

THE CORPORATION OF THE CITY OF DRYDEN  
BY-LAW NUMBER 2024 - XX

A BY-LAW OF THE CITY OF DRYDEN TO RESTRICT THE USE OF DE-ICERS.

**WHEREAS** the Council of the Corporation of the City of Dryden deems it necessary and expedient to pass a by-law to disallow the use of de-icers to increase the protection of persons from dangerous places and improve the overall health, safety and well-being of persons.

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising their authority under the Act;

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public and may pass by-laws respecting:

1. Health, safety and well-being of persons.
2. Protection of persons and property, and for the purpose of public safety; cliffs, pits, deep waters and other dangerous places.
3. Structures, including fences and signs.

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances, and that, if arrived at in good faith, is not subject to review by any court.

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality;

**AND WHEREAS** the *Municipal Act, 2001*, as amended, provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) A by-law of the municipality passed under this Act;
- (b) A direction or Order of the municipality made under the Act or made under a by-law of the municipality passed under the Act;
- (c) A condition of a licence issued under a by-law of the municipality passed under the Act; and,
- (d) An Order made under Section 431 of the Act.

**NOW THEREFORE**, the Council of The City of Dryden enacts as follows:

**APPLICATION**

This by-law applies to all waterfront lands, and expressly includes adjacent lands covered by water, within the City of Dryden.

**DEFINITIONS**

The following are defined terms:

**“agent”** means any person authorized by an Officer and acting on behalf of the City of Dryden, including but not limited to employees, contractors, or subject matter experts.

**“de-icer”** shall mean any device, mechanical or otherwise, the use of which is intended to inhibit or prevent the natural freezing of water, or the formation of ice around, upon, or within an in-water or on-water structure or building. Without limiting the generality of the foregoing, a de-icer includes but is not limited to an aerator, agitator, bubbler, or heating device.

**“Officer”** means a By-law Enforcement Officer appointed by the Council of the City of Dryden.

## **GENERAL REGULATIONS**

1. No person shall place or operate, or cause to be placed or operated, any de-icer in front of land owned by any person within the municipal boundaries of the City of Dryden. For the purposes of this section, "in front of land" shall be determined using an extension of the side lot lines over and upon the abutting waterbody.

## **ENFORCEMENT, OFFENCES AND PENALTIES**

2. Where an Officer is satisfied that a contravention of this by-law has occurred, the Officer may make an Order requiring the person who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity or to do work to correct the contravention by no later than any date/time as determined by the Officer.
  - a. An Order issued pursuant to this section shall set out the reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
    - i. the date by which there must be compliance with the Order; or,
    - ii. the work to be done and the date by which the work must be done.
  - b. An Order issued pursuant to this by-law may be served upon the owner or occupier of the land on which the contravention occurred, or their agent, by method of;
    - i. Personal service;
    - ii. Registered mail to the last known address of the owner or occupant, which shall be considered as served upon the third day after mailing; or,
    - iii. Electronic transmission to the last known e-mail address of the owner or occupant, which shall be considered as served on the day of sending if sent prior to 5:00pm or shall be considered served the following day if sent after 5:00pm.
    - iv. If the delay necessary to serve an Order would result in circumstances that endanger the health or safety of any person or similarly serious consequences, the Order may be served by a placard or posting in a conspicuous place on property.
  - c. Failure to comply with an Order issued by an Officer pursuant to this by-law shall constitute an offence, and any person guilty of such offence may be subject to a penalty as provided by Section 7 of this by-law.
  - d. Where a person fails to do a matter or thing as directed by an Order, an Officer and/or any agents may enter upon land at any reasonable time and carry out the work necessary to do the matter or thing at the person's expense.
    - i. The City may recover the costs of doing a matter or thing by adding the costs to the tax roll and collect them in accordance with Section 446 of the *Municipal Act, 2001*.
    - ii. Where an owner or occupant fails to comply with an Order and the City carries out the necessary work, and removal of items is necessary to ensure further discontinuation of an offence, or may improve or eliminate a hazardous condition, items associated with a contravention may be removed from the property and stored within a suitable place. The owner or occupant of property of which any item was removed and stored shall be entitled to claim any items for a period of up to 30 days. Where any items are unclaimed or remain stored beyond a period of 30 days, the City may dispose of such items without notice and the owner or occupant shall not be entitled to any compensatory or other claims against the City.
3. Any person who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to do or refrains from doing anything required to be done pursuant to any provisions of this by-Law or any Order issued pursuant thereto, commits an offence and shall be liable to a minimum fine of \$300.00 plus costs and a maximum fine of \$5,000 plus costs, pursuant to the *Provincial Offences Act, R.S.O., 1990, c. P.33*, As amended. Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.

4. No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or any person who is exercising a power or performing a duty under this by-law. Any person in contravention of this section shall be guilty of an offence and liable to a fine as provided by Section 7 of this by-law.

### **POWERS OF ENTRY**

5. Any Officer and/or any agent of the City of Dryden may enter on land at any reasonable time for the purpose of carrying out an inspection, alone or in conjunction with any persons possessing special or expert knowledge, to determine whether or not the following are being complied with:
  - a. a by-law of the municipality;
  - b. a direction or Order of the municipality made under this by-law; or,
  - c. an Order made under Section 431 of the *Municipal Act, 2001*.
6. For the purposes of conducting an inspection under this by-law, an Officer or an agent may:
  - a. require the production for inspection of documents or things relevant to the inspection;
  - b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - c. require information from any person concerning a matter related to the inspection; and,
  - d. alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
7. Any Officer or agent entering private property for the purpose of conducting an inspection shall not enter or remain in any room or place actually being used as a dwelling except in accordance with Section 437 of the *Municipal Act, 2001*.

### **SEVERABILITY**

8. In the event that any particular provision or part of a provision of this by-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision, provisions or part of the provision(s) shall be deemed to be severed from the remainder of this by-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by the law.

**PASSAGE**

THAT This By-Law shall come into force and take effect on the day it is passed.

ENACTED AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024 as witnessed by the Seal of The Corporation and the hands of its proper Officers.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**Corporation of the City of Dryden  
SCHEDULE OF SET FINES**

De-icer By-law

Part 1 – Provincial Offences Act, R.S.O 1990

<b>Item</b>	<b>Column 1 SHORT FORM WORDING</b>	<b>Column 2 PROVISIONS CREATING OR DEFINING OFFENCE</b>	<b>Column 3 SET FINE</b>
1.	Failure to Comply with an Order	Section 2c	300.00
2.	Hinder or obstruct, or attempt to hinder or obstruct an Officer	Section 4	300.00