

THE TOWN OF NIVERVILLE

BY-LAW NO. 869-24

A By-law of the Town of Niverville for the prevention and control of fires, to regulate fireworks and define the authority of the Niverville Fire & Emergency Services.

WHEREAS *"The Municipal Act"*, C.C.S.M., c. 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;
 - (j) the sale and use of firecrackers and other fireworks, the use of rifles, guns, and other firearms, and the use of bows and arrows and other devices;
 - (n) businesses, business activities and persons engaged in business;
 - (o) the enforcement of by-laws.
- S. 264 Every municipality must provide fire protection services within its boundaries to reduce the danger of fire, which may include education programs, inspections of property, the installation of alarms, instructions on fighting fires, the provision of fire fighting equipment and a fire protection force.
- S. 265 Fire protection services may be provided by a fire protection force comprised wholly or partly of volunteers.
- S. 266 For the purpose of providing fire protection services, a municipality may enter into an agreement with a person, another municipality or an agency or department of the Government of Manitoba or the Government of Canada.
- S. 267(1) A municipality or a party to an agreement under section 266 may fix a fee or other charge, or a method for determining a charge, for responses by the fire protection force to false alarms caused by automatic fire detection systems.
- S. 267(2) A fee or charge under subsection (1) may be collected by the municipality in the same manner as a tax may be collected or enforced under this Act.
- S. 268 A fire protection force may, with the approval of the council, provide other services, including the prevention and relief of illness and injury and the preservation of life and property.

S. 270 A fire protection force may take such action as it considers reasonably necessary, including using any real or personal property, entering a building or upon land and demolishing or removing a building, tree, structure or crop to provide fire protection services and, subject to the council's approval under section 268, to prevent injury and to preserve life and property."

AND WHEREAS the "National Fire Code of Canada 2020" provides as follows:

S. 2.4.3.3 (1) "Devices having open flames shall be securely supported in noncombustible holders and shall be located or protected so as to prevent accidental contact of the flame with combustible materials;

S. 2.4.5.1 1) Except for fires used for cooking in fireplaces, grills or barbecues, open air fires shall not be set unless appropriate measures are taken to limit their spread (See Note A-2.4.5.1.(1).)"

AND WHEREAS "The Fires Prevention and Emergency Response Act" C.C.S.M. c. F80 provides as follows:

S. 19(1) "The Lieutenant Governor in Council may, by regulation,
(a) adopt all or part of the *National Fire Code of Canada*, or any other code or standard on fire standards and fire safety, as the "*Manitoba Fire Code*"; and

S. 20 Within its boundaries, a local authority must, in accordance with the procedures of this Act, enforce the "*Manitoba Fire Code*" as it is prescribed for the part of the province in which the local authority is situated."

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 prevention and fighting of fires, fire regulations, regulating the sale and use of firecrackers and other fireworks, and defining the authority and reporting structure of the Niverville Fire & Emergency Services.

NOW THEREFORE, BE IT RESOLVED THAT the Council of the Town of Niverville, duly assembled, enacts as follows:

PART 2

Definitions And Administrative Requirements

Short Title

1.0 This By-law may be cited as "**The Fire Prevention and Emergency Services By-law.**"

Unless otherwise provided, or unless the context otherwise requires, words and expressions in this By-law have the same meaning as the same words and expressions in the Act and in the applicable Code.

In this By-law, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.

Definitions in this By-law:

- 2.0**
- a) **Act** means "*The Municipal Act*", C.C.S.M. c. M225, as amended from time to time.
 - b) **Approved Receptacle** means an approved fire pit, approved outdoor barbeque, approved outdoor fireplace or approved outdoor warming fire receptacle described in Part 6 and in compliance with the Codes.
 - c) **Authority Having Jurisdiction (AHJ)** as referred to in the Codes means the Fire Chief in the Town or a Designated Employee.
 - d) **Building Code** means the "*Manitoba Building Code*" M.R. 31/2011 including any amendments made to it from time to time, unless otherwise modified by the By-law.
 - e) **Chief Administrative Officer (CAO)** means the person appointed to the position of Chief Administrative Officer by Council.
 - f) **Chinese Lanterns** (see Sky Lanterns).
 - g) **Code** means the current National Fire Code of Canada or Manitoba Fire Code.
 - h) **Council** means the Council of the Town of Niverville.
 - i) **Designated Employee** means any member of NFES 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, or to supervise other NFES members.
 - j) **Dwelling Unit** means a room or suite of rooms:
 - a) operated as a housekeeping unit;
 - b) used or intended to be used as a domicile by one or more persons; and
 - c) usually containing cooking, eating, sleeping, living, and sanitary facilities.
 - k) **Facility** includes a group home, childcare home, personal care home, private service home and a residential-service facility.
 - l) **False Alarm** means an unintentional fire alarm signal produced by a fire alarm system, a residential fire warning system, or an alarm communication system where no fire condition exists, and the alarm signal results in notification of a fire department. This is considered a false alarm in this By-law. A false alarm becomes a nuisance alarm when a fire alarm system has repeatedly required the services of the NFES.
 - m) **Federal Regulations** means the regulations passed pursuant to the Explosives Act.
 - n) **Fire Alarm System ("monitored" or not "monitored")** means a system consisting of a control unit and a combination of electrical interconnected devices, which are designed and intended to detect a fire condition and to actuate an alarm or fire in a building or structure; or manually activate and includes the systems installed throughout any building or structure.

- o) **Fire Alarm System "Monitored"** means a fire alarm system or residential fire warning system which is connected to an alarm communication system for the purpose of automatically sending a fire alarm signal directly to a fire and emergency service or indirectly to a fire and emergency services by using another person or agency to forward the alarm.

A private residential or commercial security system with fire or carbon monoxide monitoring is not deemed to be a fire alarm system under this definition.

- p) **Fire Chief** means the appointed or employed person by the Town, and anyone authorized or delegated on behalf of the Fire Chief.
- q) **Firecracker** means any object containing any substance or combination of substances prepared for, capable of, or discharged for the purpose of producing an explosion without a pyrotechnics display, including cannon crackers, firecrackers, mines, squibs and torpedoes.
- r) **Fire Inspector** means an officer who is employed by the Town and authorized by the Fire Chief to act as a municipal inspector for the purposes of "The Fire Prevention and Emergency Response Act" and this By-law.
- s) **Fire Protection Systems** means Fire Alarm Systems, sprinkler systems, special extinguishing systems, standpipe and hose systems, and emergency power installations.
- t) **Fireworks** means explosives that are enclosed in any case or contrivance, or are otherwise manufactured or adapted for the production of pyrotechnic effects, pyrotechnic signals or sound signals and includes any chemical compound or mechanically mixed preparation of an explosive or of an inflammable nature that is used for the purpose of making such explosives, but does not include firecrackers; means those items included in Class 7 of the "Explosives Act" (Canada), and includes low hazard fireworks, high hazard fireworks and pyrotechnic special effects.
- u) **Fireworks Display** means any occasion in which fireworks are ignited, fired or set off.
- v) **Fireworks Display Permit** means a permit issued under Part 5, subsection 5.1.
- w) **Fireworks Distribution Permit** means a permit issued under Part 5, subsection 3.1.
- x) **Fireworks Supervisor** means an individual who has been certified by the Explosives Regulatory Division of Natural Resources Canada to supervise fireworks displays.
- y) **High Hazard Fireworks** means fireworks in Class 7, Division 2, Subdivision 2 of the "Explosives Act" (Canada).
- z) **Lessee** means a person who leases a building or land and includes an occupant, tenant or sub-tenant.

- aa) **Local Authority** means the Town.
- bb) **Lockbox** means a secure key safe that is mounted near the main entry door of a building, with keys available to emergency response services so that they can gain immediate emergency entry in case of a fire, medical, or other type of emergency, rather than requiring a forced entry that causes damage to doors or windows.
- cc) **Low Hazard Fireworks** means fireworks classed as Subdivision 1 of Division 2 fireworks in the federal regulations comprised of low hazard fireworks generally used for recreation, such as fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sparklers, but does not include Christmas crackers or caps for toy guns (fireworks in Class 7, Division 2, Subdivision 1 of the "Explosives Act" (Canada).
- dd) **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.
- ee) **"Manitoba Fire Code"** means the National Fire Code adopted and amended by Manitoba Regulation 63/98 pursuant to "The Fires Prevention and Emergency Response Act", C.C.S.M. c. F80.
- ff) **NFPA** means the National Fire Protection Association.
- gg) **Niverville Fire & Emergency Services (NFES)** means the Fire & Emergency Services for the Town, and includes any part-time, composite (any combination of full-time, part-time or volunteer) or a volunteer fire department member.
- hh) **Nuisance Alarm** is a false alarm that becomes a nuisance alarm when a fire alarm system has repeatedly required the services of the NFES.
- ii) **Open-air Fire** means a fire set outdoors for any purpose, including cooking, recreation, warming, generation of heat, the disposal of wood, stubble or crop residue and for religious or ceremonial purposes.
- jj) **Operate** in relation to a portable barbeque, includes lighting, igniting, maintaining a fire within and cooking on a portable barbeque.
- kk) **Owner** means a person who has any right, title, estate or interest in land or buildings other than that of a mere occupant, lessee, tenant or mortgagee.
- ll) **Paper Lantern** (see Sky Lantern).
- mm) **Permit** means any permit issued in conjunction with this By-law.
- nn) **Person** includes a corporation and the heirs, executors, administrators or other legal representatives of a person.
- oo) **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.

- pp) **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.
- qq) **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.
- rr) **Pyrotechnic Special Effects** means fireworks to which the Pyrotechnics Special Effects Manual, current edition, published by the Explosives Regulatory Division of Natural Resources Canada applies and includes black powder bombs, bullet effects, flash powder, smoke compositions, gerbs, lances and wheels.
- ss) **Residential Property** includes any land zoned for residential occupancy within the Town.
- tt) **Sky Lanterns**, also known as Kongming lanterns, Chinese lanterns, paper lanterns, wish lanterns, etc. is a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended.
- uu) **The Fires Prevention and Emergency Response Act** means the current Fires Prevention and Emergency Response Act of Manitoba.
- vv) **Town** means the Town of Niverville.
- ww) **Urban Area** means properties within the Town of Niverville boundaries other than those zoned Agricultural.

Adoption of Fire Codes

3.0 Except to the extent that it conflicts with the By-law, the current "Manitoba Fire Code" and National Fire Code of Canada are hereby adopted and form part of this By-law.

"Authority having Jurisdiction" (AHJ)

3.1 For the purposes of this By-law, references in the "Manitoba Fire Code" or National Fire Code of Canada to the "authority having jurisdiction" are references to the Town.

Powers of Designated Employees

4.0 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

5.0 An order to remedy the 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

6.0 Where a person is entitled to an appeal of an order or a decision under this By-law, the appeal may be made to Council.

Address for Service

7.0 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 Town 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 license under this By-law, the address provided in the application.

Interpretation

8.0 It is the purpose of this by-law to establish the standards for fire prevention; firefighting and life safety in buildings; the prevention, containment and fighting of fires originating outside buildings which may present a hazard to all or any part of the Town; the operation of Emergency Services and the transportation, use and storage of flammable and combustible substances.

Except as modified by this By-law, it is declared that the "Manitoba Fire Code" and National Fire Code of Canada as revised and amended from time to time are in force within the Town of Niverville.

Local Assistant

9.0 The Fire Chief of the NFES is the Local Assistant, and the Authority having Jurisdiction, as defined in "The Fires Prevention and Emergency Response Act" and is continued by this By-law.

Continuation of the Niverville Fire & Emergency Services (NFES)

10.0 The NFES is continued as an established department of the Town, and is to be comprised of a Fire Chief, Deputy Fire Chief(s) or Officers and such other NFES "paid on call" personnel and volunteers as from time to time may be deemed necessary by the Fire Chief.

Subject to the provisions in this By-law, the NFES is authorized to provide the following services:

- Fire Suppression & Rescue
- Medical Response – Emergency Medical Responder level
- Aquatic Rescue
- Vehicle Extrication & Rescue
- Hazardous Materials Response – Operations Level

The Town is to provide the following additional services:

- Fire Investigations
- Fire Prevention & Inspection
- Public Education

Agreements & Contracts

11.0 The Town may elect to enter into an agreement with another Municipality to provide or have provided Emergency Services. Such an agreement requires prior authority from the CAO.

Response outside Municipality

12.0 The NFES will not respond to any call with respect to a fire or an emergency outside the Town boundaries except with respect to a fire or emergency:

- a) that in the opinion of the Fire Chief threatens property in the Town or property situated outside the Town that is owned or occupied by the Town; or
- b) in a Municipality with which an agreement has been entered into to provide fire protection services or Emergency Services; or
- c) in a Municipality which forms part of a mutual aid agreement for which the Town is a member; or
- d) on property with respect to which an agreement has been entered into with any person or corporation to provide fire protection therefor; or
- e) for which the Chief Administrative Officer has first authorized such attendance; or
- f) under such circumstances as it appears human life is in jeopardy; or
- g) upon request for assistance from the Office of the Fire Commissioner or some other properly designated office of the Province of Manitoba.

Requiring Additional Assistance

13.0 The Fire Chief, or in their absence, a Deputy Fire Chief or senior officer of the NFES present at any fire or providing any other Emergency Service, shall have the right and authority to require any able-bodied adult person to assist in extinguishing fires, to assist in the control of spread of fire and to assist in any other required Emergency Services and any such person, while acting under the direction of the Fire Chief, shall be deemed a volunteer of the Town for the purpose of insurance coverage under the Town. and covered under the Town's insurance policy.

The Fire Chief may also request Mutual Aid assistance for which an agreement has been signed and authorized by the CAO.

Commandeering Equipment

14.0 The Fire Chief or in their absence, a Deputy Fire Chief or a senior officer of the NFES present at any fire or providing any other Emergency Service, shall have the right and authority to commandeer and authorize payment for the possession or use of any equipment for the immediate purpose of fighting a fire or providing any other Emergency Service.

Prevention of Fire Spread & Tampering with Equipment

- 15.0**
- a) The Fire Chief, or in their absence, a Deputy Fire Chief or a senior officer of NFES present at any fire shall have the right and authority to enter, pull down or demolish any house of building or structure, directly or indirectly affected, where deemed reasonably necessary for the purpose of extinguishing a fire or to control or prevent the spread of fires or in conjunction with dangerous goods or rescue.
 - b) It shall be an offence for any person, other than the Authority Having Jurisdiction or a Fire Fighter in the course of duty, to turn on or interfere with any fire hydrant, in any manner whatsoever.

- c) It shall be an offence for any person to tamper with, damage, or discharge any fire prevention, fire suppression, or rescue apparatus, or move any such apparatus from its allocated location, without the permission of the Fire Chief or their designate.

Duties of the Fire Chief

16.0 The Fire Chief is the head of NFES and is also a local assistant as defined in "The Fires Prevention and Emergency Response Act" and is responsible:

- a) for and must carry out the daily administration and operations of the NFES and may make any policies, regulations, or operating procedures where necessary, with policies and regulations to be approved by the CAO in writing;
- b) to administer and enforce this By-law within the Town; and
- c) to report to the CAO.

Reporting and Organizational Structure

17.0 The NFES is under the authority of the CAO, with the Fire Chief reporting directly to the CAO, and all other NFES members reporting to the Fire Chief or the Designated Employee. The CAO is responsible for all reporting to Council regarding the operation of the NFES.

The CAO must ensure that the annual report containing the information required by the fire commissioner about emergency response resources in the local authority is filed with the fire commissioner, as noted in "The Fires Prevention and Emergency Response Act".

All emergency response personnel that are full-time, part-time, casual or true volunteers, are considered to be municipal employees or "workers" as defined under the Workers Compensation Act (the "Act").

Council delegates to the CAO, the authority to give consent for the NFES to provide other services, including the prevention and relief of illness and injury and the preservation of life and property, as noted in Section 268 of the Act.

Inspection Services

18.0 In addition to the authority provided to conduct inspections pursuant to The Fires Prevention and Emergency Response Act, the Fire Chief or a fire inspector may carry out inspections:

- a) on behalf of and at the request of an owner or operator of a facility where an inspection, letter of approval or report with respect to the fire safety of the facility is required;
- b) as required by the Fire Commissioner pursuant to provincial legislation; or
- c) as outlined in the fire department's fire prevention plan.

18.1 The "Authority Having Jurisdiction" (AHJ) may, at all reasonable times, enter any premises for the purpose of making an inspection, and any person in charge of the premises shall allow the AHJ free access thereto.

The purpose of conducting an inspection is to:

- a) protect the residents and clients of the facility, as they are vulnerable members of the community;
- b) ensure that the structure, equipment and maintenance of the facility complies with "The Fires Prevention and Response Act", the "Manitoba Fire Code" regulations and this By-law; and
- c) assist in determining if the operator or owner of the facility is satisfying the licensing requirements relating to fire safety set out in provincial legislation.

18.2 Notwithstanding any other provision of this By-law, where in the course of an inspection or investigation under this By-law, the Fire Chief or their designate is of the opinion that a condition exists creating a serious danger to life or property, the Fire Chief or their designate may:

- a) use any measures appropriate to remove or lessen the condition;
- b) evacuate the building, structure, or area which has been considered appropriate;
- c) close a building or area that is considered a serious danger to life and property; and
- d) costs of such an action are the expense of the property owner.

PART 3 FIRE PREVENTION & LIFE SAFETY

Burning Ban

1.0 The CAO or their designate may authorize in writing, a ban on ANY or ALL burning (includes fires contained within fire pits and solid fuel burning appliances) in the Town if conditions exist where, in the opinion of the Town, fires are extremely high risk and as such a ban is necessary for the safety, health and protection of its residents or property.

Level I – Fires are allowed in approved receptables (see Part 6). Open-air fires are allowed, any person who wishes to cause an open-air fire must notify the NFES of their intent.

Level II – Fires are only allowed in approved receptacles (see Part 6). NO open-air fires allowed.

Level III -NO fires of any type are allowed.

Smoke Alarms & Fire Protection Systems

2.0 Smoke Alarm and Fire Protection Systems including fire extinguishers shall be installed, maintained, and inspected as required by the Manitoba Fire Code.

Where the NFES attends in response to a fire alarm call which is an apparent false alarm, the Fire Chief, or in their absence a Deputy Fire Chief or a senior officer of the NFES present at the scene, will attempt to contact the property owner or other designated person to attend and secure the premises. Where unable to reach the property owner or designated person, a security guard may be called in to perform fire watch at the expense of the owner. The total cost of restoration of any fire alarm equipment, and related costs of hiring a security guard or any fire watch service, shall be the responsibility of the owner or their insurer. The owner will be invoiced for all costs and if the invoice remains unpaid, the costs may be added to the real property taxes for the premises and collected in the same manner as property taxes.

False alarms and nuisance alarms pose a threat to the safety of responding NFES members, and members of the public, by creating unnecessary hazards and possibly delaying the NFES response to other potential emergencies. A false alarm becomes a nuisance alarm when a fire alarm system has repeatedly required the services of the NFES. Following 2 nuisance alarms within a one-year period, the owner of the property which has had the 2 nuisance alarms will be given notice in writing that any further nuisance alarms will result in the property owner being invoiced for the call out of the NFES. Property owners testing their fire alarm system and failing to take it offline thus initiating a response from NFES will be charged per incident.

Lockbox Requirement

3.0 A lockbox may be required for a building at the discretion of the Designated Employee. All costs associated with a lockbox are to be borne by the property owner.

Accumulation of Hazardous, Combustible & Flammable Materials

4.0 All boxes, crates, petroleum barrels and other containers, empty or otherwise, packing materials, or other material used or kept in any building or on any lot, shall be:

- a) stacked or piled as to keep them clear of windows and doors to provide for clear ingress and egress to and from any part of the premises or building;
- b) kept away from any source of ignition; and
- c) removed forthwith if determined to constitute a fire hazard by the Authority Having Jurisdiction to such location as authorized by the Authority Having Jurisdiction.

All chimneys and pipes for fireplaces or wood stoves shall be installed in conformance with the current applicable Code and must be cleaned regularly to prevent the buildup of creosote. Where the Fire Chief deems it necessary, they may give notice to any owner requiring the cleaning of any chimney or pipe and where such order is not complied with within ten (10) days the Fire Chief may cause the work to be done and the cost therefor shall be the responsibility of the owner.

All buildings and properties shall be adequately maintained in order to guard against fire or the risk of fire.

Prior written permission from the Fire Chief shall be required for the storage of flammable and/or combustible liquids or hazardous materials in excess of the amounts permitted in the current applicable Code.

PART 4 – PERMITS

Permits Issued by Designated Employee

1.0 Any permit required under this By-law must be issued by a Designated Employee.

Permit May be Subject to Conditions

2.0 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.

Permit may be Flexible

3.0 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 in a single area or location.

Applications for Permits

4.0 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) information concerning the activity and the circumstances in which the activity will be carried out; and
- d) may require the applicant to pay a fee for the permit.

Obligations of Permit Holder

5.0 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.

Refusal to Issue Permits

6.0 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;
- 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; or
- h) the Designated employee has not had sufficient time to review the permit application.

Withholding Permits

7.0 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.

Suspension and Revocation of a Permit

8.0 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

9.0 Subject to subsection 4, a fee in the amount set out in the Town's Fees and Fines Schedule, which may be amended by resolution of Council, must be paid by the applicant before a permit may be issued by the Designated employee.

Waiver of Permit Fee

10.0 Notwithstanding subsection 4, 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

11.0 Subject to subsection 8, 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 NFES to process and administer the permit has been minimal.

Cancellation Fee Must be Withheld

12.0 Notwithstanding subsection 11, where all or a portion of the permit is refunded, the permit cancellation fee set out in Town's Fees & Fines Schedule must be retained.

PART 5 - FIREWORKS**Unauthorized Fireworks Prohibited**

1.0 No person may:

- a) possess;
- b) ignite, fire or set off or cause to be ignited, fired or set off; or
- c) sell, cause or permit to be sold or offer for sale;

any fireworks, except those on a list maintained by the Chief Inspector of Explosives for the Government of Canada pursuant to section 24 of the "Explosives Regulations", C.R.C.c.599.

Sale of Fireworks to Persons Under 18 Prohibited

2.0 No person may sell, offer for sale or distribute any fireworks, and no person being the owner, occupant or person in charge of any premises may permit any fireworks to be sold, offered for sale or distributed on the premises to anyone under eighteen years of age.

Fireworks for Sale must be Inaccessible to Public

3.0 Any person who sells, offers for sale or distributes fireworks or who, being the owner, occupant or person in charge of any premises, permits any fireworks to be sold, offered for sale or distributed on the premises must ensure that the fireworks being offered for sale are either packaged or stored in a manner that prevents members of the public from having direct physical contact with the fireworks other than under the supervision of the Fireworks Distribution Permit holder or the permit holder's agent.

Distributor must Post Notice

3.1 Any person who sells, offers for sale or distributes fireworks in the Town must post a notice by a fireworks sale display advising the purchaser or recipient of the fireworks that no fireworks may be ignited, fired or set off within the Town without a Fireworks Display Permit issued by the Designated Employee.

Storage of Fireworks

4.0 Any person who stores and handles fireworks must do so in a manner that minimizes the risk that they will be set off accidentally or in violation of this By-law.

Dangerous Quantities Fireworks Storage and Distribution Permit

4.1 Any person who stores or distributes:

- a) more than 1000 kilograms gross weight of Low hazard fireworks; or
- b) any amount of High hazard fireworks or pyrotechnic special effects;

must obtain a Dangerous Quantities Fireworks Storage and Distribution Permit for this purpose from the Designated Employee.

Adequate Sprinkler Protection Required

4.2 No person may store:

- a) more than 1000 kilograms gross weight of low hazard fireworks; or
- b) any amount of high hazard fireworks or pyrotechnic special effects;

except inside a building which meets the sprinkler system requirements for buildings classified as High Hazard Industrial in the "Manitoba Fire Code".

Special Exemption by Designated Employee

4.3 The Designated Employee may exempt a person from the requirements of subsection (2) where he or she determines that an adequate level of public safety is achieved at the proposed storage facility for the fireworks, taking into account:

- a) the location of the storage facility relative to other building and activities;
- b) the preventative measure taken to prevent the fireworks from being set off in the facility;
- c) the measures taken to suppress and contain fireworks that have been set off in the facility; and
- d) other relevant factors.

Fireworks Display Permit Required

5.0 No person may ignite, fire or set off any fireworks or cause any fireworks to be ignited, fired or set off, and no owner or occupant of premises may permit fireworks to be ignited, fired or set off on the premises, without a Fireworks Display Permit issued by the Designated Employee.

Fireworks Display Permit not issued to Persons under 18

5.1 A Fireworks Display Permit shall not be issued to an individual under the age of 18 years.

Permit for High Hazard Fireworks only issued to Licensed Individual

5.2 A Fireworks Display Permit for a fireworks display involving high hazard fireworks or pyrotechnic special effects shall not be issued to anyone other than a licensed individual.

Insurance may be Required

5.3 A Fireworks Display Permit may be withheld until and unless the applicant provides evidence that he or she has obtained insurance for the fireworks display of a type and in an amount sufficient, in the opinion of the Designated Employee, to provide reasonable coverage for any accidental harm that may result from the fireworks display.

Person Under 18 Prohibited From Setting Off Fireworks

6.0 No person under the age of 18 years may ignite, fire or set off any fireworks or cause any fireworks to be ignited, fired or set off.

Fireworks Must Not Cause Danger or Create Nuisance

6.1 No person may ignite, fire or set off any fireworks or cause any fireworks to be ignited, fired or set off in a place or in a manner that might cause a danger to people or property or that might create a nuisance.

Fireworks Prohibited on Streets or Public Places

6.2 No person may ignite, fire or set off any fireworks or cause any fireworks to be ignited, fired or set off in or on or into any highway, street, lane, square or any other public place except as otherwise permitted by this By-law.

High Hazard Fireworks

6.3 No person may ignite, fire or set off any high hazard fireworks or cause high hazard fireworks to be ignited, fired or set off except in conformity with the current issue of the Display Fireworks Manual published by the Explosives Regulatory Branch of Natural Resources Canada.

Pyrotechnic Special Effects

6.4 No person may ignite, fire or set off any pyrotechnic special effects or cause any pyrotechnic special effects fireworks to be ignited, fired or set off except in conformity with the current issue of the Pyrotechnics Special Effects Manual published by the Explosives Regulatory Branch of Natural Resources Canada.

Safety Precautions Required in Fireworks Display

6.5 A person who ignites, fires or sets off fireworks must do so in a manner consistent with the safety of people and property and, in particular, may do so only while:

- a) safeguards are in place to keep spectators at a safe distance; and
- b) suitable fire extinguishing equipment is at hand.

Unused Fireworks must be Disposed Of

6.6 Immediately following a fireworks display, a person who ignited, fired or set off any fireworks or who caused fireworks to be ignited, fired or set off must ensure that all unused fireworks are removed and safely disposed of.

Fireworks on Private Property

7.0 Subject to subsection 5.0, no person may ignite, fire or set off fireworks on or over private property unless the person has:

- a) obtained written permission to do so from the Designated Employee;
- b) agreed in writing to assume all liability associated with the fireworks display, fully indemnifying the Town and saving it harmless from any liability associated with the fireworks display; and
- c) deposited with the Chief Administrative Officer (CAO) of the Town a certificate that, in the opinion of the CAO, is sufficient to provide the indemnification referred to in clause (b).

Fireworks on Town Property

7.1 Subject to subsection 5.0, no person may ignite, fire or set off fireworks on or over land owned by the Town or over which the Town has possession or control unless the person has:

- a) obtained written permission to do so from the Designated Employee;

- b) agreed in writing to assume all liability associated with the fireworks display, fully indemnifying the Town and saving it harmless from any liability associated with the fireworks display; and
- c) deposited with the Chief Administrative Officer (CAO) of the Town a certificate that, in the opinion of the CAO, is sufficient to provide the indemnification referred to in clause (b).

Exemptions

7.2 Clauses (b) and (c) of subsections 7.0 and 7.1 do not apply to fireworks ignited, fired or set off by individuals while acting out of or in the course of their duties as directors, employees or volunteers of community centres and other entities for which insurance is purchased by the Town.

PART 6 - OUTDOOR FIRES AND PORTABLE BARBEQUES

All Open-Air Fires Subject to By-law

1.0 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 Fires Banned

1.1 Sky Lanterns are banned from use within the boundaries of the Town.

Open-air Fire Permit Required

2.0 Subject to subsection 2.1, 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 they are 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

2.1 Subsection 2.0 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) portable barbeques that are fueled, operated and maintained in conformance with the manufacturer's instructions;
- c) appliances that are approved by the Canadian Gas Association (CGA), are installed, operated and maintained in conformance with the manufacturer's instructions, and are fueled by propane or natural gas;
- d) 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;
- e) burning conducted by the NFES or persons authorized by the Designated employee for the purpose of training members of the NFES and the public;
- f) 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 hours of 8:00 a.m. and 9:00 p.m., Monday through Saturday each week; and

g) Agricultural Zoned Properties – subject to the burning being in compliance with the following:

- i. only materials that comply with the Regulations and Acts as implemented and overseen by Manitoba Conservation may be burned;
- ii. burning or lighting a fire during a fire ban is prohibited unless a burn permit has been granted;
- iii. burning or lighting a fire is prohibited when the wind velocity exceeds 32 km/hour.
- iv. a person(s) in charge of an open fire must ensure that:
 - The fire is supervised onsite until fully extinguished;
 - The fire is kept under control by providing adequate personnel to attend the fire;
 - An adequate supply of water or other means of control and extinguishment are readily available;
 - the fire is not set or maintained in conditions or locations which could result in reduced visibility on a highway or roadway and adjacent properties;
 - the fire does not spread to adjacent areas or properties and inflict damage to neighboring properties by providing an adequate fire break; and
 - if fire spreads beyond intended limits to call 911.

Requirements for Fire Pits

3.0 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 mm (3.0 feet);
- d) not be used for commercial or industrial applications;
- e) be located in the rear yard of a residential property;
- f) may be located on a driveway provided that the receptacle is elevated and at least 10 feet from a combustible structure;
- g) at no time have flames that are more than 0.60 m (2 feet) above the top of the pit opening;
- h) at no time are portable fire pits allowed in garages or outbuildings; and

- i) If the Owner of a building allows tabletop propane-fueled fire pits or other heating appliances to be installed on their decks or balconies, then the appliances, cylinders, or any other items must be installed in accordance with the manufacturer's certified instruction and the CSA Group B149.1-15 codes and standards.

Requirements for Outdoor Barbeques

4.0 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);
- d) use the barbecue in a reasonable manner;
- e) keep the barbecue when lit a sufficient distance from all combustible materials;
- f) keep the barbeque in a reasonable state of repair;
- h) comply with all federal and provincial regulations governing the use and storage of propane tanks; and
- i) if the Owner of a building allows propane barbeques and other appliances to be installed on their decks or balconies, the barbeques, cylinders, or any other items must be installed in accordance with the manufacturer's certified instruction and the CSA Group B149.1-15 codes and standards.

Requirements for Outdoor Fireplaces

5.0 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); and
- d) has its side opening entirely covered by a non-combustible spark arrestor, grill or mesh with openings no larger than 12mm (1/2 inch).

Requirements for Outdoor Warming Fire Receptacles

6.0 An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 225 liters (50 gallons) with all openings entirely

covered by removable, non-combustible spark arrestors, grills or mesh with openings no larger than 12 mm (1/2 inch), and must be maintained a minimum of 10 feet from any combustible buildings or structures, combustible fences, trees and overhead wires, be fueled only by clean wood, and may not be fueled by garbage, rubber, plastic, painted or chemically treated wood.

Rules regarding all Open-Air Fires

7.0 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:
 - smoke which causes a nuisance on adjacent properties;
 - reduced visibility on any highway or road;
 - a rapid spread of fire through grass or brushed area;
- e) the fire is not set or maintained when the wind exceeds 32 kilometers per hour;
- f) if the fire becomes uncontrollable or spreads beyond its assigned limited, the NFES is alerted by calling 911;
- g) the fire is maintained within an approved receptacle;
- h) the fire is maintained a minimum of 3 meters (10 feet), as measured from the nearest edge of the fire, from any combustible buildings or structures, combustible fences, trees and overhead wires;
- i) only clean, dry, unpainted and untreated wood is burned and no grass, leaves, brush or tree pruning materials are burned in the fire; and
- j) burn barrels and burning of garbage and rubbish is prohibited.

Regulations for Burning on Agricultural Zoned Properties

- 7.1**
- a) Burn only materials that comply with the Regulations and Acts as implemented and overseen by Manitoba Conservation;
 - b) Burning or lighting a fire during a Fire Ban is prohibited unless a Burn Permit has been granted;
 - c) Burning or lighting a fire is prohibited when the wind velocity exceeds 32 km/hour; and
 - d) A person(s) in charge of an open fire must ensure that:
 - The fire is supervised until fully extinguished;
 - The fire is kept under control by providing adequate personnel to attend the fire;

- An adequate supply of water or other means of control and extinguishment are readily available;
- The fire is not set or maintained in conditions or locations which could result in reduced visibility on a highway or roadway and adjacent properties;
- The fire does not spread to adjacent areas or properties and inflict damage to neighboring properties by providing an adequate fire break;
- If fire spreads beyond intended limits to call 911.

Permit Authorizing Variations of General Rules for Fires

7.2 A Designated employee may issue a permit authorizing a fire that does not strictly comply with Part 6 where the Designated employee is satisfied that doing so will not expose people or property to undue risk.

Permit Required for Religious or Ceremonial Fires

7.3 All fires set for religious or ceremonial purposes:

- a) must be maintained in an "acceptable" receptable as per the by-law unless the permit authorizing the fire states otherwise;
- b) must be limited in size so that it may be readily controlled and any combustible materials kept a safe distance from the fire;
- c) must never be left unattended until and unless fully extinguished; and
- d) be controllable by having a means of extinguishment on site such as a portable fire extinguisher.

Permit Required for a Warming Fire

7.4 A warming fire for the purpose of temporarily warming a person's body, face and/or hands:

- a) must be set in a metal receptable in good repair that has a maximum capacity of 225 liters (50 gallons) with all openings entirely covered by removable non-combustible spark arrestors, grills or mesh with openings no larger than 12 mm (1/2 inch);
- b) must be fueled only by clean wood;
- c) must not be fueled by garbage, rubber, plastic, painted or chemically treated wood; and
- d) must be maintained a minimum of 3 meters (10 feet) from any combustible buildings or structures, combustible fences, trees and overhead wires.

Obligations of Person in Charge of a Portable Barbeque

8.0 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 meter (39 inches), 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

8.1 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 Drive (O.P.D.).

Operation of Portable Barbeque on Balcony, Patio or Deck

8.2 Notwithstanding subsections 1 and 2, no one may operate a portable barbeque that uses solid fuel on a balcony, patio or deck of a multiple family dwelling.

In addition to the requirements in subsection 1, if any person uses a barbecue or similar device on a balcony, the following provisions apply:

a) solid fuel barbecues and devices shall not be used;

b) propane cylinders shall not exceed the 30 pounds size;

c) propane cylinders shall not be stored within the building;

d) propane cylinders shall be shut off at the tank when not in use;

e) propane tanks shall be secured to the barbecue;

f) propane cylinders shall be stored in an upright position; and

g) barbecues must be kept a sufficient distance from all combustible materials.

Storage and Handling of Propane Storage Cylinders (tanks)

9.0 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 meters (6.5 feet) of a portable barbeque.

Storage of Propane Cylinders on Balconies

9.1 The owner of a propane storage cylinder designed for use on a portable barbecue 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 30-pound tanks are stored on any balcony, including any tank attached to a portable barbeque; and
- c) tank valves are not nearer than 1 meter (39 inches) from any door or window that is lower than the valve.

Vacant and Fire Damaged Buildings

- 10.0**
- a) In accordance with the Code, all vacant buildings shall be secured against unauthorized entry;
 - b) Where a building is damaged by fire, the owner of the building shall secure the building against unauthorized entry immediately after the fire has been put out; and
 - c) Where the owner is unavailable or fails to comply with sentence a), the Town may secure the building and add the expenses and costs incurred by the Town to the tax roll of the parcel of land upon which the building is located.

Street Number Addresses

- 11.0** Every owner of a building shall install the street number for that building on the front of the building or in some other conspicuous location in front of the building so that the building number is legible and visible from the street.

Maintenance of Hydrants

- 12.0** No person shall erect, place, allow or maintain a fence, shrub, tree or other object within one meter of a hydrant, and nothing should be placed in front of the hydrant that obstructs the view of the hydrant from the street.

Maintenance of Hydrants on Private Property

- 12.1** Designated employees may access hydrants on private property for the purposes of conducting inspections, testing and operating hydrants and may assign timelines to property owners within which repairs to private hydrants must be completed.

Fees

- 13.0** Fees to the Town are set out in Town's Fees and Charges By-law, which may be duly amended by resolution of Council.

Offense and Penalties

- 14.0**
- a) Any person who contravenes or disobeys or refuses or neglects to obey any provision of this By-law is guilty of an offense and liable to a penalty as referenced in the Town's By-law Enforcement By-law;
 - b) Where an infraction of any of the provisions of this By-law continues for more than one day, the person is guilty of a separate violation each day such infraction continues;
 - c) In the event NFES is called out to extinguish outdoor fires as a result of non-compliance to this By-law, all costs incurred by the Town may be assessed to the property owner as identified on the Town's tax roll; and
 - d) All fines and costs imposed on a prosecution under this By-law, are a debt owed by the person who set a fire and the owner of the property on which the

fire was located, to the Town of Niverville and may be recovered by the Town in a court of competent jurisdiction or may be collected by the Town in the same manner as a tax may be collected or enforced under The Municipal Act.

Repeal

15.0 By-law No. 864-24 is repealed effectively 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 17th day of December 2024.



Mayor



Chief Administrative Officer

Given 1st reading this 3rd day of December, 2024

Given 2nd reading this 3rd day of December, 2024

Given 3rd reading this 17th day of December, 2024