

THE TOWN OF SWAN RIVER

BY-LAW NO. 8/01

Being a By-law to regulate the parking and storing of vehicles upon property within the boundaries of The Town of Swan River.

WHEREAS subsection 232(1) of *The Municipal Act*, C.C.S.M., Cap. M225 provides as follows:

“A council may pass by-laws for municipal purposes respecting the following matters: ...

(c) subject to section 233, activities or things in or on private property; ...

(f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;...”

AND WHEREAS subsection 232(1)(o) of *The Municipal Act* provides as follows:

“A council may pass by-laws for municipal purposes respecting the following matters: ...

(o) the enforcement of by-laws.”

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

“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.”

AND WHEREAS subsection 236(1) of *The Municipal Act* provides as follows:

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

AND WHEREAS it is deemed necessary and desirable to regulate the parking and storage of vehicles on private property in The Town of Swan River and on property adjacent to highways or municipal whether that property is privately or publicly owned;

NOW, THEREFORE, the Council of The Town of Swan River enacts as follows:

1. DEFINITIONS

“approach” means the entryway to property extending from the limits of the travelled portion of the highway, as that term is defined in the Highway Traffic Act, to the property line and, without restricting the generality of the foregoing, shall include any ditch or swale.

“Council” means the Council of The Town of Swan River.

“Municipality” means The Town of Swan River.

“Designated Officer” means the person or persons designated by the Municipality from time to time as responsible for the enforcement of its by-laws.

“off-road vehicle” shall have the meaning ascribed to that term in *The Off-Road Vehicles Act* and amendments thereto.

“person” means an individual, firm or corporation and, where demanded by the context shall include the plural or singular.

“property” means all land, whether public or private, held under one Certificate of Title, notwithstanding that one or more parcels of land may be held under one Certificate of Title and shall include the approach.

“park” means to stand a vehicle whether occupied or not.

“stand” as applied to a vehicle, whether occupied or not, means to cause the vehicle to remain motionless in one place and “standing” has a corresponding meaning.

“store” means to keep or allow to be kept.

“vehicle” shall have the meaning ascribed to that term in *The Highway Traffic Act* and amendments thereto and shall include an off-road vehicle and any parts of any vehicle exceeding eighteen inches in length.

“highway” means a provincial road or provincial trunk highway as those terms are defined in *The Highways and Transportation Department Act*.

“municipal road” means a municipal road as defined in *The Municipal Act*.

2. APPLICATION

This By-law applies to owners, tenants and occupiers of property within the Municipality.

3. PROHIBITIONS

Except as provided in section 4 of this By-law, no person shall park or store a vehicle on property in the Municipality.

4. EXCEPTIONS

Notwithstanding section 3,

- i) a person may park or store a vehicle on property upon which a residential or commercial building is located for the purpose of selling that vehicle provided that
 - (a) The vehicle is registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act* in the name of an individual who is resident at the property or has been so registered within the preceding thirty (30) days; and
 - (b) The vehicle is offered or exposed for sale on the property for not more than sixty (60) days in one year; and
 - (c) No other vehicle has been offered or exposed for sale on the property within the preceding 6 months; and
 - (d) The vehicle is parked or stored within the boundaries of the property; and
 - (e) Not more than one vehicle is offered or exposed for sale at any time; and
 - (f) that the parking or storing of the vehicle does not contravene the Municipality’s Zoning By-law and amendments thereto.

ii) a person may park or store a vehicle on property upon which a residential or commercial building is located provided that:

a) the parking or storing of the vehicle does not contravene the Municipality's Zoning By-law and amendments thereto; and

b) provided that

(I) the vehicle is registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act*; or

(II) the vehicle has, within the preceding thirty (30) days been registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act*; or

(III) the vehicle is wholly contained within a lawfully existing structure on the property; or

(IV) the vehicle is parked or stored at the rear of any dwelling on the property so as to be entirely screened from public view in a tidy, well-maintained manner. No more than two vehicles may be parked or stored pursuant to this sub-paragraph unless specifically authorized in writing by Council.

iii) a person may park or store a vehicle on property upon which no building is located with the prior written authorization of Council.

5. ENFORCEMENT

The Designated Officer is authorized to enter upon any property within the Municipality for the purposes of determining compliance with this By-law and may

(a) enter upon the property at any reasonable time, without the consent of the owner or resident;

(b) request that anything be produced by the owner or resident to assist with such inspection; and

(c) make copies of anything related to such inspection.

6. SUMMONS OR ORDER

If the Designated Officer determines that an offence under this By-law has been or is being committed, the Designated Officer may issue an Order pursuant to subsection 242(1) of The Municipal Act or cause a Summons to be issued.

7. APPEAL TO COUNCIL

A person served with an Order pursuant to this By-law may appeal such Order to the Council within fourteen (14) days of being served with the Order.

8. OFFENCE

Any person contravening this By-law commits an offence and is liable, on conviction, to a fine not less than One Hundred \$100.00 Dollars and not more than One Thousand (\$1,000.00) Dollars.

9. CONTINUING OFFENCE

Each day on which any violation of this By-law continues shall be and is a separate offence.

10. REMOVAL OF VEHICLE

In addition to the issuance of a Summons or Order pursuant to section 6 hereof, any vehicle kept or stored in contravention of this By-law may be removed from the property, towed, impounded and stored by the Municipality.

11. DESTRUCTION OR SALE OF VEHICLE

Any vehicle removed from property by the Municipality pursuant to this By-law may be destroyed or sold at any time thirty (30) days after the date of removal of the vehicle from the property. In the event that such vehicle is sold, the Municipality shall be entitled to recover from the sale price all fines, fees and charges permitted hereunder. In the event that the sale proceeds shall exceed the aggregate of all fines, fees and charges, any remainder shall be paid to the owner of the vehicle.

12. REDEMPTION OF VEHICLE

A vehicle removed pursuant to this By-law may be released to the owner thereof, or to the owner, occupant or person in charge or control of the property from which the vehicle was removed, upon the payment in full of the Penalties and Charges prescribed in this By-law within thirty (30) days of the removal of the vehicle.

13. PENALTIES AND CHARGES

In addition to any fines imposed pursuant to section 8 hereof, the Municipality shall impose the following penalties and charges in respect of each vehicle removed in accordance with this By-law:

- (a) actual costs for the removal and towing of the vehicle; and
- (b) actual costs per day for impoundment and storage; and
- (c) if applicable, actual costs for the destruction and disposal of the vehicle.

14. ADDING OF PENALTIES AND CHARGES TO TAXES

The Penalties and Charges imposed pursuant to this By-law are a debt owing to the Municipality jointly and severally by the owner of the vehicle and the owner of the property and may be collected in any manner in which a tax may be collected or enforced under *The Municipal Act*.

15. **REPEAL**

By-law No. 23/87 is hereby repealed.

DONE AND PASSED as a By-law of The Town of Swan River, at Swan River, in Manitoba, this
1st day of May, 2001.



Mayor



Chief Administrative Officer

Read a first time this 17th day of April, 2001.

Read a second time this 17th day of April, 2001.

Read a third time this 1st day of May, 2001.