no accessible to any persons who may from time to time enter the premises. The owner must not take the animal to any public locations during this time. The owner shall submit the offending animal for veterinary examination from time to time as may be prescribed by the Animal Control Officer.</li> <li>3. A clearly visible sign must be posted at the entrance of the premises with wording such as "BEWARE OF DANGEROUS ANIMAL".</li> <li>4. Proof of current rabies vaccination must be provided. The offending animal cannot be vaccinated for rabies while under the above restrictions, but it is mandatory that vaccination be done as soon as possible thereafter.</li> <li>5. Concern for rabies is the basis for the above conditions. If it is deemed advisable and depending upon the severity of injuries that have occurred, impoundment of the animal for the 10 days as set out by Manitoba Health Regulations and the By-Law may be required.</li> <li>6. Other conditions as the Animal Control Officer may deem necessary or advisable in the interests of public safety.</li> </ol>	
_____ Signature of Owner	_____ Signature of Veterinarian



Town of Carman  
By-Law 2077

SCHEDULE "F"

TOWN OF CARMAN  
RESTRICTED ANIMAL / LIVESTOCK PERMIT APPLICATION

The Town of Carman Animal Control By-Law lists the animals prohibited in the Town of Carman. As per subsection 8(8) of the By-Law:

*"Unless otherwise permitted by the Town's zoning by law, no Person shall keep, harbour, possess or Control any Restricted Animals or Livestock within the Town without a permit issued by Council."*

**Applicant Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Animal name:** \_\_\_\_\_

**Age:** \_\_\_\_\_

**Sex:** \_\_\_\_\_

**Type of animal (include photo):** \_\_\_\_\_

In addition to the above information, please describe any relevant precautions taken to ensure that the animal does not escape or harm people, property or the environment:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please describe any relevant measures taken to ensure that the animal is humanely treated:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Upon receipt of an application from any Person to keep a Restricted Animal or Livestock, Council 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).

**Please submit your completed application form and required photos to the attention of the Chief Administrative Officer:**

**In-Person:** 12-2<sup>nd</sup> Avenue SW, Carman  
**Mail:** PO Box 160, Carman, Manitoba, R0G 0B0  
**E-mail:** [cao@Carman.ca](mailto:cao@Carman.ca)



**SCHEDULE "G" – FEES AND FINES FOR OFFENCES ENFORCEABLE PURSUANT TO THE MUNICIPAL  
BY-LAW ENFORCEMENT ACT**

<b>Provision of By-Law No. 1781/2019</b>	<b>Contravention</b>	<b>Administrative Penalty (\$)</b>	<b>Discounted Amount (\$)</b>
Section 9(1) (a)	Failing to comply with license requirements	\$100.00	\$50.00
Section 9(1) (b)	Removing the collar or license tag without a lawful excuse	\$100.00	\$50.00
Section 9(1) (c)	Failing to properly vaccinate a Dog or Cat against rabies	\$100.00	\$50.00
Section 9(1) (d)	Allowing or failing to prevent a Dog, Cat or Domestic Pet from Running At Large	\$250.00	\$125.00
Section 9(1) (e)	Failing to surrender a dog or cat to the A.C.O. upon request voluntarily	\$200.00	\$100.00
Section 9(1) (f)	Failing to comply with any conditions imposed upon the use of a Cat trap	\$100.00	\$50.00
Section 9(1) (g)	Keeping or harbouring Dogs or Cats in excess of the maximum number permitted	\$250.00	\$125.00



**SCHEDULE "H" – FEES AND FINES FOR OFFENCES ENFORCEABLE  
PURSUANT TO THE PROVINCIAL OFFENCES ACT**

Provision of By-Law No. 1781/2019	Contravention	Fine
Section 9(2) (a)	Failing to comply with any provisions of section 4 or subsection 5(3), 1 <sup>st</sup> offense for a licensed animal	\$25.00
Section 9(2) (a)	Failing to comply with any provisions of section 4 or subsection 5(3), 1 <sup>st</sup> offense for an unlicensed animal	\$75.00
Section 9(2) (a)	Failing to comply with any provisions of section 4 or subsection 5(3), 2 <sup>nd</sup> offense within 12 months	\$100.00
Section 9(2) (a)	Failing to comply with any provisions of section 4 or subsection 5(3), 3 <sup>rd</sup> offense within 12 months	\$125.00
Section 9(2) (b)	Failing to comply with one or more of the responsibilities outlined in section 7(24)	\$100.00
Section 9(2) (c)	Failing to report a bite incident or failing to voluntarily surrender the Dog or Cat believed to have bitten a Person to the Animal Control Officer contrary to section 7(2)	\$100.00
Section 9(2) (d)	Failing to comply with an order to dispose of any Dogs or Cats in excess of the prescribed limit made under section 6	\$100.00
Section 9(2) (e)	Failing to voluntarily surrender a Dog or Cat upon a request contrary to subsection 9(6)	\$100.00
Section 9(2) (f)	Keeping or harbouring any wild animal or other Restricted Animal or Livestock within the Town without a proper permit contrary to Section 8	\$100.00
Section 9(2) (g)	Violating any of the conditions or restrictions imposed upon a permit to keep or harbor any wild animal or other Restricted Animal or Livestock within the Town contrary to subsection 8(15)	\$100.00
Section 9(2) (h)	Failing to comply with the requirements of subsection 5(5) in relation to any Domestic Pet	\$100.00
Section 9(2) (i)	Failing to comply with any requirements of Part 7 in relation to an Aggressor Animal or a Dangerous Animal	\$100.00
Section 9(2) (j)	Defacing or removing a sign required to be posted under subsection 7(24) (f)	\$100.00
Section 9(2) (k)	Failing to comply with any of the requirements of Part 8 in relation to any Restricted Animals or Livestock	\$100.00
Section 9(2) (l)	Interfering or obstructing an Animal Control Officer or a RCMP or police officer while performing their duty contrary to subsection 9(4) or 9(5)	\$100.00
Section 9(2) (m)	Breaking into or assisting another Person in any manner, directly or indirectly, to break into any Pound	\$500.00
Section 9(2) (n)	Removing or attempting to remove any impounded animal, or to otherwise cause or assist an escape of any impounded animal	\$500.00