

**THE CITY OF WINNIPEG**

**BY-LAW NO. 6880/96**

**A By-law of THE CITY OF WINNIPEG to enact amendments of a minor nature to its By-law No. 6400/94 being The Winnipeg Zoning By-law.**

**WHEREAS:**

- (a) By its By-law No. 6400/94 enacted January 26, 1995 THE CITY OF WINNIPEG consolidated under one by-law all existing zoning regulations as they pertained to the City excepting only the area covered by By-law No. 4800/88 in respect of which the regulations under By-law No. 4800/88 continue to apply; and
- (b) By-law No. 6660/95, being an amendment in regard to minor errors and omissions to By-law No. 6400/94, was enacted on July 12, 1995.
- (c) Further errors and omissions in By-law No. 6400/94 as enacted have come to light as that by-law has been put to practical use; and
- (d) In the opinion of Council the proposed corrections to By-law No. 6400/94 are of a minor nature and do not prejudice the rights of the public or any interested person.

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

**BY-LAW NO. 6400/94 IS AMENDED AS FOLLOWS:**

- 1. Subsection 160(7) is amended by deleting "By-law No. 6087/94" and substituting "By-law No. 6087/93".
- 2. Part I is amended by adding Sections 170 through 188(3) as follows:

**170 OFFENCES AND PENALTIES**

- 170(1) Any owner who, by himself, or by his servant, agent or employee, makes use of any land, building, structure or part thereof in a manner contrary to this By-law, or contrary to the conditions of an order varying the terms of this By-law, or contrary to the conditions of an order permitting a conditional use under the provisions of this By-law, shall be guilty of a breach of this By-law.

170(2) Any persons who, as owner, landlord, lessor, tenant, occupier, agent, or otherwise, has charge or control of any land, building, structure, or part thereof, and permits such land, building, structure or part thereof to be used in any manner contrary to this By-law, shall be guilty of a breach of the By-law.

170(3) An individual found guilty of a breach of this By-law shall be liable on conviction to a fine of not more than one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding six months or both.

170(4) A corporation found guilty of a breach of this By-law shall be liable on conviction to a fine of not more than five thousand dollars (\$5,000.00).

170(5) In addition to aforesaid subsections (1) and (2) of this section, every individual or corporation may be required by the Court to observe or perform the provisions of this By-law.

170(6) Every such owner shall be deemed guilty of a separate offence for each and every day during any portion of which the breach is made or continued.

## 180 **NON-CONFORMITIES**

180(1) "Non-conformity" means one, or a combination of more than one of the following:

- (a) a structure;
- (b) a use of a structure;
- (c) a use of land;

which lawfully existed prior to the effective date of this By-law, or amendments thereto, but does not conform to the provisions of this By-law, or amendments thereto.

180(2) The intent of this By-law is to permit a non-conformity to continue until it is removed but not to encourage its survival.

- 180(3) A non-conformity is hereby classified as either:
- (a) a non-conforming use, or
  - (b) a non-conforming structure; or
  - (c) a non-conforming sign.
- 180(4) The general provisions applying to non-conformities are contained within this **PART**. In addition, the provisions contained in **PART II - DEFINITIONS**, are applicable to this **PART**.
- 180(5) Except as herein provided, a non-conformity shall not be enlarged or extended, or be used as a basis for adding other structures or uses prohibited in the district in which it is located.
- 180(6) The use of a non-conforming structure or a lot of record may be continued.
- 182 **NON-CONFORMING USES**
- 182(1) "Non-conforming use" means any use lawfully existing prior to the effective date of this by-law, of a structure or of a parcel of land, or portion thereof, which does not conform to one or more of the applicable use regulations of the district in which it is located on the effective date of this By-law, or amendments thereto.
- 182(2) No use existing on the effective date of this By-law, or amendments thereto shall be deemed a non-conforming use because of the following:
- (a) the existence of less than the required accessory off-street parking spaces or loading spaces; or
  - (b) the existence of a non-conforming accessory sign.
- 182(3) A non-conforming use may be continued except as otherwise provided herein.
- 182(4) Repairs or incidental alterations may be made to a structure occupied by a non-conforming use as follows:

- (a) to any portions of the exterior of the structure; and
  - (b) to those portions of the interior of the structure occupied by the non-conforming use, or in connection with a change or extension of the non-conforming use permitted in accordance with subsection (7) of this section.
- 182(5) No structural alterations shall be made to a structure occupied by a non-conforming use except:
  - (a) to comply with the requirements of the law; or
  - (b) to accommodate a conforming use; or
  - (c) to conform to the applicable district regulations on performance standards; or
  - (d) in the course of an enlargement permitted in accordance with subsection (7) of this section.
- 182(6) A non-conforming use of a structure or of a parcel of land, or portion thereof, which is, or hereafter becomes, abandoned, vacant or unoccupied, and remains vacant and unoccupied for twelve consecutive months, shall not thereafter be occupied or used except for a use which conforms to the applicable district regulations. For the purpose of this **PART** the stock in trade within the structure or on the land shall not in itself constitute a use thereof, nor shall the occasion or partial operation of such equipment or the presence of any stock in trade in itself constitute a use of any structure or parcel of land.
- 182(7) Enlargements or extensions of a non-conforming use are permitted as follows:
  - (a) a two-family dwelling constructed prior to the effective date of this By-law, or amendments thereto, in a district designated "R1" by this By-law, may be enlarged or extended provided that the enlargement or extension complies with the "R1" bulk regulations of Section 620 of Part VI.
- 182(8) The following clauses are not subject to subsection (7) of this section:
  - (a) enlargements or extensions designed exclusively to comply with the performances standards; and

- (b) enlargements or extensions to provide the required accessory off-street parking spaces or loading spaces.

184 **LOT OF RECORD**

184(1) A "lot of record" means any parcel of land lawfully existing prior to the effective date of the by-law, or amendments thereto that does not comply with either of the district bulk regulations for lot width or lot area, or both.

184(2) No structure may be erected on a lot of record unless:

- (a) the parcel of land was on record in the Winnipeg Land Titles Office prior to the effective date of this By-law, or amendments thereto, and did not form part of a larger contiguous holding under the same ownership;
- (b) the parcel of land is in separate ownership and is not part of a continuous frontage with other parcels of land of the same ownership; and
- (c) the yards are provided as set forth in the bulk table of the district in which the parcel of land is located, except that where width is a factor of the non-compliance, the side yards may be reduced to ten percent (10%) of the width of the lot but shall not be less than three (3) feet.

184(3) The following applies to lots created by public land acquisition:

- (a) notwithstanding anything elsewhere contained in this By-law, where a lot is separated from the street upon which it would otherwise front, by a parcel acquired by THE CITY OF WINNIPEG from the owner of the said lot for the purpose of street-widening, that lot shall be deemed to have frontage on that street and a building or structure may be erected, or enlarged, altered or repaired and used on such lot provided that it conforms to all other requirements of this By-law;

- (b) where a lot having a lesser width and/or area than that required by this By-law is created by expropriation or street-widening or other land acquisition from the owner of the said lot by THE CITY OF WINNIPEG and the non-conformity is due to no other cause, such lot shall be deemed to comply with this By-law and a building or structure may be erected, altered or repaired and used on such lot provided that it conforms to all other requirements of this By-law; and
- (c) where a building or structure having lesser yards than those required by this By-law is created in the manner described in clause (b) of this subsection, the building or structure shall be deemed to comply with this By-law and may;
  - (i) be maintained, altered or repaired and used, provided that it conforms to all other requirements of this By-law; and
  - (ii) be enlarged provided that a substandard yard is not further decreased.

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**A NON-CONFORMING STRUCTURE**

186(1)

A Non-conforming structure means any structure lawfully existing prior to the effective date of this by-law which does not comply with one or more of the applicable district bulk regulations on the effective date of this By-law, or amendments thereto.

186(2)

A non-conforming structure may be enlarged or extended, provided that the use of the structure conforms with the regulations of the applicable zoning district and the enlargement or extension would not create a new non-conformity or increase the degree of non-conformity. The addition or enlargement shall conform to all the applicable zoning district bulk regulations in which the non-conforming structure is located.

186(3)

Repairs or incidental alterations may be made to a non-conforming structure.

186(4)

The right to maintain a non-conforming structure shall terminate when;

- (a) the structure is damaged, in any manner whatsoever, to the extent the cost of repairing such damage exceeds one hundred percent (100%) of the structure's assessed value on the last revised assessment roll; or

- (b) the structure has been abandoned and/or deteriorated from natural causes to the extent that the cost of repair or renovation would exceed one hundred percent (100%) of its assessed value on the last revised assessment roll.

**188 NON-CONFORMING SIGNS**

- 188(1) A non-conforming sign shall be subject to all provisions of this **PART** relating to non-conforming uses, except as provided hereafter.
- 188(2) A change in the subject matter represented on a sign shall not be considered a change of use unless that change causes a sign to be changed from an identification or business sign to an advertising sign.
- 188(3) A non-conforming sign may be structurally altered, reconstructed, or replaced in the same location and position provided that such structural alteration, reconstruction, or replacement does not result in:
  - (a) the creation of a new non-conformity or an increase in the degree of non-conformity; or
  - (b) an increase in the sign surface area; or
  - (c) an increase in the degree of illumination.

- 3. Clause 310(1)(g) is amended by adding "non-illuminated" after "have one (1)".
- 4. The Bulk Table in subsection 520(1) is amended by deleting the designation "(Ft.)" under the column "Min. Lot Area," and substituting "(Sq. Ft.)".
- 5. Subsection 620(1) is amended by adding to the Bulk Table, "." after "max" and "lot cov".
- 6. Subsection 621(1) is amended by adding "respectively" after "and 100 feet".
- 7. Subsection 621(3) is amended by adding "respectively" after "and 100 feet".

8. The Bulk Table in clause 621(4)(a) is amended by adding "Ft." to the columns headed "Front yard", "Rear yard", "Side yard" and "Reverse corner side yard".
9. Clause 624(1)(f) is amended by deleting "FLAG POLES, LIGHTING FIXTURES, LAMP POSTS" and substituting "Flag poles, Lighting fixtures, Lamp posts".
10. Subsection 624(3) is amended by adding clause (o): "open porch, balcony, steps projecting five (5) feet or less".
11. The Bulk Table in subsection 630(1) is amended by deleting "(yd.)" from the column headed "Front Yard," and substituting "(Ft.)".
12. The Bulk Table in clause 631(4)(a) is amended by adding "Ft." to the columns headed "Front yard", "Rear yard", "Side yard" and "Reverse corner side yard".
13. Clause 648(1)(e) is amended by deleting "Awning extending" and substituting "Awning extending".
14. Clause 648(1)(k) is amended by replacing "Balconiesto" with "Balconies to".
15. The Use Table in subsection 710(1) is amended as follows:
  - (a) by deleting "C1" from the heading "Drive-through facility" under the "CR" column, and substituting "C";
  - (b) by deleting "C<sup>1</sup>" from the heading "Fuel Sales, Kiosk" under the "CR" column, and substituting "C";
  - (c) by deleting "C<sup>1</sup>" from the heading "Restaurant, Drive-through" under the "CR" column, and substituting "C"; and
  - (d) by adding "draperies, blinds, shades" after "custom" in the heading "Upholstering".

16. The Bulk Table in subsection 720(1) is amended by deleting the heading "C1-5" and substituting "C1.5".
17. Subsection 721(2) is amended by deleting the reference to "C1-5" and substituting "C1.5".
18. Subsection 722(1) is amended by deleting "the PART ON PARKING" and substituting "Part II, Parking".
19. Clause 725(3)(c) is amended by adding "sq." after "shall be fifty (50)".
20. Clause 725(5)(c) is amended by adding "sq." after "shall be fifty (50)".
21. The Use Table in subsection 810(1) is amended as follows:
  - (a) by deleting the column headings "MP1" and "MP2" and substituting "MP-1" and "MP-2" respectively; and
  - (b) by deleting the designation "-" from the "Automobile, Rental, Sales" heading under the column "M1/M1-B", and substituting "P".
22. Clause 826(3)(c) is amended by adding "sq." after "shall be fifty (50)".
23. Clause 826(4)(c) is amended by adding "sq." after "shall be twenty (20)".
24. Clause 826(5)(c) is amended by adding "sq." after "shall be fifty (50)".
25. Subsection 826(5) is amended by deleting clause (k), "Garbage enclosures".
26. The Use Table in subsection 910(1) is amended by adding the column heading "BP" to the column preceding the column headed "Parking group no.".

27. Subsection 920(1) is amended as follows:
  - (a) in clause (ii), by deleting "Real" and substituting "Rear"; and
  - (b) by deleting "(i)" and "(ii)" and substituting "(a)" and "(b)" respectively.
28. Clause 1130(2)(a) is amended by adding "or wall" after "adjacent to a fence".
29. Clause 1140(1)(a)(i) is amended by adding "or" after "public right of way".
30. Clause 1140(1)(a)(ii) is amend by adding "or" after "feet in height".
31. Subsection 1145(1) is amended by adding "all the yard requirements and other zoning bulk regulations are complied with and" after "providing that".
32. Clause 1145(1)(a) is amended by deleting "Vehicles and trucks" and substituting "Vehicles and one (1) truck".
33. Section 1200 is amended by deleting "Canopymeans" and substituting "Canopy means".
34. The Special Yard Table in subsection 1300(2) is amended as follows:
  - (a) by adding, "structures" after "for buildings" in the "Nairn Avenue, south side" heading; and
  - (b) by deleting "80 ft." from the "Nairn Avenue, south side" heading under the column "Front Yard" and substituting "66 ft."
35. Subsection A00(1) is amended by deleting the following: "RR2", "R1-6" and "Building", respectively, and substituting "RR-2", "R1-6", and "Building", respectively.
36. Part XIII is amended by adding a special yard requirement for Warde Avenue as shown on the map attached hereto as Schedule "A".

37. Appendix A is amended by deleting maps identified as sheet numbers 35, 65, 74, and 114 and substituting corrected maps bearing the same numbers, as shown on the maps attached hereto as Schedules "B1" through "B4".

**DONE AND PASSED** in Council assembled, this 26<sup>th</sup> day of September, 1996.

Note: Schedules B1 through B4 referred to in this By-law are not reproduced due to their size, and are attached to the original by-law on file in the City Clerk's Department.

**SCHEDULE "A"**Warde Avenue

- (a) on the north side of Warde Avenue, between Dakota Street and west limit Lot 2, Block 8, Plan 25943, not less than 16 metres to any one-family dwelling;
- (b) on the south side of Warde Avenue, between Dakota Street and St. Anne's Road, not less than 16 metres to any one-family dwelling;
- (c) on the east side of Dakota Street, between south-west limit Lot 8, Block 1, Plan 25945 and north limit Lot 3, Block 12, Plan 25943 not less than 16 metres to any one-family dwelling;
- (d) on the west side of St. Anne's Road, between Warde Avenue and north limit Lot 4, Block 8, Plan 25943 not less than 16 metres to any one-family dwelling.

(By-law No. 6348/94)

