

TOWN OF NIVERVILLE

BY-LAW NO. 507-96

A By-Law of the Town of Niverville
concerning the control of junk, weeds and
nuisance and stagnant water.

The Council of the Town of Niverville in session duly
assembled, enacts as follows:

1.0 DEFINITIONS

In this By-Law:

1.1 "junk" means iron, brass, copper, tin, lead or other base metals; ropes, rags, fibres or fabrics; old bottles or other glass; rubber or rubber products; machinery, motor vehicle parts, tools, appliances, fixtures, lumber, unstacked firewood, utensils, cartons, containers, pipe and pipe fittings, conduit and conduit fittings; wastepaper; or other waste or discarded goods.

1.2 "a nuisance" is a substance, act, occupation, condition or use of property which, in the opinion of Council of the Town, is of such nature and continues for such length of time as to:

- (i) substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- (ii) in any way render the public insecure in life or in the use of property; or,
- (iii) unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.

Any substance, act, occupation, condition or use of property which does not fall within subsection 1.2 (i), (ii) or (iii), but is a nuisance as known under the common law of the land or the Statutes of Manitoba as nuisances may, in case the same exist within the Town and are, in the opinion of the Council of the Town, a nuisance, shall be treated as such and proceeded against as provided in this Section or in accordance with any other provision of law.

1.3 "Person" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust (or any of their officers or directors).

1.4 "Public view" means an observation from any location exterior to the property.

1.5 "Rubbish" includes, but is not limited to, all solid and liquid waste and litter, whether combustible or non-combustible, and includes but is not limited to ashes, cans, paper, rags, fibre, refuse, fabric, wrappings, cigarettes, cardboard, yard clippings, leaves, dead plant material, branches, wood, waste-building materials, glass, crockery, abandoned or unsafe household furnishings and appliances, discarded clothes or wearing apparel, carcasses of dead animals and other like materials, and human feces. Liquid waste includes, but is not limited to oil, paint, solvents and other toxic substances.

1.6 "Storage" is maintaining or allowing an item to remain unused or unmoved on the property for ten days.

1.7 "Town" means the Town of Niverville.

2.0 PROHIBITED ACTIVITIES

2.1 No person having or being entitled to the ownership and/or possession of any land, residence, apartment building, store, building or other premises ("the premises") within the Town, or any part thereof, shall permit or allow:

(a) the existence or storage of junk and/or rubbish, and/or a nuisance upon a premises, or part thereof, or on the sidewalk or the alleys abutting such premises, except as otherwise provided in this Section.

(b) except as hereinafter provided, the growth of grasses or weeds in excess of eight (8) inches upon land occupied by a habitable structure, or eighteen (18) inches upon land without a habitable structure or in irrigation and drainage ditches, these mowing requirements do not apply to flower gardens, vegetable gardens, plots of shrubbery, grain plots, or pastures used for feed, fodder or forage, or to Town-owned areas kept in their natural state or to grasses or weeds which grow more than one hundred (100) feet from any street or habitable structure. Grasses or weeds which are located within one hundred (100) feet of a street, and on which no habitable structure is located within said one hundred (100) feet, shall be mowed to a height no greater than twelve (12) inches.

(c) Notwithstanding anything to the contrary contained herein, noxious plants or designated undesirable plants as defined in The Noxious Weeds Act shall be mowed to a height no greater than six (6) inches if located within one hundred (100) feet of a habitable structure or twelve (12) inches if located farther than one hundred (100) feet from a habitable structure.

3.0 METHOD OF ABATEMENT

In order to abate or remove any grasses or weeds, junk, rubbish or nuisance, the Town may elect to:

3.0.1 Initiate legal action or,

3.0.2 Cause abatement or removal by means of a notice and demand, pursuant to Section 3.2

3.1 INITIATE LEGAL ACTION IN COURT - If the Town elects to initiate legal action, notwithstanding Section 3.2, no prior notice regarding the abatement or removal need be given to the Defendant.

3.2 ABATEMENT PROCEDURE - The Town or anyone authorized on its behalf shall give Notice, as set forth in Section 3.3, that grasses or weeds, junk, rubbish or nuisance, or stagnant water must be abated or rectified. If such grasses or weeds, junk, rubbish or nuisance or stagnant water are not removed or abated as required in the notice, or if an appeal has not been commenced to the Council of the Town, within the time set out in the Notice, the Town is authorized and empowered to cause such grasses or weeds, rubbish or nuisance or stagnant water to be removed or abated and add all costs thereof to the realty taxes for the property.

3.3 (a) NOTICE - Grasses or Weeds, Junk, Rubbish, Nuisance, Stagnant Water

Any person in violation of this By-law shall be given written notice of such fact, by the posting of a Notice on the property in a conspicuous place, directing the cutting of grasses or weeds, or the removal of junk, rubbish or nuisance, or stagnant water. A copy of the Notice shall also at the same time be mailed to the owner of such property as of that date to the address shown on the latest revised Town tax roll. The Notice shall inform the addresses that if such grasses or weeds are not cut or if such junk, rubbish or nuisance, or stagnant water is not removed within twenty-one (21) days of the date of the notice, the Town can cause such junk, rubbish or nuisance, or stagnant water to be removed and assess the costs of such removal as a property tax account against the affected property. The Notice shall also state the date by which the decision of Council of the Town can be appealed to the Council of the Town.

(b) NOTICE - Noxious Weeds

In the case of noxious weeds, notice shall be placed in the local newspaper annually in spring, outlining notice procedure and assessment of costs and the removal of noxious weeds shall be dealt with in the manner provided in The Noxious Weeds Act.

3.4 COSTS and CHARGES - The person or persons responsible for any weeds, rubbish, junk or nuisance, or stagnant water within the Town shall be liable for and bear all costs and expense of the abatement or removal of same, including legal costs, which cost may be collected by the Town by adding the amount of the reality tax account for the affected property and collecting in a like manner as a debt due to the Town.

3.5 RIGHT OF ENTRY - It shall be lawful for the town designate to go upon private property to ascertain the existence of weeds, junk, rubbish or nuisance, or stagnant water.

SECTION II - DECLARED NUISANCES

The following matters are declared to be nuisances:

(1) COMPOST. It is unlawful and constitutes a nuisance for any person to maintain a compost pile which substantially annoys, injures, or endangers the comfort, health or safety of the public. Such annoyance includes, but is not limited to, strong offensive odours or the presence of mice, rats or other vermin.

(2) INTERIOR OF STRUCTURE. It is unlawful and constitutes a nuisance for any person to allow junk or rubbish to accumulate inside a residence or other structure to the extent it is a health and safety hazard to the occupants or the public.

(3) POLLUTING SEWERS. It is unlawful and constitutes a nuisance to pollute a municipal sewer.

(4) OFFENSIVE AND DANGEROUS BUSINESS OR TRADE OR CONDITION. Any business where people congregate, which tolerates or permits a disturbance of the peace, or where the conduct of persons in or about that place is such as to disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passersby on the street, highway or sidewalk, constitutes a nuisance.

(5) SCATTERING DEBRIS. Dumping, throwing, placing or allowing any rubbish, junk, cans, boxes, debris, grass clippings or other waste materials on any public place in the Town is a nuisance and is prohibited. Dumping of waste materials in a public area specifically designated by order of the Town shall not be deemed a violation of this section.

(6) BURNING OF WASTE MATERIAL. It is unlawful to burn waste materials within the limits of the Town, except as allowed in this by-law or any other by-law of the Town.

Any person may burn, only during the spring and fall of each year, garden refuse, grass cuttings, hedge clippings, leaves and like materials from that piece of land, and only in an open fire on the bare ground or in an incinerator suitable for the purpose thereof, and only between the hours of 8:00 o'clock in the forenoon and 6:00 o'clock in the afternoon, on Monday through Friday each week.

(7) VIOLATIONS OF BY-LAWS. It is unlawful and constitutes a nuisance for any person to maintain any property or building or any other structure in the Town in a condition which is in violation of the by-laws of the Town.

(8) CONTAMINATED OR IMPURE WELL OR CISTERN.

(a) Any well or cistern on any property within the Town, whenever a chemical analysis or other proper test shows that the water of the well or cistern is contaminated, impure or unwholesome, or where the location of the well or cistern is dangerous.

(b) Every owner, tenant, occupant, lessee or other person in possession of any premises or any part thereof, upon which there is located a well containing contaminated, impure or unwholesome water, shall abandon the use of the same, and cause the same to be filled with earth or such other material as may be deemed necessary.

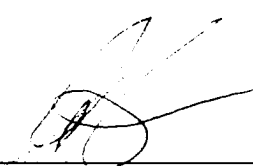
(9) OBSCENITY. Any activity which takes place in or on any structure shall be deemed a nuisance and prohibited when such structure is used to promote or display with intent to promote or display obscene material or obscene performances.

(10) STAGNANT WATER. Any pond of water that is greater than two inches in depth, in any one location, and that exists a least at that depth for more than 36 hours and is entirely surrounded by land shall, for the purposes of this by-law, be deemed to be stagnant water.

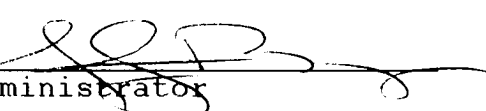
SECTION III

This By-Law shall take effect immediately upon enactment.

DULY ENACTED as a By-Law of the Town of Niverville on the 18th day of June, 1996.



Mayor



Administrator

Read a first time this 18th day of June , A.D. 1996.

Read a second time this 18th day of June , A.D. 1996.

Read a third time this 18th day of June, A.D. 1996.