THE RURAL MUNICIPALITY OF MONTCALM

WHEREAS The Municipal Act being chapter 100 of the Statutes of Manitoba, 1970 (cap. M225 of the continuing consolidation of the Statutes of Manitoba) was proclaimed in force on, from and after the first day of January, 1971;

AND WHEREAS section 294 of that Act provides as follows:

294 (1)   In this section, an object shall be conclusively deemed to be a derelict vehicle if it is not a new and unused vehicle, and if:

(a) it is not in operating condition;

(b) it does not have attached thereto, and exposed thereon, one or more number plates issued under The Highway Traffic Act for the current registration year under that Act;

(c) it is kept in the open; and

(d) the owner thereof either

(i) has abandoned it; or

(ii) is keeping it primarily for the purposes of salvaging or selling parts therefrom, or for the eventual sale thereof as scrap metal;

and a 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 (b), (c) and (d) apply.

294 (2)   Unless the owner thereof establishes the contrary to the satisfaction of the clerk of the municipality, or of a court, if the matter is before the court for adjudication, an object to which subsection (1) otherwise applies shall be deemed to have been abandoned within the meaning of clause (d) of subsection (1) if, for a period of at least one month,

(a) it has been left in the open; and

(b) it has, in the opinion of the clerk or the court, as the case may be, been deserted.

294 (3)   The council of any municipality, including The City of Winnipeg, may pass by-laws:

(a) prohibiting a person from parking or leaving derelict vehicles on private property with or without the consent of the owner of the property; or

(b) requiring any owner, occupant, or person in charge or control, of private property who wishes to keep derelict vehicles thereon to obtain a licence for the purpose from the municipality and fixing the amount to be charged for the licence; or

(c) providing for the removal from private property of any derelict vehicle parked or left thereon in contravention of a by-law passed under this section and for the impoundment, storage, destruction, or disposition thereof; or

(d) fixing the charges for the removal, impoundment, storage, destruction, or disposition of any derelict vehicle removed from private property under the authority of a by-law passed under this section; or

(e) imposing a fine of not more than twenty dollars on any person found guilty of violating the provisions of any such by-law, and providing that each day on which the violation of the provisions of the by-law continues is a separate offence;

or in respect of any two or more of the matters mentioned in this subsection.

294 (4) The costs and charges incurred in towing, impounding, storing, destroying, or disposing of a derelict vehicle removed by a municipality under a by-law passed under this section is a debt owed by the owner of the derelict vehicle and the owner of the property from which it was removed, jointly and severally, to the municipality, and may be recovered by the municipality in any court of competent jurisdiction.

294 (5) A municipality is not liable for damages for anything done by it that it is authorized to do under this section, if it satisfies the court that it had reasonable cause to believe that the object with respect to which the action was taken was, in fact, a derelict vehicle.

NOW THEREFORE be it enacted and it is hereby enacted as a By-law of The Rural Municipality of Montcalm as follows:

1. Except where the context otherwise requires, the words and expressions used in the By-law have the same meaning as under The Municipal Act.

2. Except as may be expressly provided in this by-law, no person shall park or leave a derelict vehicle on private property with or without the consent of the owner of the property.

3. Where a person parks or leaves a derelict vehicle on private property in violation of paragraph 2 of this By-law the municipality may in writing direct:

(a) the owner of the derelict vehicle; or

(b) the person who parked or left the derelict vehicle where that person is a person other than the owner thereof; or

(c) the owner, occupant or person in charge or control of the private property;

to remove, store, or destroy the vehicle at his own expense, in such manner and within such period of time as the municipality directs.

4. A written directive pursuant to paragraph 3 may be served by the municipality personally on the person to whom it is directed or by prepaid registered mail sent to the last known address of the person on whom the directive is to be served.

5. Notwithstanding paragraph 3, the municipality may take or cause to be taken such measures as it considers necessary and advisable to remove, impound, store, destroy or in any other way dispose of any derelict vehicle that is parked or left on private property contrary to this By-law.

6. Where the municipality proceeds in accordance with paragraph 5 the cost of the removal, impoundment, storage, destruction or other disposition, as the case may be, of the derelict vehicle shall be borne and paid by the owner of the derelict vehicle or the owner of the property from which the vehicle was removed.

7. A fine of not more than Twenty Dollars ($20.00) shall be imposed on any person found guilty of violating the provisions of this By-law, and each day on which the violation of the provisions of this by-law continues, is a separate offense.

8. Any owner, occupant, or person in charge or control of private property, who wishes to keep derelict vehicles thereon, shall obtain

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a licence for the purpose from the municipality and such licence shall be issued at the discretion of the council of the municipality and upon payment of a fee of Twenty-five Dollars ($25.00) by the applicant.

9. In the event that any portion of this By-Law is declared to be untra vires The Rural Municipality of Montcalm or found to be contrary to, or inconsistent with any provision of The Municipal Act, it shall not affect the force and validity of the remaining portions of the By-Law.

DONE AND PASSED by The Rural Municipality of Montcalm, this 9th day of July A.D.1980.

THE RURAL MUNICIPALITY OF MONTCALM

Per: _____
                    Reeve

Per: _____
              Secretary-Treasurer