

THE RURAL MUNICIPALITY OF VICTORIA BEACH

BY-LAW NO. 1411

A by-law of the Rural Municipality of Victoria Beach to prevent the unauthorized removal, clearing, excavation and alteration of municipal property.

WHEREAS Subsection 232(1) of The Municipal Act provides, in part, as follows:

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) 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;
- (e) private works on, over, along or under municipal roads;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;

AND WHEREAS Subsection 236(1) of The Municipal Act provides, in part, as follows:

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

- (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,

AND WHEREAS Subsection 242(1) and 242(2) of The Municipal Act provides, as follows:

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;

242(2) 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 that has been

erected or placed in contravention of a by-law and, if necessary, to prevent a reoccurrence of the contravention;

- (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 the Council of the Rural Municipality of Victoria Beach deems it necessary to pass a by-law to control the removal, clearing, excavation and alteration of municipal property;

NOW THEREFORE the Council of the Rural Municipality of Victoria Beach, in council duly assembled, enacts as follows:

- (1) THAT the removal, clearing or destruction of brush, trees or any other natural growth including the removal, excavation and placement of gravel, fill or soil or any other type of private work on municipal property without the prior written authorization of the municipal council shall be strictly prohibited;
- (2) THAT every person who contravenes or refuses, neglects, omits or fails to obey any provision of this by-law is guilty of an offence and is liable to a fine not exceeding One Thousand (\$1,000.00) Dollars, to be levied as follows:

1st Offence - \$500.00

2nd Offence - \$750.00

3rd and All Subsequent Offences - \$1,000.00

and, in addition to said fine, shall be responsible for restoring the affected property to its original condition within fifteen (15) days of receipt of an order to remedy contravention. Failure to restore said property to its original condition within the prescribed time shall result in the municipality undertaking the restorative work and charging all costs of same to the responsible property owner;

- (3) THAT any person(s) receiving an order to remedy contravention referred to in clause (2) above may appeal said order to the council of the municipality, within 15 days of receiving the order, stating the grounds on which the appeal is based and the council shall set a date and time at which the appellant(s) will be heard. The appellant(s) shall be advised, in writing, of the decision of the council of the municipality which shall be final and binding upon the appellant(s). The time for complying with the order shall be suspended until a decision of council has been made;
- (4) THAT all fines and costs assessed pursuant to clause (2) above shall be due and payable to the municipality within thirty (30) days of the date of receipt of the order to remedy contravention or at such later date as is determined by the council of the municipality, in the case of an appeal under clause (3) above, and that any outstanding amount, after the expiration of said due dates, shall be added to the responsible property owner's tax account to be collected in the same manner as a tax may be collected under The Municipal Act.
- (5) THAT for the purposes of this By-law the order to remedy contravention shall be deemed to have been received on the 5th day after the date of mailing of said order.

DONE AND PASSED in Council assembled, in the City of Winnipeg, in the Province of Manitoba, this

17th day of March, A. D. 1998.

Original Signed By

"W. McDonald"
Reeve

"R. Moreau"
CAO

Read a first time this 17th day of February, A.D. 1998.

Read a second time this 17th day of March, A.D. 1998.

Read a third time this 17th day of March, A.D. 1998.