

## TOWN OF WINNIPEG BEACH

### Unightly Property and Derelict Vehicle By-Law No. 07-2023

**BEING A BY-LAW OF** the Town of Winnipeg Beach to establish a minimum standard to regulate nuisances, derelict and unsightly property.

**WHEREAS** clause 231(a) *The Municipal Act* of Manitoba C.C.S.M. c. M225, and amendments thereto ("*The Municipal Act*") provides council of a municipality with the power to pass by-laws that give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under *The Municipal Act* and other Acts as to enhance the ability of the council to respond to present and future issues in the municipality;

**AND WHEREAS** section 232(1)(a) of *The Municipal Act* authorizes a municipality to pass by-laws for the safety, health, protection and well being of people and the safety and protection of property;

**AND WHEREAS** section 232(1)(c) of *The Municipal Act*, subject to section 233, authorizes a Municipality to pass by-laws respecting activities or things in or on private property;

**AND WHEREAS** clause 232(1)(o) and subsection 236(1) of *The Municipal Act* authorize a council to pass by-laws for municipal purposes respecting the enforcement of by-laws, which by-laws may include provisions for inspections and the remedying of by-law contraventions;

**AND WHEREAS** clause 233 of *The Municipal Act* authorizes council sets out the activities or things in or on private property which may be contained in a by-law including, the requirement that land and improvements be kept and maintained in a safe and clean condition, 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, the removal of top soil; and 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.

**AND WHEREAS** section 239 of *The Municipal Act* and section 175 of *The Planning Act* of Manitoba C.C.S.M. c P80, and amendments thereto ("*The Planning Act*") authorize a Designated Officer to, in accordance with *The Municipal Act*, enter onto land, or into buildings or other structures if *The Municipal Act*, *The Planning Act* or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality and the designated officer may carry out any such inspection, remedy, enforcement or action as required;

**AND WHEREAS** Section 240(1) of *The Municipal Act* and Section 177 of *The Planning Act* provide for a justice to issue a warrant to inspect and/or carry out enforcement upon an application by a designated officer of the Town;

**AND WHEREAS** sections 242 and 245 of *The Municipal Act* and subsections 178(1) and (2) of *The Planning Act* provide for making orders to remedy, and the remedying of, or to prevent the reoccurrence of, a contravention of a by-law, *The Municipal Act*, *The Planning Act* or any other Act that a municipality is authorized to enforce;

**AND WHEREAS** sections 243 and 246 of *The Municipal Act* provide for making orders to remedy, and the remedying of, dangers to public safety and property in an unsightly condition;

**AND WHEREAS** section 244 of *The Municipal Act* and subsection 178(3) & (4) of *The Planning Act* provide the means by which an order made under sections 242 and 243 of *The Municipal Act* and subsection 178(1) of *The Planning Act* can be reviewed by Council for a municipality;

**AND WHEREAS** sections 245 and 246 of *The Municipal Act* and subsection 179(1) of *The Planning Act* provide that where a contravention under *The Municipal Act*, *The Planning Act* or other Act the municipality is authorized to enforce is not remedied, the municipality may take any action or measure that is reasonable to remedy the contravention;

**AND WHEREAS** subsections 245(3) and 246(3) of *The Municipal Act* and subsection 179(2) of *The Planning Act* provide that the costs of an action or measure taken by a municipality under section 245 of *The Municipal Act* or clause 179(1)(a) of *The Planning Act* are a debt owing to the municipality by the person who contravened the by-laws;

**AND WHEREAS** section 232(1)(o), 236(1) and 249 of *The Municipal Act* and sections 181 and 182 of *The Planning Act* provide for the creation of an offence and the penalty provisions for an offence, including fines and imprisonment;

**AND WHEREAS** it is deemed expedient to pass a by-law for the purposes of maintain property and regulating and abating nuisances and unsightly property that are detrimental to the health, safety, and comfort of the residents of the Town of Winnipeg Beach

**NOW THEREFORE** the Council of the Town of Winnipeg Beach in Council, assembled, hereby enacts as a By-Law as follows:

## 1. DEFINITIONS

- (a) **"Council"** means the council duly elected in the Town.
- (b) **"Designated Officer"** means a building inspector or other official appointed by Council, from time to time, to enforce this by-law.
- (c) **"Derelict Vehicle"** means a motor vehicle or motor home, as described in the *Highway Traffic Act*, as amended from time to time, or an off-road vehicle, as described in the *Off-Road Vehicles Act*, as amended from time to time, that meets one or more of the following conditions:
  - a. Is not in operating condition;
  - b. Does not have attached thereto, and exposed thereon, an active license plate verifying that it has a valid registration or other form of private insurance, under *The Drivers and Vehicles Act*, CCSM c D104;
  - c. The Owner thereof either has abandoned it or is keeping it primarily for the purpose of salvaging or selling parts therefrom, or for the eventual sale thereof as scrap metal

And Derelict Vehicle also includes the body or chassis or a used motor vehicle, all or some of the parts of which have been removed, and to which clauses (i) to (iii) apply.

- (d) **"Occupier"** in the case of any Property means any person in actual or constructive possession of the Property including a lessee, licensee, invitee, permittee, purchaser, homesteader, squatter and includes a party claiming through or under such person or other right to occupy.
- (e) **"Owner"** in the case of any Property means the registered owner(s) of the Property according to the current assessment records of the Town.
- (f) **"Person"** means an individual, firm, partnership or corporation, and where the context requires shall include the plural as well as the singular.
- (g) **"Property"** means any land as defined in *The Municipal Assessment Act* within the Town whether or not there is dwelling house, building or structure located thereon.

- (h) “**Rubbish**” means any garbage, trash, or junk including, but not limited to unwanted or discarded household items, waste from building construction, remodelling and repair; tree branches, grass and shrub clippings, leaves or other general yard and garden waste; motor vehicle parts or tires; newspapers, magazines, packaging materials, waste paper or cardboard, dead animal carcasses, and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighbourhood aesthetics.
- (i) “**Town**” means the Town of Winnipeg Beach.
- (j) “**Unsafe Structure**” means any structure, whether a building, fence, excavation or hole, which in the opinion of the Designated Officer is at risk of collapse or otherwise dangerous to public health, safety or property.
- (k) “**Unsightly Property**” means a Property which in the opinion of the Designated Officer is detrimental to the surrounding area due to a condition or conditions that could cause a Property to be determined as unsafe or unsightly or unhealthy, including but not limited to Property containing: ashes, junk, other Rubbish or refuse; Derelict Vehicle(s), vessel, or item of equipment or machinery, appliances, furniture or bodies or parts of such items; an accumulation of wood, shavings, paper, sawdust, dry and flammable grass or weeds or other combustible materials, or the growth of grass or weeds or hedges/shrubs to a length which is unsightly so that it becomes a nuisance to neighbours.

## 2. APPLICATION

- 2.1 This By-Law applies to all Property and to all Owners and Occupiers of Property within the Town.

## 3. STANDARDS

- 3.1 No Owner or Occupier of Property shall permit on such Property, and each Owner and Occupier of Property shall keep Property free and clear of:
  - (a) Rubbish;
  - (b) Unsafe Structure(s)
  - (c) Unsightly Property
  - (d) Derelict Vehicle(s)
  - (e) the storage of household appliances, whether or not they are capable of operation;
  - (f) the growth of noxious weeds as defined in *The Noxious Weeds Act* which is of the opinion of the Designated Officer are a nuisance;
  - (g) the growth of grass to a length which is of the opinion of the Designated Officer is unsightly;
  - (h) regular outdoor burning or smoke that causes a nuisance to neighbours;
  - (i) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof;
  - (j) graffiti

## 4. EXEMPTIONS

- 4.1 Notwithstanding section 2 and 3, a person may park or store two (2) Derelict Vehicle on a Property provided that:
  - (a) The vehicle is wholly contained within a lawfully existing structure on the Property;

(b) The vehicle is in the side yard or rear yard of a Property and is covered by a tarp in a good state of repair.

4.2 Subsection 4.1 does not apply to properties that are lawfully used as a commercial automobile dealership, auto parts retailer or auto repair shop.

**5. COMPLAINT**

5.1 Any person may allege a violation of this By-Law by filing a written complaint with the Municipal Office in such form and with such particulars as the Designated Officer may require. Anonymous complaints will not be considered.


**6. ENFORCEMENT**


6.1 The enforcement of this By-Law shall be in accordance with the Town's General Enforcement By-Law 05-2023, as amended from time to time.

**7. ROUTINE**

7.1 That By-Law 9/2009 be and is hereby rescinded.

**DONE AND PASSED** in Council duly assembled at the Town of Winnipeg Beach, in the Province of Manitoba, this 27<sup>th</sup> day of July, 2023.

  
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Mayor, Pam Jackson

  
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Chief Administrative Officer

READ A FIRST TIME:	June 14, 2023	RESOLUTION:	2023/190
READ A SECOND TIME:	July 12, 2023	RESOLUTION:	2023/226
READ A THIRD TIME:	July 12, 2023	RESOLUTION:	2023/227