

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW #420

A BY-LAW OF THE CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, TO PROVIDE FOR THE CONTROL OF ANIMALS WITHIN THE TOWN BOUNDARIES, PASSED PURSUANT TO SECTIONS 116 AND 117 OF THE CITIES, TOWNS AND VILLAGES ACT BEING CHAPTER 14 1987 (1ST) OF THE STATUTES OF THE NORTHWEST TERRITORIES.

WHEREAS, the Council of the Corporation of the Town of Fort Smith, in the Northwest Territories, deems it to be in the public interest to control animals within the Town boundaries;

NOW THEREFORE, the Council of the Town of Fort Smith, at a duly assembled meeting enacts as follows:

1. SHORT TITLE

That this by-law shall be cited as the “Domestic Animal Control By-Law”.

2. INTERPRETATION

Definitions

“Animals” means horses, cattle, sheep, swine and goats;

“Cattle” includes bulls, cows, oxen, heifers, steers and calves;

“Estray” means an animal that is running at large;

“Horses” includes mares, geldings, stallions, colts, fillies, asses and mules;

“Justice of the Peace” means a Justice of the Peace in and for the Northwest Territories;

“Lawful fence” means a fence as described in Section 5.A;

“Officer” means a person appointed or authorized to be an officer under this by-law’

“Owner” means a person owning an animal and includes the servant or agent of such person;

“Proprietor” means an owner or occupier of land under any tenure and includes the servant or agent of such person;

“Run at large” refers to an animal that is not under the control of the owner on premises other than those owned or occupied by the owner;

“Senior Administrative Officer” refers to the Senior Administrative Officer of the Town of Fort Smith;

3. RUNNING AT LARGE

(1) No owner shall permit an animal in the following zones:

- (a) Low Density Residential Zone (R1)
- (b) Medium Density Residential Zone (R2)
- (c) Multi-Family Residential Zone (R3)
- (d) Residential One Family Mobile Home Zone (RMH1)
- (e) Residential Mobile Home Park Zone (RMH20)
- (f) Residential Mobile Home Subdivision (RMH3)
- (g) Town Centre (TC)
- (h) Community Zone (P)
- (i) Institutional Zone (I)

(2) No owner shall permit an animal to run at large within any area that may be defined by the Senior Administrative Officer.

(3) No owner shall permit an animal to run at large within the confines of an airport in any part of the town at any time.

(4) No owner of an animal shall permit an animal to run at large within any part of the Town at any time.

(5) No owner of an animal suffering from a contagious disease shall permit such an animal to run at large within any part of the Town at any time.

4. DISEASE CONTROL

(1) In this Section, “Coggins test” means the Coggins test for Equine Infectious Anemia.

(2) No person shall bring into the Town of Fort Smith a horse unless the horse first obtains, from a qualified veterinarian, a certificate to effect that the horse:

(a) is in good health, and

(b) has been subjected to the Coggins test within the previous six months and has been found not to be diseased.

(3) Where a horse has been subjected to the Coggins test, the owner or person in possession of the horse shall obtain from the veterinarian who administered the test a certificate to the effect that the horse:

(a) has been subjected to the test, and

(b) has been found not to be diseased, and the certificate shall state the date on which the test was administered.

(4) Where an owner or person in possession of a horse is unable to produce, upon demand of an officer, a certificate referred to in Section 2 or 3, the horse shall be deemed not to have been subjected to the Coggins test and the officer may cause the horse to be kept in quarantine in an insect-free stable or barn until the horse has been subjected to the test and the required certificate is produced to the officer.

(5) Notwithstanding Section 8, every person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default thereof to imprisonment for a term not exceeding six months or both.

5. LAWFUL FENCES

- (1) Subject to subsections (2) and (3), a lawful fence is defined as being of a height of not less than 1.2 metres above the level of the ground, constructed of woven wire, barbed wire or rails, boards of slabs, of a size and structure that will suitably confine animals under normal circumstances, and fastened to posts not more than five metres apart.
- (2) The fence surrounding growing crops or crops in the process of being harvested is not a lawful fence unless it is situated at least two metres from such crops.
- (3) A fence surrounding stacks of hay or grain is not a lawful fence unless it is situated not less than three metres from such stacks.
- (4) No person shall leave open any gate of a lawful fence, or let down bars or otherwise prohibited make a gap in a lawful fence, where, by so doing, he permits an animal to run at large from the premises surrounded by the fence or an estray to enter such premises.
- (5) Where a person is the owner of an animal prohibited from running at large under Section 3, he shall keep the animal on premises that are lawfully fenced.
- (6) Where two or more owners are required to confine animals on the same premises and the premises have to be lawfully fenced, each owner shall erect his portion of the fence required to surround the premises or pay for the erection of his portion to the satisfaction of the other owners.
- (7) The portion to be erected by each owner under Section (F) shall bear the same ratio to the total area to be fenced as the number of animals to be kept by him bears to the total number of animals to be kept on the premises.
- (8) Where a dispute arises under Subsection 6 or 7 as to the portion to be erected by each owner, the question may be referred to a Justice of the Peace whose decision in the matter shall be final.

6. ESTRAYS

- (1) Where a proprietor finds strays on his premises he may drive them off his premise but shall, within a reasonable time, notify the owner of the estray, if known to him, or an officer, if the owner is unknown to him.
- (2) Where a proprietor allows strays to remain on his premises until they can be removed by the owner or by an officer, as the case may be, he may provide them with such food and shelter as he provides his own animals of similar age and class.

- (3) The owner shall pay to the proprietor the expenses incurred by him under Section B before he is entitled to remove the strays.
- (4) Where the owner of an estray is unknown, an officer may, after such advertising or other efforts to find the owner as he thinks reasonable and after five days from the day on which the officer took custody of the estray, sell it by public auction.
- (5) The proceeds of a sale of an estray shall be distributed in the following manner:
 - (a) the expenses, if any, of a proprietor who has fed and sheltered the estray before it is removed by the officer shall be paid to the proprietor;
 - (b) the expenses of securing, caring for and feeding the estray prior to the sale shall be paid;
 - (c) the expenses of the sale shall be paid; and
 - (d) the balance, if any shall be paid to the Senior Administrative Officer for deposit with the Town of Fort Smith account.
- (6) An officer may take such steps as he thinks necessary to have the owner of an estray return it to the owner's premises or otherwise dispose of it.

7. INJURED ANIMALS

- (1) Where an officer finds any animal so severely injured, diseased or otherwise in pain that it would, in his opinion, be cruel to allow the animal to live, he shall, if the owner refuses to consent to its destruction, summon a veterinary surgeon, or if one is not available, two reputable residents of the area, and if the veterinary surgeon or the two reputable residents, as the case may be, concur in writing with the officer's opinion, the officer may, without the consent of the owner, kill the animal or cause it to be killed.
- (2) Where an officer finds any animal so severely injured, diseased or otherwise in pain that it would, in his opinion, be cruel to allow the animal to live and cannot find the owner, and after taking such reasonable steps as he considers advisable, is unable to locate the owner of the animal, the officer may kill the animal or cause it to be killed.

8. ENFORCEMENT

- (1) The Senior Administrative Officer may appoint any person as an officer to carry out the provisions of this by-law.
- (2) Every game officer appointed pursuant to the Wildlife Act and every member of the Royal Canadian Mounted Police is ex officio an officer under this by-law.
- (3) Every person who violates any provision of this Act is guilty of an offence and liable on summary conviction to a fine of not less than fifty dollars and not exceeding five hundred dollars or in default thereof to a term not exceeding one month or to both fine and imprisonment.

READ A FIRST TIME THIS 21 DAY OF August, 1990 A.D.

READ A SECOND TIME THIS 2 DAY OF October, 1990 A.D.

READ A THIRD TIME THIS 2 DAY OF October, 1990 A.D.

MAYOR

SENIOR ADMINISTRATIVE OFFICER