

TOWN OF STE. ANNE

BY-LAW NO. 10-2011

BEING A BY-LAW OF THE TOWN OF STE-ANNE RESPECTING UNSIGHTLY PROPERTY AND DERELICT VEHICLES WITHIN THE TOWN BOUNDARIES.

WHEREAS Section 232(1) of *The Municipal Act* provides, in part, that 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) activities or things in or on private property; and
- (c) the enforcement of by-laws

AND WHEREAS Section 232(2) of *The Municipal Act* provides, in part; that a Council may in a by-law:

- (a) regulate or prohibit;
- (b) establish fees or other charges for services, activities or things provided or done by the municipality; and
- (c) provide for a system of licences, permits and approvals;

AND WHEREAS Section 233 of *The Municipal Act* provides, in part that a by-law may contain provisions in respect of:

- (a) the requirement that private property 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; and
- (c) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odors, unsightly property, rubbish, unsafe structure, fumes and vibrations.

AND WHEREAS Section 236(1) of *The Municipal Act* provides, in part that a by-law 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:
 - (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;
 - (iii) providing that an amount owing under (ii) above 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); and
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offenses or non payment of fines.

AND WHEREAS Section 242(1) of *The Municipal Act* provides, in part, that if a designated officer finds 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.

AND WHEREAS Section 242(2) of *The Municipal Act* provides, in part; that the order may:

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) direct a person to take any action or measure necessary to remedy the contravention of the Act or by-law, including the removal or demolition of a structure;
- (c) state a time within which the person must comply with the directions; and
- (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

AND WHEREAS Section 243(1) and (2) of *The Municipal Act* provides, in part; that if, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, or because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order

- (a) in the case of a structure, require the owner:
 - (i) to eliminate the danger to public safety in the manner specified, or
 - (ii) remove or demolish the structure and level the site;
- (b) in the case of private property that contains the excavation or hole, require the owner:
 - (i) to eliminate the danger to public safety in the manner specified, or
 - (ii) fill in the excavation or hole and level the site;
- (c) in the case of property that is in an unsightly condition, require the owner:
 - (i) to improve the appearance of the property in the manner specified, or
 - (ii) if the property is a building or other structure, remove or demolish the structure and level the site.

AND WHEREAS Section 243(2) of *The Municipal Act* provides that the order may:

- (a) state a time within which the person must comply with the order; and
- (b) state that if the person does not comply with the order within the specified time, the municipality will take the action or measure at the expense of the person.

AND WHEREAS the Town of Ste. Anne deems it necessary to pass a by-law respecting derelict vehicles and prohibiting and rectifying unsafe, unclean or unsightly property;

NOW THEREFORE THE COUNCIL OF THE TOWN OF STE. ANNE IN OPEN SESSION, DULY ASSEMBLED, ENACTS A BY-LAW AS FOLLOWS:

1. **DEFINITIONS:** In this by-law, unless the context otherwise requires, the following words and terms shall have the following meanings:
 - (a) “CAO” shall mean Chief Administrative Officer of the Town.
 - (b) “Chief of Police” shall mean the Chief of Police of the Town.
 - (c) “Council” shall mean the council of the Town.
 - (d) “Derelict Vehicle” shall mean a non road worthy vehicle that is considered as such including wrecked, dismantled, partially dismantled, inoperative,

discarded, abandoned or unused vehicles, trailers and other machinery or any parts thereof and if:

- (i) it is not operative or in operating use;
- (ii) it does not have or exposed on the vehicle an active license plate under The Highway Traffic Act;
- (iii) it is kept in the open; or
- (iv) the owner of the Derelict Vehicle has thereof either:
 - i. abandoned it, or
 - ii. is keeping it primarily for the purpose of salvaging or selling parts.
- (e) “Designated Officer” shall mean a member of Council or other official appointed by Council, from time to time, to enforce this by-law including the Chief of Police, or in the absence of such an appointment, the CAO.
- (f) “Occupant” shall mean the occupant or person in charge of Private Property and may include the Owner.
- (g) “Owner” shall mean the registered owner of Private Property and shall include a person responsible for Private Property and any person:
 - (i) managing a building, whether on his or her own account or as agent or trustee of any other person;
 - (ii) who would receive the rent for the building if the building were rented;
 - (iii) who, despite having sold the Private Property under an agreement for sale, has paid any real property taxes on the Private Property after the effective date of the agreement;
 - (iv) for the time being receiving installments of the purchase price of Private Property sold under an agreement for sale whether on his or her own account or as an agent or trustee of any other person, or
 - (v) who would so receive the installments of the purchase price if such Private Property or premises were sold under an agreement for sale.
- (h) “Person” shall include the plural as the singular, or corporation, partnership association syndicate, or any organization.
- (i) “Private Property” shall mean any privately owned parcel of land within the limits of the Town.
- (j) “Town” shall mean the Town of Ste. Anne.
- (k) “Vehicle Compound” shall mean a concealed fenced compound area located on Private Property permitted by the Town for use for vehicle storage in its zoning by-law.

UNSIGHTLY PROPERTY AND DERELICT PROPERTIES

2. The Owner of Private Property must maintain the Private Property, including buildings, structures and yards, in a safe and clean condition.
3. Without restricting the general obligation under section 2 above, buildings and yards must be maintained so as to prevent the accumulation of:
 - (i) rubbish, garbage, junk and other debris;
 - (ii) any Derelict Vehicle not licenced by this by-law; and

- (iii) objects and conditions, including holes and excavations, that pose health, fire, accident or other safety hazards.
- 4. If, in the opinion of the Designated Officer, a building, structure, yard excavation or hole on Private Property is, because of its unsightly condition, detrimental to the surrounding area or poses a health, fire, accident or other safety hazard; the Designated Officer may, by written order require the Owner to do one or more of the following:
 - (i) improve the appearance of the Private Property in the manner specified in the written order;
 - (ii) remove the debris and any Derelict Vehicle not licensed by the Town;
 - (iii) remove the health, fire, accident or other safety hazard;
 - (iv) demolish the building or structure if the Private Property contains a building or structure and level the site; or
 - (v) fill an existing hole or excavation and level the site.
- 5. The written order issued by the Designated Officer pursuant to section 4 above shall state a time within which the Owner must comply with the order and state that if the order is not complied with within the specified time, the Town will take action or measures at the expense of the Owner.
- 6. The written order issued by the Designated Officer shall be served on the Owner of the Private Property, either personally or by mailing it by registered mail to the last address for that Owner recorded on the Town's tax rolls; in the event service is carried out by registered mail, it shall be conclusively deemed to have been serviced on the Owner five (5) days after it is mailed.
- 7. Any Owner aggrieved by an order issued by the Designated Officer under this by-law may, within 15 days of service of the order, appeal to the Council.
- 8. Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
- 9. Upon the hearing of an appeal, the Council may:
 - (i) uphold, rescind, suspend or modify the order issued by the Designated Officer;
 - (ii) extend the time within which compliance with the order shall be made; or
 - (iii) make such other decision or order as in the circumstances of each case it deems just, and the decision or order of the Council, upon being communicated to the appellant, shall stand in place of the order against which the appeal is made.

LICENSING OF DERELICT VEHICLES

- 10. Subject to the provisions contained herein, no Person shall park, store, keep or permit the parking, storing or keeping of any Derelict Vehicle upon any Private Property with or without the consent of the Owner or Occupant or the owner of the vehicle unless the Derelict Vehicle is concealed in a wholly enclosed garage or a Vehicle Compound or the Owner or Occupant obtains a license from the Town to store the Derelict Vehicle. The presence of a Derelict Vehicle on Private Property, unconcealed and without a license, is hereby considered a public nuisance and unsightly. Should the existence of the Derelict Vehicle on Private Property be, in the opinion of the Designated Officer, unsightly or detrimental to the surrounding area the Designated Officer may refuse to issue the licence.
- 11. The Designated Officer may, but is not obligated to, issue a license to maintain an unconcealed Derelict Vehicle on Private Property to any Person upon application thereof and upon payment by the applicant of a license fee of \$10.00 Dollars per vehicle per month. The license shall be in the form set out in Schedule "A" hereto.

12. Any Derelict Vehicle parked, stored, kept or permitted to be parked, stored or kept on any Private Property without a licence issued under this By-law, or otherwise in contravention of any Order issued by the Designated Officer pursuant to section 4 herein, may be removed therefrom, towed, impounded stored and sold by the Town.
13. The Town may impose a charge of:
 - (i) \$50.00 for the removal and towing;
 - (ii) \$10.00 per day for the impoundment and storage;
 - (iii) \$100.00 for the destruction and dispositionof each Derelict Vehicle removed, towed from Private Property and impounded, stored, destroyed or disposed by the Town.
14. Within seventy-two hours of the removal of a Derelict Vehicle from Private Property, the Designated Officer shall give notice to the Owner or Occupant and the owner of the Derelict Vehicle if known, that said Derelict Vehicle has been impounded and stored for violation of this By-law. The notice shall give the location to where the Derelict Vehicle has been removed.
15. Upon removing the Derelict Vehicle the Designated Officer shall after ten (10) days cause it to be appraised by an automobile sales dealer or a licensed auto mechanic:
 - (i) If the Derelict Vehicle is appraised at \$1,000.00 dollars or less, the Designated Officer shall execute an affidavit, describing the Derelict Vehicle, including the registered number, if any, and stating the location and appraised value of the Derelict Vehicle. The Designated Officer, after complying with the above, may dispose of the Derelict Vehicle and execute a certificate of sale or may have the Derelict Vehicle destroyed.
 - (ii) If the Derelict Vehicle is appraised at over \$1,000.00 dollars, the Designated Officer shall give notice of public sale not less than three (3) days before the date of the proposed public sale. The Derelict Vehicle shall be sold to the highest bidder. Upon payment of the purchase price, the Designated Officer shall execute a certificate of sale in duplicate, the original for the purchaser and the copy to the Designated Officer.
16. The owner of any Derelict Vehicle seized under the provisions of this By-law may redeem such a Derelict Vehicle at any time after its removal but prior to the sale or destruction and disposal with proof of ownership and payment to the Town of all cost associated with the said infractions.
17. Subject to sufficient proof of ownership of the Derelict Vehicle, the Town shall reimburse to the owner of the Derelict Vehicle all monies received on any sale in excess of costs associated with the infraction.

PENALTIES


18. The costs of actions or measures taken by the Town to carry out the terms of any order issued by the Designated Officer or costs associated with the conduct that gives rise to offences under their by-law are an amount owing to the Town by the Owner of the Private Property and may be collected by the Town in the same manner as a tax may be collected or enforced under *The Municipal Act*.
19. Any person who contravenes or disobeys, or refuses or neglects to obey any order made under this by-law is guilty of an offense and is liable, on summary conviction, to a fine not exceeding \$1,000.00 or in the case of an individual, to imprisonment for a term not exceeding six months or to both such a fine and such an imprisonment.
20. Where a corporation commits an offense 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 offenses, is likewise guilty of the offense and is liable, on summary conviction, to the penalties for which provision is made in section 19, above.

21. 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.

THAT BY-LAW #05-1998, BY-LAW #6-2009 and BY-LAW #1-2010 BE HEREBY REPEALED.

DONE AND PASSED in Council assembled at the Council Chambers of the Town of Ste. Anne in the Province of Manitoba this 27th day of September 2011.


Bernard Vermette
Mayor


Nicole Champagne
Chief Administrative Officer

Given First Reading on the 13th day of September, 2011 A.D.,
Given Second Reading on the 27th day of September, 2011 A.D.,
Given Third Reading on this 27th day of September, 2011 A.D.,