

**THE TOWN OF NIVERVILLE**  
**BY-LAW NO. 650-07**

A By-law of the Town of Niverville to adopt the Manitoba Fire Code and to establish standards and requirements for a variety of situations to prevent fires and increase life safety.

Section 232(1) of "*The Municipal Act*", C.C.S.M., cap M225 provides as follows:

- "S.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;
  - (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;
  - (i) preventing and fighting fires;"

**AND WHEREAS** the Council of the Town of Niverville deems it expedient and in the best interests of the Town to pass a by-law relating to preventing and fighting of fires;

**THE TOWN OF NIVERVILLE**, in Council assembled, enacts as follows:

**Short Title**

1. This By-law may be cited as "*The Fire Prevention By-law*."

**Definitions**

2. In this By-law:

**Act** means "the municipal Act", C.C.S.M., cap. M225, as amended from time to time.

**Designated employee** means any member of Niverville Fire Executive Team and any employee of the Town to whom has been delegated in writing the authority to enforce or administer all or part of this By-law.

**Manitoba Building Code and National Building Code of Canada**, when used in this By-law mean the building construction codes and standards adopted by the Niverville Building By-law No. 235-85.

**Manitoba Fire Code** means the National Fire Code adopted and amended by Manitoba Regulation 63/98 pursuant to "The Fires Prevention Act", C.C.S.M. c. F80.

**Niverville Fire Executive Team**, means the Fire Site Supervisor, Training Supervisor, Administration Supervisor and Equipment Supervisor of the Fire Department of the Town of Niverville.

**Supervisor** means any member of the Niverville Fire Executive Team

**Town** means the Town of Niverville, in Manitoba.

**Adoption of Manitoba Fire Code**

- 3(1) Except to the extent that it conflicts with the By-law, the Manitoba Fire Code is hereby adopted and forms part of this By-law.

### **"Authority having jurisdiction"**

3(2) For the purposes of this By-law, references in the Manitoba Fire Code to the "authority having jurisdiction" are references to the Town.

### **Powers of designated employees**

4 Designated employees may conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law in accordance with the Act.

### **Orders to remedy contravention**

5 An order to remedy a contravention of this By-law and a notice of suspension or revocation of a permit must be issued in accordance with the Act.

### **Appeal of order or decision**

6 Where a person is entitled to an appeal of an order or a decision under this By-law, the appeal may be made to the Protective Committee as appointed by the Council of the Town.

### **Address for service**

7 Where an address for service must be determined, one of the following may be used:

(a) if the person to be served is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property;

(b) if the person to be served is the occupant of real property, the street address for that property; or

(c) if the person to be served has within the previous 12 months provided his or her address in an application for a permit or licence under this By-law, the address provided in the application.

## **PART 2 - PERMITS**

### **Permits issued by designated employee**

8 Any permit required under this By-law must be issued by a Designated employee.

### **Permit may be subject to conditions**

9 A permit may be issued subject to reasonable conditions designed to reduce, eliminate or mitigate nuisances or hazards to people or property associated with the activity.

### **Refusal to issue permits**

10(1) The Designated employee may refuse to issue a permit where

(a) the Designated employee determines that the activity cannot be conducted without violating this By-law, another By-law of the Town or a provincial or federal statutory provision;

(b) the Designated employee determines that the applicant lacks the skills and knowledge necessary to conduct the activity safely and in compliance with this By-law, other relevant by-laws of the Town or relevant provincial or federal statutory provisions;

(c) the Designated employee determines that no conditions can be imposed that would allow the activity to be conducted safely;

(d) the applicant is neither in legal possession of the property on which the activity is to take place nor has written permission from the occupant of the property to conduct the activity;

- (e) the applicant has been found guilty of failing to comply with conditions imposed on a similar permit or this By-law or other relevant By-laws within the past year; or
- (f) a similar permit issued to the applicant has been revoked within the past year;
- (g) the applicant is not eighteen years of age or older.

#### **Withholding permits**

10(2) A permit may be withheld until and unless a Designated employee has inspected and approved the location at which the activity is proposed to take place.

#### **Permit may be flexible**

11 A permit

(a) may be issued for a specific occasion or for an extended period of time; and

(b) may allow for more than one instance of an activity at a single area or location.

#### **Applications for permits**

12 Applicants for permits must provide information reasonably required by the Designated employee to assess the application, which may include, among other things:

(a) the name, address and telephone number of the applicant;

(b) the address or legal description of the land on which the applicant proposes to conduct the activity;

(c) the skill, knowledge and experience of the person or persons conducting the activity; and

(d) information concerning the activity and the circumstances in which the activity will be carried on.

#### **Obligations of permit holder**

13 A person to whom a permit has been issued must:

(a) comply with this By-law and the conditions imposed in the permit at all times during the term of the permit; and

(b) ensure that the permit is available for examination by a Designated employee at the site of the permitted activity.

#### **Suspension and revocation of a permit**

14 Where a permit holder has contravened any of the conditions of a permit issued under this By-law, the provisions of this By-law or any provisions of the Manitoba Fire Code, or where a Designated employee concludes that atmospheric conditions or other circumstances make the permitted activity unsafe, a Designated employee may:

(a) suspend the permit for a specified period of time or until the contravention has been remedied or specified conditions are met; or

(b) revoke the permit.

#### **Permit fees**

15(1) Subject to subsection (2), a fee in the amount set out in Schedule "A" must be paid by the applicant before a permit may be issued by the Designated employee.

### **Waiver of permit fee**

15(2) Notwithstanding subsection (1), the Designated employee may waive all or part of a permit fee where the activity for which a permit is sought is being conducted by or on behalf of the Town or a non-profit organization.

### **Refund of fees**

16(1) Subject to subsection (2), where a permit is revoked or voluntarily surrendered, the Designated employee may refund all or a portion of the permit fee where

(a) the revocation was not due to a violation of this By-law or other dangerous actions on the part of the applicant; and

(b) the time and effort expended by the Niverville Fire Services to process and administer the permit has been minimal.

### **Cancellation fee must be withheld**

16(2) Notwithstanding subsection (1), where all or a portion of the permit is refunded, the permit cancellation fee set out in Schedule "A" must be retained.

## **PART 3 - OUTDOOR FIRES AND PORTABLE BARBEQUES**

### **Definitions**

17 In this part

**Approved receptacle** means an approved fire pit, approved outdoor barbeque, approved outdoor fireplace or approved outdoor warming fire receptacle described in sections 20 to 23.

**Open-air fire** means a fire set outdoors for any purpose, including cooking, recreation, generation of heat, the disposal of wood, stubble or crop residue and for religious or ceremonial purposes.

**Operate** a portable in relation to a portable barbeque, includes lighting, igniting, maintaining a fire within and cooking on a portable barbeque.

**Permit** means an open-air fire permit issued under section 19.

**Person in charge of an open-air fire** includes a person who ignites an open-air fire and the owner, occupier or person in charge of any premises on which an open-air fire is set.

**Person in charge of a portable barbeque** includes a person who ignites a portable barbeque, the owner of the portable barbeque and the owner, occupier or person in charge of any premises on which a portable barbeque is operated.

**Portable barbeque** means any appliance manufactured and sold for the purpose of cooking food outdoors and designed to burn propane, natural gas, wood or charcoal briquettes or to use electricity as a heat source.

**Residential property** includes any land zoned for a residential occupancy within the Town.

### **All open-air fires subject to By-law**

18 No person may set any open-air fire within the Town and the owner, occupier or person in charge of any premises in the Town may not permit any open-air fire to be set or to remain lit on any premises of which he or she is the owner, occupier or person in charge, unless the fire meets the requirements of this By-law.

### **Open-air fire permit required**

19(1) Subject to subsection (2), no person may set any open-air fire within the Town, and the owner, occupier or person in charge of any premises may not permit any open-air fire to be set or to remain lit on any premises of which he or she is the owner, occupier or person in charge, unless a Designated employee has issued an open-air fire permit authorizing the fire.

### **When open-air fire permit not required**

19(2) Subsection (1) does not apply to

- (a) fires set and contained within an approved receptacle and maintained in accordance with this By-law on the grounds of a residential property;
- (b) fires set and maintained for ceremonial or religious purposes which are contained within an approved receptacle and maintained in accordance with this By-law;
- (c) portable barbeques that are fuelled, operated and maintained in conformance with the manufacturer's instructions;
- (d) appliances that are approved by the Canadian Gas Association (CGA), are installed, operated and maintained in conformance with the manufacturer's instructions, and are fuelled by propane or natural gas;
- (e) fires permitted by the Town in outdoor fire pits, outdoor barbeques or outdoor fireplaces provided as fixtures in campgrounds or parks owned by the Town;
- (f) burning conducted by the Niverville Fire Services or persons authorized by the Designated employee for the purpose of training members of the Niverville Fire Services and the public; and
- (g) in the case of land used in whole or in part as a residence, the owner or occupier of the residence may burn, only during the spring and fall of each year, garden refuse, leaves and hedge clippings from that piece of land, and only in an open pit fire on bare ground and only between the hour of 8:00 a.m. and 9:00 p.m., Monday through Saturday each week.

### **Requirements for fire pits**

20 An approved fire pit must

- (a) be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the Designated employee;
- (b) be at least 100 mm (4 inches) and no more than 0.60 m (2 feet) in height above the surrounding grade but no more than 600mm (24 inches) in depth when measured from the top of the pit opening to the bottom of the pit.
- (c) have an opening that does not exceed 0.914 m (3.0 feet) in diameter or an area of 0.836 square metres (9 square feet) and in which neither the width nor length is greater than 0.914 m (3.0 feet);
- (d) not be used for commercial or industrial applications;
- (e) be located in the rear yard of a residential property; and
- (f) at no time have flames that are more than 0.60 m (2 feet) above the top of the pit opening.

### **Requirements for outdoor barbeques**

21 An approved outdoor barbeque must

- (a) be constructed of masonry, concrete, heavy gauge metal or mesh or other non-combustible materials acceptable to the Designated employee;
- (b) have a cooking surface which is at least 750 mm (2.5 feet) and no more than 1200 mm (4 feet) in height when measured from the surrounding grade;
- (c) have a cooking surface which does not exceed 1000 mm (4.0 feet) in diameter or an area of 1.17 square metres (12.5 square feet), and in which neither the width nor length is greater than 1000 mm (4.0 feet); and
- (d) not be used for commercial or industrial application.

#### **Requirements for outdoor fireplaces**

22 An approved outdoor fireplace must

- (a) be constructed of masonry, concrete, heavy gauge metal or mesh or other non-combustible materials acceptable to the Designated employee;
- (b) have a chimney designed and constructed as a proportional and integral part of the fireplace to ensure that an adequate draft is created;
- (c) have a side opening to the fire chamber which does not exceed 0.56 square meters (6 square feet) in area, and in which neither the width nor length is greater than 750 mm (2.5 feet);
- (d) has its side opening entirely covered by a non-combustible spark arrestor, grille or mesh with openings no larger than 12mm (1/2 inch); and
- (e) not used for commercial or industrial applications.

#### **Requirements for outdoor warming fire receptacles**

23 An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 225 litres (50 gallons) with all openings entirely covered by removable, non-combustible spark arrestors, grilles or mesh with openings no larger than 12 mm (1/2 inch). It is not to be used for commercial or industrial applications.

#### **Rules regarding all open air fires**

24(1) A person in charge of an open-air fire must ensure that

- (a) the fire is always supervised by a person 18 years of age or older until and unless it is fully extinguished;
- (b) the fire is always kept under control;
- (c) an adequate supply of water, sand or some other means of controlling and extinguishing the fire is readily accessible;
- (d) the fire is not set or maintained in conditions or locations which will or could result in:
  - (i) smoke which causes a nuisance or irritation to people on adjacent properties;
  - (ii) reduced visibility on any highway or road;
  - (iii) a rapid spread of fire through grass or brushed area;
- (e) the fire is not set or maintained when the wind exceeds 25 kilometres per hour;
- (f) if the fire becomes uncontrollable or spreads beyond its assigned limited, the Niverville Fire Service is alerted by calling 911;
- (g) the fire is maintained within an approved receptacle;

- (h) the fire is maintained a minimum of 3 metres (10 feet), as measured from the nearest edge of the fire, from any combustible buildings or structures, combustible fences, trees and overhead wires; and
- (i) only clean, dry, unpainted and untreated wood is burned and no grass, leaves, brush or tree prunings are burned in the fire.

**Permit authorizing variations of general rules for fires in receptacles**

24(2) A Designated employee may issue a permit authorizing a fire that does not strictly comply with subsection 24(2) where the Designated employee is satisfied that doing so will not expose people or property to undue risk.

**Obligations of person in charge of a portable barbeque**

25(1) A person in charge of a portable barbeque must ensure that it is

- (a) operated only outdoors in a well ventilated area;
- (b) operated and maintained in accordance with the manufacturer's instructions;
- (c) not operated within 1 metre (39"), or such greater distance as may be recommended by the manufacturer of the portable barbeque, of combustible materials; and
- (d) not left unattended when lit.

**Operation of portable barbeque near buildings**

25(2) No one may operate a portable barbeque within 20 feet of any building unless it

- (a) is located in the yard of a single family dwelling or commercial enterprise;
- (b) uses electricity or natural gas as a heat source; or
- (c) uses propane as fuel and is equipped with a Quick Connect Coupling Valve (Q.C.C.1) and an Overfill Protection Device (O.P.D.).

**Operation of portable barbeque on balcony, patio or deck**

25(3) Notwithstanding subsections (1) and (2), no one may operate a portable barbeque that used solid fuel on a balcony, patio or deck of a multiple family dwelling.

**Storage and handling of propane storage cylinders (tanks)**

26(1) The owner of a propane storage cylinder designed for use on a portable barbeque and the occupant of the premises in which the cylinder is located must ensure that, whether attached to a portable barbeque or not, the cylinder is

- (a) maintained in an upright position at all times;
- (b) shut off at the valve when not in use;
- (c) not stored in a vehicle, building, or below grade; and
- (d) unless attached to a portable barbeque, not stored within 2 metres (6.5 feet) of a portable barbeque.

**Storage of propane storage cylinders on balconies**

26(2) The owner of a propane storage cylinder designed for use on a portable barbeque and the occupant of premises must ensure that a propane storage cylinder designed for use on a portable barbeque is only stored on a balcony if:

- (a) the balcony is not enclosed by screen or glass;

- (b) no more than two 20 pound tanks are stored on any balcony, including any tank attached to a portable barbeque; and
- (c) tank valves are not nearer than 1 metre (39 inches) from any door or window that is lower than the valve.

**Penalty**

27 Any person who contravenes the provisions of this By-law is guilty of an offence and is liable, upon summary conviction, to a fine of not less than \$500.00 and not more than \$1,000.00, or to imprisonment for a term of not more than six months, or both.

**Repeal**

28 By-law No. 615-05 is repealed effective with the passage of this by-law.

**DONE AND PASSED** in Council assembled in the Council of Chambers of the Town of Niverville, in the Province of Manitoba this 15<sup>th</sup> day of May, 2007.

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Mayor

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Chief Administrative Officer

Given 1<sup>st</sup> reading this 15<sup>th</sup> day of May, 2007.

Given 2<sup>nd</sup> reading this 15<sup>th</sup> day of May, 2007.

Given 3<sup>rd</sup> reading this 15<sup>th</sup> day of May, 2007.

**SCHEDULE "A"**

**FEE SCHEDULE**

**INSPECTION FEES**

Residential Care Facility	\$75.00
Other requested inspections (per hour or part thereof)	\$80.00
Second and subsequent re-inspections to check on compliance with violation notice or order	\$75.00
Other after-hours inspections	
• For each hour or part thereof	\$80.00

**PERMIT FEES**

Open-air Fire Permit	\$75.00
Permit cancellation fee	\$25.00

**MISCELLANEOUS FEES**

Public Education Services provided outside regular office hours	
• For each hour of development and delivery or part thereof	\$80.00

\* Includes site inspection during regular office hours