THE CITY OF WINNIPEG

BY-LAW NO. 93/2014

A By-law of THE CITY OF WINNIPEG to regulate activities on the frozen surfaces of waterways.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the Frozen Waterways By-law.

Definitions

2 In this By-law

"building" has the same meaning as in *The City of Winnipeg Charter*;

"construction" has the same meaning as in *The City of Winnipeg Charter*;

"designated employee" means the Director of Planning, Property and Development of the City of Winnipeg and any other City employee whom the Director authorized to enforce or administer all or part of this By-law;

"motor vehicle" has the same meaning as in *The Highway Traffic Act*;

"waterway" means a river, stream, creek, or retention pond and includes the Red River, the Assiniboine River, the Seine River, Sturgeon Creek, and Omand's Creek;

Designated employee may prohibit activities on waterways

3 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 City of Winnipeg 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, riverbanks and other areas adjacent to the waterway;

(c) noise or other nuisances likely to be suffered at nearby properties; and

(d) other relevant factors.

Activities requiring permits

4(1) 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 Winnipeg Building By-law if it took place on land;

(b) operation of a motor vehicle or heavy equipment;

(c) activities that are expected to attract more than 200 people to one place on the river;

(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.

Conditions on permits

5(1) A designated employee may impose any conditions that he or she considers 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, a requirement that it comply with relevant requirements of the Winnipeg Building By-law, the Winnipeg Electrical By-law, the Fire Prevention By-law and other relevant by-laws;

(e) a requirement that no damage or harm be done to riverbanks 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 City 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.

Recurring activities prioritized

6 Where permits are sought for activities that will interfere or conflict with one another, the designated employee may give priority to activities that have taken place annually in preceding years.

Removal of objects from waterways mandatory

7(1) Any person who places or installs an object on a waterway must ensure that it is removed before the ice on the waterway breaks up.

7(2) For the purposes of this section, "object" includes a building or structure, furniture, vehicles, trees, and straw bales.

Powers of designated employees

8 Designated employees may conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law and to provide services or do work in accordance with *The City of Winnipeg Charter* and, for these purposes, have the powers of a "designated employee" under *The City of Winnipeg Charter*.

Penalties for violations of by-law

9 A person who contravenes this By-law is guilty of an offence and on summary conviction is subject to a minimum fine of $200.00 for each day the offence continues.

Appeals of decisions

10(1) Subject to this section, where an appeal from an order or decision under this By-law is authorized by *The City of Winnipeg Charter*, the appeal may be made to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management in accordance with *The City of Winnipeg Charter*.

10(2) Subject to subsection (3), an administration fee in an amount established by Council or by an individual or body authorized by Council to do so is hereby imposed for an appeal made under this section. An appeal may not be accepted by the City Clerk until the fee imposed by this subsection has been paid to the City Clerk.

10(3) The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, after hearing the appeal, may order the administration fee referred to in subsection

(2) to be refunded to the appellant if the appeal has been made in good faith and has some merit.

Repeal of By-law No. 6581/95

11 The Frozen Waterways By-law No. 6581/95 is hereby repealed.

DONE AND PASSED, this 16th day of July, 2014.

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Mayor

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City Clerk

Approved as to content:

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Director of Planning, Property and Development

Approved as to form:

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For A/Director of Legal Services/City Solicitor