

Town Of Niverville
By-Law No. 849-23

A By-law of the Town of Niverville to regulate activities on the frozen surfaces of waterways within the Town.

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

"S.232(1) Council may, for municipal purposes, make by-laws respecting the following matters:

- (a) the safety, health, protection and well-being of persons and the safety and protection of property;
- (b) activities that take place in or near public places or places open to the public, including parks, municipal roads, recreation centers, restaurants, facilities, retail stores, shopping centers and private clubs and facilities that are exempt from municipal taxes;
- (e) private works on or under municipal roads or along them;
- (f) public or private properties adjacent to roads or municipal roads;
- (h) drainage channels and drainage on public or private property;
- (n) businesses, business-related activities and persons carrying on a business;
- (o) the application of municipal by-laws.

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 regulating activities on the frozen surfaces of waterways in Town.

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

Short Title

1. This By-law may be cited as "**The Frozen Waterways Regulation By-law.**"

Definitions

2. In this By-law:

“**accessory**” has the same meaning as in the Niverville Zoning By-law;

“**building**” has the same meaning as in Niverville Zoning By-law and Niverville Building By-law;

“**construction**” has the same meaning as in The Planning Act C.C.S.M. c. P80;

“**designated employee**” means the person appointed by the Chief Administrative Officer to enforce or administer all or part of this By-law;

“**object**” means a building, structure, furniture, trees, straw bales, lighting, benches, hockey nets, hockey equipment and includes any other item placed on a frozen waterway.

“**structure**” has the same meaning as in the Niverville Building By-law;

“**Town**” means the Town of Niverville;

“**waterway**” means a canal, drainage ditch, water channel, retention pond and other water course whether natural, constructed or altered that is owned by the Town of Niverville and located within its boundaries.

3. **Designated employee may prohibit activities on waterways** A designated employee may prohibit any or specific activities, or may impose conditions on any or specified activities, on all or specified waterways or portions of waterways within the boundaries of the Town of Niverville and, in doing so, may take into account (a) the risk of harm to individuals; (b) the risk of harm to the environment, including the waterway and other areas adjacent to the

waterway; (c) noise or other nuisances likely to be suffered at nearby properties; and (d) other relevant factors.

4.(1) Activities requiring permits No person may engage in, or direct anyone else to engage in, the following activities on a frozen waterway unless a designated employee has issued a permit authorizing the activity:

- (a) construction of a building that would be subject to the Niverville Building By-law if it took place on land;
- (b) planned activities that are expected to attract more than 75 people to one place on the frozen waterway;
- (d) any commercial activity, including any activity for which admission is charged and any activity for which a permit is required under The Liquor Control Act.

4.(2) A designated employee must not issue a permit under subsection (1) until any applicable fee imposed by Council, or by an individual or body authorized by Council to do so, has been paid.

5.(1) Conditions on permits A designated employee may impose any conditions that they consider appropriate on a permit issued under section 4. Without restricting the generality of this power, the designated employee may impose the following conditions:

- (a) a requirement that the applicant provide evidence that the thickness and quality of the ice is sufficient for the activity or purpose for which a permit is sought, including, if considered appropriate by a designated employee, a statement to this effect sealed by an engineer qualified to practice in the Province of Manitoba;
- (b) a requirement that the applicant continue to have the ice monitored during the activity for which a permit is sought, including, if considered appropriate by a designated employee, a requirement that the applicant provide occasional or regular statements sealed by an engineer qualified to practice in the Province of Manitoba that the thickness and quality of the ice continues to be sufficient for the activity or purpose for which the permit has been issued;
- (c) a requirement that adequate provision be made for emergency access and assistance to participants in the activity for which a permit is sought;
- (d) in the case of a building or structure, a requirement that it comply with relevant requirements of the Niverville Building By-law, and other relevant by-laws;
- (e) a requirement that no damage or harm be done to the banks of waterways or other land near the waterway and conditions that are designed to reduce the risk of damage or harm;
- (f) a requirement that the activity not cause noise or other forms of nuisance for occupants of nearby properties;
- (g) a requirement that the applicant remove a building or structure from the frozen waterway by a certain date;
- (h) a requirement that the permit holder provide indemnities and obtain insurance at a level sufficient to protect the Town and others from harm or damage resulting from the activity;
- (i) a requirement that the applicant provide a letter of credit or otherwise post a surety to ensure compliance with any conditions imposed.

5(2) Where any condition imposed on a permit is contravened, the permit is null and void.

Removal of objects from waterways mandatory

6. Any person who places or installs an object on a frozen waterway must ensure that it is removed annually by **March 1**.

Inspection and Enforcement

7.(1) The Town or other person authorized by the Chief Administrative Officer to enforce the Municipality's by-laws may determine compliance with and enforce this by-law, and in the course of this activity may conduct any inspection they deem necessary.

7.(2) The Town is authorized to enforce this bylaw as per By-law 778-17, By-law Enforcement.

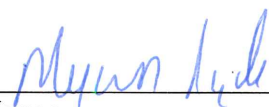
Penalties

8.(1) Any person guilty of a breach of this by-law shall be liable for a penalty, the fees of which are outlined in the Niverville Fees & Fines Schedule. Response to the issued Offence Notice, payment or contestation, shall be made in accordance with directions provided on the front of the issued Office Notice. Voluntary payment of the set penalty may also be made at the Niverville Town Office.

8.(2) Any person violating any provision of this by-law shall be liable for a penalty and if the penalty remains unpaid, the Town may add the cost to the property taxes of that person and collect those property taxes in the same manner as other property taxes.

8.(3) Any person in violation of Section 8 of this bylaw is considered to have abandoned their object(s) and these object(s) become the property of the Town.

DONE AND PASSED as a by-law of the Town of Niverville at Niverville in the Province of Manitoba this 21st day of February 2023.


Mayor


Chief Administrative Officer

Read a first time this 7th day of February A.D. 2023.

Read a second time this 21st day of February A.D. 2023.

Read a third time this 21st day of February A.D. 2023.