

TOWN OF CARBERRY

By-law No. 3/2021

This by-law may be referred to as "Town of Carberry Derelict Vehicle By-law".

PREAMBLE

WHEREAS *The Municipal Act*, Chapter M225, Continuing Consolidation of the Statutes of Manitoba, provides in part as follows: ...

Spheres of jurisdiction

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, ...
- (b) subject to section 233, activities or things in or on private property,
- (c) the enforcement of by-laws. ...

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 ...
- (b) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality

Content of by-laws under clause 232(1)(c)

233 A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provisions only in respect of

- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;
- (b) the parking and storing of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing;
- (c) the removal of top soil; and
- (d) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations. ...

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 contraventions of by-laws, including ...
 - (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,
(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), ...

Order to remedy contravention

242(1) If a designated officer finds that a person is contravening a by-law or this or any other Act that the municipality is authorized to enforce, the designated officer may by written order require the person responsible for the contravention to remedy it if, in the opinion of the officer, the circumstances so require.

It is deemed expedient to pass a By-law for the purpose of maintaining property and regulating and abating the existence of derelict and abandoned vehicles which are detrimental to the health, safety and comfort of the residents of the TOWN OF CARBERRY.

Now therefore the Council of the Town of Carberry enacts as follows:

1. DEFINITIONS

- a. **Derelict Vehicle** means a vehicle that meets one or more of the following conditions:
- i. is not in operating condition and cannot operate on the Highway.
 - ii. does not have attached thereto, and exposed thereon, one or more license plates with current vehicle registration stickers,
 - iii. That are wrecked, rusted out and partially dismantled or scrapped for parts.
 - iv. Any component of such vehicle left or stored on property.
 - v. is kept in the open; and
 - vi. the owner thereof either has abandoned it or is keeping it primarily for the purposes of salvaging or selling parts therefrom, or for the eventual sale thereof as scrap metal,

and derelict vehicle also includes the body or chassis of a used motor vehicle all or some of the parts of which have been removed, and to which clauses (2), (3), and (4) apply.

- b. **Designated Bylaw & Enforcement Officer** means an official appointed by Council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer.

1. APPLICATION

This by-law applies to all property and to all owners and occupiers of property within the Town of Carberry.

2. STANDARDS

No person being the registered owner of property within the Town of Carberry, or the tenant under any commercial lease or residential tenancy agreement affecting such property, shall keep such land free and clear of:

- a. All Derelict Vehicle(s) and portions thereof or their components to include large portions of such vehicles that are stored, left or parked on any property in the Town of Carberry with or without the consent of the property owner.

3. COMPLAINT

Any person may allege a violation of this by-law by filing a written complaint with the designated officer in such form and with such particulars as the designated officer may from time to time require.

4. INSPECTIONS

Upon receipt of a complaint, as aforesaid, the designated officer shall inspect all property alleged to be in violation of this by-law, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this by-law.

5. WARNINGS AND ORDERS

Where inspections reveal a violation of any provision of this by-law, the designated officer:

- a. may in his or her discretion give written notice of the contravention to the owner and occupier of the property by regular mail to correct such violation.
- b. if the contravention continues, the Officer may issue an Order compelling the person to comply.
 - i. specify the time within which compliance shall be required;
 - ii. advise that should compliance not be effected within the specified time, the Municipality may undertake the remediation such as the removal and storage of any such Derelict Vehicle(s) at the expense of the owner of the property and that such expense may be collected in the same manner that a tax may be collected or enforced under *The Municipal Act*;

6. APPEALS

Any interested person may appeal an order made by the designated officer by filing with the chief Administrative Officer of the Municipality at any time before the time for compliance with such order an objection substantially in the form attached as Schedule A.

- a. Upon receipt of an appeal in the required form, the Chief Administrative Officer for the Town of Carberry shall cause a copy thereof to be forwarded to the Council forthwith and the Council shall entertain such appeal within forty days of receipt of same by holding a hearing. Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose. A notice of hearing shall be issued by Council and shall be served upon the persons and in the manner specified in Section 10 below no later than 5 days prior to the appeal hearing.
- b. The Council shall determine an appeal within 5 days of a hearing and shall serve a notice of disposition forthwith upon determination, upon the interested persons. The Council may:
 - i. confirm the order of the designated officer.
 - iii. vary the order of the designated officer in any respect; or

- iv. set aside the order of the designated officer.

7. SERVICE OF NOTICES OR ORDERS

- a. Any order issued by the designated officer under subsection 6(b) and a notice of hearing issued under section 8 of this by-law shall be served by personal service or by registered mail upon:

- i. the owner;
- ii. the occupier, if any;

of the property effected by order.

- b. Service made personally shall be deemed to have been made on the date of such service and service made by registered mail shall be deemed to have been made 3 days after posting. In the case of service upon an occupier, the address for mailing shall be the address of the property. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the Municipality. In the case of a mortgagee, the address for mailing shall be as shown according to the records of the Land Titles Office for the area within which the property is situated.

8. ENFORCEMENT

- a. The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality by the owner of the property. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.
- b. Tickets or fines may be issued under the Municipal Bylaw Enforcement Act for violations committed under this bylaw.
- c. Where a corporation commits an offence under this by-law, each director or officer of the corporation who authorized, consented to, connived at or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offence or offences, is likewise guilty of the offence and is liable on summary conviction, to the penalties for which provision is made in section 13 above.
- d. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.

And that this By-Law shall come into full force and effect on the day following its' final passage in Council.

DONE AND PASSED in Council assembled in Carberry, Manitoba this 9th day of March, 2021.



Mayor

Chief Administrative Officer

Read a first time this 9th day of February, 2021.
Read a second time this 9th day of February, 2021.
Read a third and final time this 9th day of March, 2021.