

TOWN OF ALTONA BY-LAW NO. 1696/2012 DERELICT VEHICLES

THE TOWN OF ALTONA

BY-LAW NO. 1696/2012

Being a By-law to regulate the parking and storage of derelict vehicles within the Town of Altona.

WHEREAS Section 232 of *The Municipal Act*, S.M. 1996, c. 58 – Cap. M225, provides in part as follows:

- 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) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
 - c) subject to section 233, activities or things in or on private property;
 - d) the enforcement of by-laws.
- 2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division
 - a) regulate or prohibit.

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AND WHEREAS section 233 of *The Municipal Act* provides in part as follows:

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

- b) the parking and storage of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing.

AND WHEREAS Council deems it necessary and expedient and in the best interests of the residents of the Town to regulate the parking and storage of vehicles, as more particularly defined herein, within certain areas of the Town;

NOW THEREFORE be it enacted as a by-law of the Town of Altona in council duly assembled, as follows:

1. In this by-law the following definitions shall apply:
 - a) "Municipal Act" means *The Municipal Act*, S.M. 1996, c.58 – Cap. M225, and amendments thereto;
 - b) "Highway Traffic Act" means *The Highway Traffic Act*, S.M. 1985-86, c.3 – Cap. H60, and amendments thereto;
 - c) "Town" means the Town of Altona;
 - d) "Council" means the Council of the Town of Altona;

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- e) "Designated Officer" means any person designated as such by Council pursuant to section 130 of the Act;
- f) "Highway" means a highway as defined in the Highway Traffic Act;
- g) "Motor Vehicle" means a motor vehicle as defined in the Highway Traffic Act;
- h) "Motor Home" means a motor home as defined in The Highway Traffic Act;
- i) **"Operating Condition", in relation to a vehicle, means that it is capable of being driven on a highway in compliance with *The Highway Traffic Act*;**
- j) "Parked" or "Parking" in relation to a Motor Vehicle means any form of parking or storage other than in a completely enclosed building or other structure that complies in all respects with the applicable building and zoning regulations;
- k) "Public Property" means any land and premises owned by Canada or the Province of Manitoba, or any agency thereof, or the Town or any other municipality;
- l) "Private Property" means any land and premises that is not Public Property;
- m) "Derelict Vehicle" means a Motor Vehicle other than a Motor Home, that for any reason whatsoever
 - i) if self-propelled, cannot be moved under its own power; or
 - ii) cannot be lawfully moved or **driven** upon a Highway; and
 - iii) if Parked on Private Property, has remained within the legal limits of the property on which it is parked for a period of more than 30 days; or
 - iv) if Parked on Public Property, has remained there on for a period of more than 24 hours; and

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- v) for which a license has not been issued in accordance with the provisions of this by-law.
- 2. No person shall keep a Derelict Vehicle Parked or allow a Derelict Vehicle to be Parked on any Public Property or Private Property located within the Town, except in accordance with the provisions of this by-law.
- 3. The Town may, on application by any person, issue a licence for the Parking of a Derelict Vehicle, provided:
 - a) **An owner, occupant, or person in charge or control of private property makes application to the Chief Administrative Officer or designate for a permit to keep a derelict or unregistered vehicle. Such permit is valid for no longer than nine (9) months and the fee is \$50.00 for each three month period, or part thereof, payable in advance. A request for an extension to the permit period may be made in writing to the Chief Administrative Officer or designate whereby same shall be reviewed by the Chief Administrative Officer or designate, and the Chief of Police or designate prior to such request being granted.**
- 4. **Any derelict vehicle parked, abandoned, or left on private property contrary to the provisions of this by-law may, upon direction from the Chief of Police or Designate, be removed and impounded for a period of forty-five (45) days.**

The owner of the derelict vehicle or the property owner may recover the derelict vehicle by paying the costs for removal and impoundment.

In the event that the derelict vehicle is not claimed during the

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impoundment period the Chief of Police or Designate may destroy or otherwise dispose of the derelict vehicle. Where disposal of the vehicle generates more revenue than the outstanding costs owing to the Town any excess monies will be released to the owner, if known. If the owner can not be located any excess monies will be retained by the Town and deposited to its general revenue account.

All costs for removal and impoundment are the responsibility of the property owner from which the derelict vehicle was removed and, if same are not paid in response to a registered bill, the Town may add theses costs to the property taxes.

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- 5. A notice under paragraph 4 above may be delivered in person or by being posted by prepaid registered mail addressed to the owner at the address shown on the Town tax roll, and if so mailed shall be deemed to have been delivered on the second day following the day on which it is mailed.**

The provisions of this by-law shall not apply to any person engaged in operating a garage, auto wrecking business, used car lot, scrap business, or other similar use business providing they are operating in accordance with the provisions of the Zoning By-law.

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6. A Derelict Vehicle Parked in contravention of this by-law may be seized, removed, and impounded by the Designated Officer of the Town
 - a) From any Private Property on which it is located, following the expiry of the ten day notice period; and
 - b) Forthwith from any Public Property on which it is located.
7. The owner of an impounded Derelict Vehicle may recover the Derelict Vehicle at any time within the period of forty five days set out in paragraph 4 of this by-law,
 - a) upon payment to the Town of the costs provided for in paragraph 4 of this by-law; and
 - b) given an undertaking in writing, satisfactory to the Town, as to the intended disposition of the Derelict Vehicle; or
 - c) obtaining a license in accordance with paragraph 3 of this by-law
8. **Prohibition on storing derelict vehicles on property: a person must not park, store or leave a derelict vehicle on a residential or non-residential property**
 - a) **an owner or occupant must not permit a derelict vehicle to be parked, stored or left on his or her property**
9. **Limitations on vehicles used for residence or storage: other than in a camping ground or a mobile home park zoned for this purpose, a person must not**
 - a) **reside in;**
 - b) **use as a shelter; or**

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c) store his or her clothing or personal effects in for the purpose of living in;

an automobile, mobile home, recreational vehicle, camper, tent or other temporary structure.

a) It is not a contravention of (9) if a person does any of the things set out in (9) for a period of not more than three days or for a longer period with the written permission of the Chief Administrative Officer or designated employee.

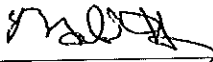
b) The Chief Administrative Officer or designated employee may issue permission under (a) if, and to the extent that, the persons doing any of the things set out in (a) will not result in a nuisance or and unsanitary condition.

10. The costs to be charged by the Town for any seizure, removal and impoundment under this by-law shall be fixed from time to time by resolution of Council.
11. Every person who contravenes or fails to comply with section 2 of this by-law is guilty of an offence and liable, on summary conviction, to a fine in accordance with the Town of Altona Fines and Penalties By-law, and each day on which the contravention or failure to comply continues shall be deemed to be a separate offence.
12. The Designated Officer for the purposes of enforcing the provisions of this by-law shall be the Chief Constable for the Town.


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13. Subject to the provisions of the Act, the Designated Officer may delegate to an employee of the Town any power, duty or function given to the Designated Officer under this by-law.
14. This by-law shall come into force and effect upon the date of final reading.
15. By-law No. 1576/2001 shall be repealed forthwith upon the enactment of this by-law.

DONE AND PASSED by the Council of the Town of Altona, this 12th day of June, 2012.



Mayor



CAO

Read a first time this 22nd day of May, 2012

Read a second time this 12th day of June, 2012

Read a third time this 12th day of June, 2012