

TOWN OF ITUNA

BYLAW NO. 3-2012

A BYLAW OF THE TOWN OF ITUNA TO PROVIDE FOR THE REGULATING AND CONTROLLING OF DANGEROUS ANIMALS WITHIN THE TOWN OF ITUNA

COUNCIL of the Town of Ituna, in the Province of Saskatchewan, enacts as follows:

TITLE AND PURPOSE:

1. This Bylaw shall be known as "The Dangerous Animal Bylaw".
2. The purpose of this Bylaw is to promote the safety, health and welfare of people and the protection of people and property in the Town of Ituna and to regulate and prohibit the keeping of dangerous animals.

DEFINITIONS:

3. In this Bylaw, the following definitions apply:
 - (a) Administrator – means the Administrator of the Town of Ituna or an employee of the Town designated by the Administrator to act on behalf of the Town;
 - (b) Animal Control Officer – means the Pound keeper, any person appointed by Council for the purpose of bylaw enforcement, any member of the Royal Canadian Mounted Police and any other person or agency appointed by Council to restrain, receive or impound dogs and cats;
 - (d) Council – means the Council of the Town of Ituna;
 - (e) Judge – means a judge of the Provincial Court of Saskatchewan, who is authorized to carry out the "Dangerous Dog" provisions of *The Municipalities Act* and amendments thereto;
 - (f) Owner – includes:
 - i) a person who keeps, possess or harbours a dog or cat, other animal or poultry;
 - ii) the person responsible for the custody of a minor where the minor is the owner of a dog, cat, other animal or poultry;
 - iii) a veterinarian registered in accordance with *The Veterinarians Act, 1987*, and amendments thereto, who is keeping or harbouring a dog, cat, other animal or poultry, for the prevention, diagnosis or treatment of a disease or injury; and
 - iv) the Town of Ituna, its agents and employees, the Saskatchewan Society for the Prevention of Cruelty to Animals, a local society for the prevention of cruelty to animals or a humane society operation pursuant to the provisions of *The Animal Protection Act*, and amendments thereto with respect to an animal shelter or impoundment facility operated by any of them;
 - (g) Peace Officer – means a peace officer as defined by the Criminal Code
 - (h) Provocation – means an act done intentionally for the purpose of provoking a dog, cat or other animal; and
 - (i) Town – means the Town of Ituna, Saskatchewan

DANGEROUS ANIMALS:

4. (a) An animal is dangerous when it is proved that:
 - i) the animal, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack;
 - ii) the animal has a known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise threaten the safety of persons or domestic animals;
 - iii) the animal has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked a person or domestic animal; or
 - iv) the animal is owned primarily for the purpose of fighting or is trained for fighting.
- (b) For the purpose of this section, an animal is presumed not to have been provoked in the absence of evidence to the contrary.
- (c) No animal shall be declared dangerous because of an action described in clause (a)i, ii or iii that occurred while the animal was:
 - i) acting in the performance of police work; or
 - ii) working as a guard dog on commercial property while:
 - a. securely enclosed on the property by a fence or other barrier sufficient to prevent the escape of the animal and the entry of children of tender years; and
 - b. defending that property against a person who was committing an offence.
5. All procedures outlined Sections 3 to 13, inclusive, shall be followed in dealing with animals identified as "dangerous animals" within the Town.
6. Regardless of the outcome of the appeal to an order for destruction of an animal identified as a "dangerous animal" pursuant to *The Municipalities Act*, the owner shall be responsible for the payment of the costs of impoundment of the animal pending hearing.
7. (a) A Peace Officer as defined by the Criminal Code may destroy any animal that the officer finds injuring or viciously attacking a person or domestic animal;
- (b) Where the officer acted in good faith, a Peace Officer who destroys an animal pursuant to subsection (a) is not liable to the owner for the value of the animal.

Declaration of dangerous animal

8. (1) On hearing a complaint that an animal in a municipality is dangerous, a judge may declare the animal to be dangerous if the judge is satisfied on reasonable grounds that:
 - (a) the animal, without provocation, in a vicious or menacing manner, chased or approached a person or domestic animal in an apparent attitude of attack;

- (b) the animal has a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of persons or domestic animals;
 - (c) the animal has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked a person or domestic animal; or
 - (d) the animal is owned primarily or in part for the purpose of fighting or is trained for fighting.
- (2) For the purposes of proceedings pursuant to this section and section 376, an animal is presumed not to have been provoked, in the absence of evidence to the contrary.
- (3) No animal shall be declared dangerous because of an action described in clause (1)(a), (b) or (c) that occurred while the animal was:
- (a) acting in the performance of police work; or
 - (b) working as a guard dog on commercial property while:
 - (i) securely enclosed on the property by a fence or other barrier sufficient to prevent the escape of the animal and the entry of children of tender years; and
 - (ii) defending that property against a person who was committing an offence.
- (4) The owner of an animal complained of, if known, shall be served with notice of a hearing pursuant to subsection (1), but the judge may make an order pursuant to subsection (5) in the absence of the owner if the owner fails to appear.
- (5) If a judge declares an animal to be dangerous, the judge shall:
- (a) make an order embodying one or more of the following requirements, as the judge considers appropriate:
 - (i) the owner shall keep the animal in an enclosure that complies with prescribed criteria;
 - (ii) if the owner removes the animal from the enclosure, the owner shall muzzle and leash it in accordance with prescribed criteria and keep it under the owner's direct control and supervision;
 - (iii) the owner shall obtain and keep in effect liability insurance in the prescribed amount to cover damage or injury caused by the animal;
 - (iv) the owner shall display a sign, in the prescribed form and manner, on his or her property warning of the presence of the animal and shall continue to display that sign in good condition so long as the animal is present on the property;
 - (v) the owner shall comply with the regulations and the Health of Animals Act (Canada) with respect to the detection and control of rabies;
 - (vi) if the animal is moved to any other municipality, the owner shall notify the designated officer in the other municipality;
 - (vii) if the animal is to be sold or given away, the owner shall:

- (A) notify any prospective owner that the animal has been declared dangerous, before it is sold or given away; and
 - (B) notify the designated officer in the municipality of the name, address and telephone number of any new owner of the animal;
- (viii) the owner shall have the animal tattooed in the prescribed manner;
- (ix) the owner shall have the animal spayed or neutered;
- (x) the owner shall take any other measures that the judge considers appropriate; or
- (b) order that the animal be destroyed or otherwise disposed of at the owner's expense and shall, in that case, give directions with respect to the destruction or other disposition.
- (6) An order issued pursuant to this section continues to apply if the animal is sold or given to a new owner or is moved to any other municipality.
- (7) An owner against whom an order has been made pursuant to subclause (5)(a)(iii) may apply to the judge who made the order for a waiver, and the judge may waive compliance with subclause (5)(a)(iii), on any terms and conditions that the judge considers reasonable, if the judge is satisfied that the owner is unable to comply with the requirements of that clause for a reason other than his or her financial circumstances.
- (8) An owner or complainant who feels aggrieved by an order made pursuant to subsection (5) or (7) may appeal the order:
 - (a) to a provincial court judge by way of a new trial, if the order was made by a justice of the peace; or
 - (b) to the court, if the order was made by a provincial court judge, on the grounds that it:
 - (i) is erroneous in point of law;
 - (ii) is in excess of jurisdiction; or
 - (iii) constitutes a refusal or failure to exercise jurisdiction.
- (9) A person who appeals pursuant to subsection (8) shall, within seven days after the date of the order being appealed from, file a notice of appeal with the judge or court being appealed to, and the provisions of Part XXVII of the Criminal Code apply, with any necessary modification.
- (10) A person who feels aggrieved by a decision of a provincial court judge made with respect to an appeal pursuant to clause (8)(a) may appeal the decision to the court on any grounds set out in clause (8)(b), and the provisions of subsection (9) apply to the appeal.

Offences and penalties re animals

- 9. (1) Any person who owns an animal for the purpose of fighting, or trains, torments, badgers, baits or otherwise uses an animal for the purpose of causing or encouraging the animal to make unprovoked attacks on persons or domestic animals is guilty of an offence.

- (2) Any person who displays a prescribed sign warning of the presence of a dangerous animal and who is not acting on an order made pursuant to subsection 8(5) or has not received the permission of a council to display the sign is guilty of an offence;
- (3) Any person who does not comply with any part of an order made against him or her pursuant to subsection 8(5) or (7) is guilty of an offence.
- (4) Any person who owns an animal that, without provocation, attacks, assaults, wounds, bites, injures or kills a person or domestic animal is guilty of an offence.
- (5) A person who is guilty of an offence pursuant to this section is liable on summary conviction to:
 - (a) a fine of not more than \$10,000;
 - (b) imprisonment for not more than six months;
 - (c) an order pursuant to subsection 8(5); or
 - (d) a penalty consisting of any combination of clauses (a) to (c).
- (6) A person may appeal an order or conviction pursuant to this section by filing a notice of appeal with the Provincial Court of Saskatchewan or the court, as the case may be, within seven days after the date of the order or conviction, and the provisions of Part XXVII of the Criminal Code apply, with any necessary modification.

Destruction Order

- 10. (1) Unless the owner otherwise agrees, every order for destruction of an animal shall state that it shall not be implemented for eight days.
- (2) If an appeal is taken against an order for the destruction of an animal, the application of the order is stayed pending the disposition of the appeal.
- (3) If the judge on appeal overturns the order for destruction of the animal, the animal shall be released to the owner after the owner has paid the costs of impoundment of the animal pending the hearing.

Entry and Search

- 11. (1) A peace officer or a designated officer who has reasonable grounds for believing that an animal is dangerous or has been ordered to be destroyed or otherwise disposed of and is in or on any premises other than a private dwelling may, with or without a warrant:
 - (a) enter the premises;
 - (b) search for the animal; and
 - (c) either impound the animal or, if there is an order to destroy or otherwise dispose of the animal, deliver the animal to the person appointed in the order to destroy or otherwise dispose of it.
- (2) Notwithstanding subsection (1), a peace officer or designated officer shall not enter any place that is a private dwelling without:
 - (a) the consent of the owner or occupant of the private dwelling; or

- (b) a warrant issued pursuant to subsection (3) authorizing the entry.
- (3) If it appears to a justice of the peace or provincial court judge that, based on evidence presented by a peace officer or designated officer under oath, there are reasonable grounds to believe that an animal that is dangerous or has been ordered to be destroyed or otherwise disposed of is in a private dwelling, the justice of the peace or provincial court judge may issue a warrant authorizing a peace officer or designated officer to enter the private dwelling specified in the warrant and search for the animal.
- (4) On issuance of a warrant pursuant to subsection (3), the peace officer or designated officer may:
- (a) enter the private dwelling;
 - (b) search for the animal; and
 - (c) either impound the animal or, if there is an order to destroy or otherwise dispose of the animal, deliver the animal to the person appointed in the order to destroy or otherwise dispose of it.

Destruction of Animal

12. (1) A peace officer or designated officer may destroy any animal that he or she finds injuring or viciously attacking a person or a domestic animal.
- (2) A peace officer or designated officer who, acting in good faith, destroys an animal pursuant to subsection (1) is not liable to the owner for the value of the animal.

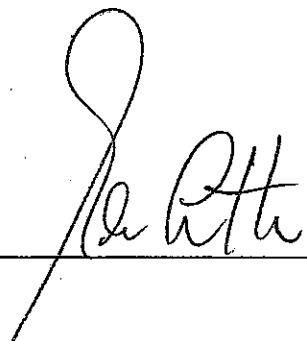
Action for Damages

13. In an action brought to recover damages for injuries to persons or property caused by an animal, it is not necessary for the person injured to prove that the animal is, or that the owner knew that the animal was:
- (a) of a dangerous or mischievous nature; or
 - (b) accustomed to doing acts causing injury.

This Bylaw shall come into force and take effect on the 7th day of

August, 2012.



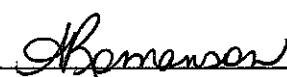


Mayor



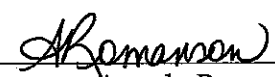
Administrator

*Read a third time and adopted
this 7th day of August, 2012.*



Angela Romanson
Administrator

*Certified true copy of Bylaw No. 3-2012
adopted by resolution of Council at
regular meeting held on August 7, 2012.*



Angela Romanson
Administrator 6/6