

TOWN OF CARMAN

BY-LAW NO. 01/1845

BEING a By-law of the Town of Carman to provide for the licensing of certain salesmen, peddlers, hawkers, transient traders and the like, in the Town of Carman and to repeal By-Law No. 92/1710.

WHEREAS Section 232(1) of *The Municipal Act* L.M. 1996, c.58 – Chap. M225 states in part that:

- “A Council may pass by-laws for municipal purposes respecting the following matters:
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centers, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;.....
 - (o) the enforcement of by-laws...”

AND WHEREAS Section 232(2) of *The Municipal Act* L.M. 1996, c.58 – Chap. M225 states in part that:

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

- (a) regulate or prohibit;....
- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:....
 - (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
- (f) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality; and....”

AND WHEREAS Section 236(1) of *The Municipal Act* L.M. 1996, c.58 – Chap M225 states in part that:

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“Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions....

- (b) remedying contraventions 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,...
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission or offences or nonpayment of fines.

AND WHEREAS it is deemed expedient and in the best interests of the Town of Carman to provide for the issuance of licenses and regulation of persons and firms doing business in the Town of Carman.

NOW THEREFORE BE IT ENACTED by the Council of the Town of Carman, in Council duly assembled as follows:

LICENCES

1. **THAT** no person or firm shall carry on any business within the limits of the Town of Carman unless and until such time as the person or firm has procured a licence to do so from the Town of Carman and has paid the applicable licence fee to the said Town as set out in the attached Schedule “A”.
2. **THAT** every person or firm so licenced to carry on business within the limits of the Town of Carman shall be subject to the provisions of the By-Law.
3. **THAT** any licence issued under this By-law shall cover the period from January 1 to December 31 of each year.
4. **THAT** no person or firm to whom a licence has lapsed or been cancelled by the Town of Carman can operate unless a new licence is issued by the Town.
5. **THAT** the licences provided for in Section 1 of this By-law shall apply to:
 - (a) All persons who sell goods, wares, merchandise, or effects of any kind, or offer them for sale by sample cards, specimens, or otherwise for or on account of any retail merchant, manufacturer or other persons selling directly to a consumer, not having his/her principal place of business within the Town of Carman, or who, whether acting for themselves or as agents for other persons, take orders for any goods or for any finished articles whatsoever, that have been outside the limits of the Town of Carman, by any retail merchant, manufacturer or other person not having his/her or its principal place of business within the limits of the Town of Carman, or who delivers the manufacturer, made or complete goods or articles.

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- (b) All transient traders and other persons, who hawk, peddle, sell, or offer to sell goods, wares, merchandise, or chattels of any kind by auction or in any other manner, whether from any railway car, vehicle, or other conveyance; or from any tent, booth, stall, stand or vacant lot; on or adjacent to a highway, or at or in any other place stated in a by-law and whether or not any such auction is conducted by a licensed auctioneer;
- (c) All persons doing business within the Town of Carman who occupy premises for temporary purposes, and all other transient traders, whether occupying premises or not, who offer goods, wares, merchandise or effects of any description, for sale by auction or any other manner, and whether conducted by themselves or by a licensed auctioneer or otherwise;
- (d) Nurserymen and their agents, and all persons selling or offering for sale trees, shrubs, plants, and nursery stock, grown and propagated outside the province.

6. **THAT** if, after investigation the Town of Carman concludes that a Licencee is carrying on business in an improper manner at the address shown on the application, Council shall be entitled to revoke such licence, within fourteen (14) days of servicing the Licencee, by registered mail, with notice of his right to appeal. The decision of the Council, on appeal, shall be final and binding.

7. **THAT** upon revocation of a licence, there will be no refund of any portion of the licence fee paid by the Licencee.

8. **THAT** every licence issued hereunder shall be produced by the Licencee at any time or times upon demand by the Chief Administrator Officer, or any member of Council, or any other person duly authorized by the Council of the Town of Carman to demand production of the licence.

APPLICATION:

1. **THAT** the applicant shall apply for a licence at the Town of Carman office, 12-2nd Avenue S.W., Town of Carman.

2. **THAT** each application for a licence will be completed on an approved form and shall contain the following:

- (i) the name, occupation and address of the Applicant;
- (ii) the nature of the business for which the licence is being applied and the business address of the applicant within the Town of Carman;
- (iii) any other information that may be deemed necessary.

3. **THAT** the fee to be charged for the licence required under this By-law shall be in accordance with the fee schedule attached hereto as Schedule "A" and forming part of this by-law.

RESTRICTIONS:

1. **THAT** no Licencee shall carry on a business during the hours of quietness as stipulated in the Town of Carman By-law No. 01/1844, and amendments thereto.

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2. **THAT** The Licencee shall carry on business in a manner which does not interfere with the person or property of any neighbour without first obtaining the express written permission or approval of the neighbour so being interred with by the Licence.
3. **THAT** no person shall be granted a licence to carry on said business unless he/she provides adequate parking space for his customers other than parking on a public highway, provided such space is reasonable available under the circumstances.

EXEMPTIONS:

1. **THAT** an exemption to this by-law may be made by resolution of Council from time to time.
2. **THAT** any business against which a Town of Carman commercial mill rate is levied on the property primarily from which the business operates shall be exempt from the operation of this by-law.
3. **THAT** any person who is selling, peddling, or hawking from any vehicle or other conveyance, any goods, wares or merchandise to any retail dealer the growth or product of which occurred in the province, if it is being hawked or peddled by the producer thereof or by a member of his/her immediate family, or by his/her bona fide servants or employees, having written authority to do so.
4. **THAT** persons soliciting subscriptions or advertising for daily or weekly newspapers, farm publications, trade publications and magazines, published in Canada, or books approved by The Public Library Advisory Board appointed under *The Public Libraries Act*, require no licence under the By-law for any of those purposes; but nothing in this section authorizes or entitles any person to solicit any such subscriptions or advertising on any highway in the Town of Carman, and it shall be illegal for any such person to do so.
5. **THAT** any wholesaler is exempt.

ENFORCEMENT AND PENALTIES:

1. **THAT** a peace officer, By-law Enforcement Officer, or other individual duly appointed by Council will administer this by-law, and such person shall act under the general supervision of the Chief Administrative Officer.
2. **THAT** it shall be the responsibility of the person named in Subparagraph (a) to ensure that this By-law is enforced and to report to the Chief Administrative Officer.
3. **THAT** licence fees shall be made payable to the Town of Carman at the Town Office.
4. **THAT** every person who contravenes or refuses, neglects, omits or fails to obey or observe any provision of this By-law is guilty of an offence and is liable, upon summary conviction, to a fine not exceeding twice the amount of the required licence fee as per Schedule "A" hereto for each offence so convicted.

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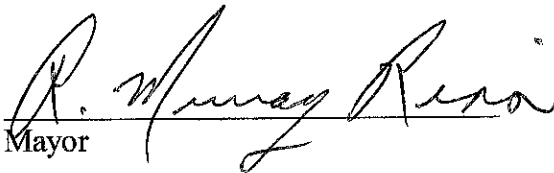
5. **THAT** By-law No. 92/1710 and all other by-laws previously enacted by the Town of Carman, in force at the date of passing hereof, in any way contradicting, limiting or restricting the force and effect of this by-law, are hereby repealed.

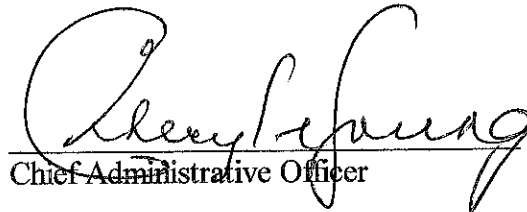
6. **THAT** wherever the word "person" is used in the By-law it shall be construed to include the plural as well as the singular and shall also include firms, partnerships, companies, and corporations.

7. **THAT** this By-law shall come into force and effect on the 1st day of January, A.D. 2002.

DONE AND PASSED by the Council of the Town of Carman, duly assembled in the Council Chambers of Memorial Hall, in the Town of Carman, in the Province of Manitoba, this 11th day of October, A. D. 2001.

TOWN OF CARMAN


Mayor


Chief Administrative Officer

Read a first time this 27th day of September, A.D. 2001.
Read a second time this 11th day of October, A.D. 2001.
Read a third time this 11th day of October, A.D. 2001.

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SCHEDULE "A"**

1. Basic licence fee for any person operating a business or providing service, for gain, out of residence, or who are not specifically listed herein. \$100.00

2. Contractors, builders, excavators, tradesmen \$100.00

3. Transient traders \$100.00