Agenda – Council – January 23, 2008

Report - Executive Policy Committee - January 16, 2008

Item No. 2 Consolidation of Existing Neighbourhood Liveability By-laws
File GL-1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2008, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That a new Neighbourhood Liveability By-law, as outlined in Appendix A to the report of the City Solicitor/Manager of Legal Services dated January 7, 2008, which will streamline and simplify consolidation of all or part of 17 existing by-laws in a more user-friendly form, be enacted.

2. That the Neighbourhood Liveability By-law come into force on November 1, 2008, the date a new stand-alone by-law enforcement unit is scheduled to begin operations.

3. That the Proper Officers be authorized to do all things necessary to implement the intent of the foregoing.

Report - Executive Policy Committee - January 16, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2008, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

Further, on January 16, 2008, the Executive Policy Committee received from Sel Burrows, Chairperson, Point Douglas Residents' Committee, a presentation in support of the Neighbourhood Liveability By-law.

On July 11, 2007, the Executive Policy Committee passed the following resolution, namely:

WHEREAS the City of Winnipeg has over 200 major by-laws;

AND WHEREAS the City of Calgary has a Community Standards By-Law that contains in one document regulations related to neighbourhood liveability (including items such as untidy properties, fire on premises, graffiti prevention and abatement, donation and recycling sites, composting, noise, nuisances escaping property, maintenance of accessory buildings and fences, excavations and ponding water, addressing);

AND WHEREAS the City of Winnipeg regulations pertaining to the above-referenced neighbourhood liveability matters are contained in multiple by-laws, which may create unnecessary red tape and confusion for citizens;

AND WHEREAS the Red Tape Commission recommended a more user-friendly presentation of City of Winnipeg by-laws;

THEREFORE BE IT RESOLVED THAT the City of Winnipeg Public Service be directed to conduct a review of existing City of Winnipeg neighbourhood liveability by-laws including, without limitation, the by-laws listed below and report back to the Executive Policy Committee in January 2008 with a recommendation for streamlining, simplification and consolidation of existing neighbourhood liveability by-laws into a more user-friendly form:

- Minimum Standard of Housing Repair By-Law
- Anti-Litter By-Law
- Handbill and Poster By-Law
- Building Names and Numbers By-Law

Report - Executive Policy Committee - January 16, 2008

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

- Noise Control By-Law
- Termite Control By-Law
- Boulevard Maintenance By-Law
- Maintenance and Occupancy By-Law
- Unsightly Premises By-Law
- Refrigerators and Freezer By-Law
- Residential Buildings Fire Safety By-Law
- Derelict Vehicles By-Law
- Temporary Street Signs By-Law
- Tree Trimming By-Law
- Food Service Establishments By-Law
- Heating By-Law
- Pigeon By-Law
- No Smoking By-Law.

RE: Consolidation of Existing Neighbourhood Liveability By-Laws

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: City Solicitor/Manager of Legal Services

REPORT DATE: January 7, 2008

RECOMMENDATION:

1. That Council enact a new Neighbourhood Liveability By-law (a draft By-law is attached as Appendix A), which will be a streamlined and simplified consolidation of all or part of 17 existing by-laws in a more user-friendly form.

2. That the attached Neighbourhood Liveability By-law come into force on November 1, 2008, the date a new stand-alone by-law enforcement unit is scheduled to begin operations.

3. That the City of Winnipeg Public Service be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- This report responds to a direction from Executive Policy Committee on July 11, 2007, to review existing City of Winnipeg neighbourhood liveability bylaws with a view to streamlining, simplifying and consolidating them into a more user-friendly form.

- The proposed Neighbourhood Liveability By-law consolidates the whole of 16 by-laws and a significant part of one other into a single by-law.

- The proposed Neighbourhood Liveability By-law also repeals the Smoking Regulation By-law without replacing it. This is possible because provincial legislation has eliminated the need for this By-law. Enforcement of the Provincial Act will remain unchanged.

- It is recommended that the new Neighbourhood Liveability By-law come into force on November 1, 2008, the same date as a new stand-alone enforcement unit, which will enforce most of its provisions, is scheduled to begin operations.

Implications of the Recommendation(s):

General Implications

( ) None

(X) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): The proposed Neighbourhood Liveability By-law consolidates the whole of 16 by-laws and a part of another into a single By-law. This will make these provisions more user-friendly and will support the enforcement efforts of the new stand-alone by-law enforcement unit.

Policy Implications

( ) No

(X) Yes

Comment(s): Some changes have been made to the by-law provisions that have been consolidated into the new Neighbourhood Liveability By-law. These include a uniform appeal process to the Standing Policy Committee on Protection and Community Services (replacing appeals to the SPCs on Infrastructure Renewal and Public Works, P&D, Protection and Community Services, and community committees), although appeals on some minor but urgent matters will be heard by a body made up of members of the Public Service. In addition a refundable appeal fee is being proposed. Some changes to the provisions concerning noise control have also been made.

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s): Some of the minor substantive changes to the by-law provisions being proposed in this Report will slightly reduce the regulatory impact on the public and others will slightly increase the regulatory impact on the public.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

On July 11, 2007, Executive Policy Committee directed the City of Winnipeg Public Service to conduct a review of existing City of Winnipeg neighbourhood liveability by-laws including, without limitation, the by-laws listed below and report back to the Executive Policy Committee in January 2008 with a recommendation for streamlining, simplification and consolidation of existing neighbourhood liveability by-laws into a more user-friendly form:

- Minimum Standard of Housing Repair By-Law
- Anti-Litter By-Law
- Handbill and Poster By-Law
- Building Names and Numbers By-Law
- Noise Control By-Law
- Termite Control By-Law
- Boulevard Maintenance By-Law
- Maintenance and Occupancy By-Law
- Unsightly Premises By-Law
- Refrigerators and Freezer By-Law
- Residential Buildings Fire Safety By-Law
- Derelict Vehicles By-Law
- Temporary Street Signs By-Law
- Tree Trimming By-Law
- Food Service Establishments By-Law
- Heating By-Law
- Pigeon By-Law
- No Smoking By-Law

This Report and the attached proposed Neighbourhood Liveability By-law represent the Winnipeg Public Service's response to this direction.

HISTORY:

The By-laws consolidated into the proposed Neighbourhood Liveability By-law have been enacted over a period of 53 years. For example, the Refrigerators and Freezers By-law was enacted in 1954, the Minimum Standard of Housing By-law was enacted in 1965, and the Winnipeg Heating By-law was enacted in 1970.

Many of the by-laws being consolidated into the proposed Neighbourhood Liveability By-law were drafted to deal with specific issues as they arose. In addition, particular by-laws have often been the enforcement responsibility of a specific unit within the Public Service with only ad hoc coordination with other enforcement units. The result is a medley of by-laws dealing with various aspects of neighbourhood liveability but which are not always well integrated with one another.

DISCUSSION:

General Overview

The motion made by Executive Policy Committee (EPC), referred to above, was made at the same time as a motion which directed the Winnipeg Public Service to prepare a plan to consolidate responsibility for by-law enforcement "under one body through the creation of an identifiable stand-alone by-law enforcement unit" and

"the cross-training of by-law enforcement officers in the enforcement of all civic by-laws for which the by-law enforcement unit is responsible and identification of all by-laws for which cross-training cannot be performed."

Because they were made simultaneously and with the same deadline, the Winnipeg Public Service approached the two motions in a coordinated manner. More specifically, besides the objective of consolidating the various by-law provisions that deal with neighbourhood liveability issues into a new By-law that would be more user-friendly, the Winnipeg Public Service designed the consolidated Neighbourhood Liveability By-law so as to complement and assist the new stand-alone by-law enforcement unit in its responsibilities.

Accordingly, the new draft Neighbourhood Liveability By-law was designed to include:

- As many by-law provisions as possible that would be seen by ordinary residents of Winnipeg as affecting their neighbourhoods, and their day-to-day lives;
- As many by-law provisions as possible that would be exclusively or primarily enforced by the new stand-alone by-law enforcement unit.

The result is that the following 16 by-laws have been incorporated into the new By-law:

- the Anti-Litter By-law No. 1075/75;
- the Boulevard Maintenance By-law No. 125/2007;
- the Building Names and Numbers By-law No. 1416/76;
- the Derelict Vehicles By-law No 41/2005;
- the Handbill and Poster By-law No. 1076/75;
- the Maintenance and Occupancy By-law No. 4903/88;
- the Minimum Standard of Housing Repair By-law No. 19165/65;
- the Mosquito Control By-law No. 101/2003;
- the Noise Control By-law No. 2480/79;
- the Pigeon Control By-law No. 978/75;
- the Refrigerators and Freezers By-law No. 17267/54;
- The Temporary Street Signs By-law No. 64/2003;
- the Termite Control By-law No. 4891/88;
- the Tree Trimming By-law No. 8155/2002;
- the Unsightly Premises By-law No. 8151/2003;
- the Winnipeg Heating By-law No. 19791/70.

In addition, a large portion of the Fire Prevention By-law No. 150/2004 has been incorporated into the new By-law.

Of the by-laws which the EPC motion specifically directed the Public Service to review, the new By-law incorporates all but two: the Residential Buildings Fire Safety By-law and the Food Service Establishments By-law. The reasons for excluding these by-laws are set out below:

- Residential Buildings Fire Safety By-Law – This By-law is aimed at ensuring that multi-family buildings constructed or converted subsequent to 1983 are up-graded to minimal standards of fire safety. Because the By-law is designed to authorize equivalencies to the Building Code and the Fire Code, it is technical in nature and will continue to require the technical expertise of Building Code and Fire Code specialists within the PP&D Department and the Fire Prevention Branch. In addition, a review and overhaul of this By-law is currently underway. For these reasons, this By-law is not included in the Neighbourhood Liveability By-law at this point.

- Food Service Establishments By-Law - This is a large and complex By-law which is currently enforced by specialized public health inspectors employed by both the City and the Province. However, it is not clear how enforcement will be assigned in the near future; discussions are currently

underway between the City and the Province pursuant to Recommendation 21 of the Red Tape Commission's Final Report concerning consolidation of public health enforcement responsibilities in the hands of one level of government. Until this issue is resolved, it makes sense to maintain this By-law as a separate entity. In addition, the implementation of Recommendation 3 of the Red Tape Commission's Final Report ("Doing Business in Winnipeg By-law") will entail some amendments to this By-law. Given these circumstances, this By-law has not been incorporated into the Neighbourhood Liveability By-law at this point.

In compliance with EPC's motion, the Winnipeg Public Service examined numerous additional by-laws for possible inclusion in the new Neighbourhood Liveability By-law. As a consequence of this review, the entirety of one by-law (the Mosquito Control By-law) and a significant portion of another By-law (the Fire Prevention By-law) have been incorporated into the new Neighbourhood Liveability By-law.

Substantive Changes to By-law Provisions

The consolidation process involved in creating the attached Neighbourhood Liveability By-law was not primarily intended to overhaul the substantive provisions of the existing by-laws. However, the process of streamlining and consolidating necessarily involves choices between different procedures and some substantive provisions appearing in different by-laws. As a result, a uniform appeal process to the Standing Policy Committee on Protection and Community Services is being proposed which will replace appeals to the Standing Policy Committees on Property and Development, Infrastructure Renewal and Public Works, and Protection and Community Services, as well as appeals to community committees. The only exception to this appeal process involves appeals of relatively minor but urgent matters (mosquito breeding sites, cutting grass and weeds on yards and boulevards), which will be heard by a body made up representatives of the Public Service.

In addition to streamlining processes, as directed by the EPC motion, the Public Service took the opportunity to simplify and improve by-law provisions whenever this could be done within the given timeframe. One of the chief ways this was done was to tie the By-law provisions as closely as possible to the terms and definitions used in the new Zoning By-law No. 200/2006, which will come into force on March 1, 2008. The Noise Control By-law provisions, which have proven to be difficult to apply, were also able to be easily improved by borrowing from approaches recently applied in other cities, especially Edmonton and Saskatoon. The Neighbourhood Liveability By-law also borrows an idea from the Vacant and Derelict Buildings By-law in imposing a refundable appeal fee.

The following sets out some of the changes to the status quo represented by the new By-law:

- Provisions dealing with noise control have been altered to better define in practical terms what constitutes a noise nuisance. In doing so, the approach taken by Edmonton and Saskatoon in 2002 and 2004, respectively, has been applied. The new approach prohibits unreasonable, unnecessary or excessive noises that would be a nuisance to people of ordinary sensitivity and sets out a list of factors to be applied when determining whether a noise violates this standard. The new By-law also borrows Calgary's approach to ambient noise levels when sound is measured. However, the new By-law leaves in place provisions concerning specific activities that are exempt from the current By-law provisions and the specific prohibitions concerning particular noises at specific times.

- The provisions respecting handbills have been changed to make the same rules applicable to commercial and non-commercial handbills.

- A new property standard requires lawns to be trimmed to maximum length of 6 inches and prohibits noxious weeds. Previously, the by-laws used subjective standards, such as prohibiting the "excessive growth" of weeds or grass.

- The absolute prohibition on dangerous conditions set out in the Buildings By-law has been somewhat modified to allow temporary conditions during construction or other temporary periods, and other

conditions on non-residential properties, so long as individuals who could be harmed by them are warned and prevented from gaining access to the dangerous condition.

- Previously, the Winnipeg Heating By-law required that workspaces in commercial and industrial buildings must be maintained at 68° F until 11:00 p.m. but only to 60° F during the night. It did not address the situation where a workspace is occupied all night long. The new By-law requires heating to 68° F whenever employees are required to be in the workspace but permits a lower temperature when workers are not in the space.

- The definition of fence has been amended to require that a fence must be embedded. This will prevent property owners and occupants from seeking to evade the property standards by claiming that their junk is really a "fence".

- A slight change has been made to building address provisions to address the reality that big-box retail complexes cannot realistically post street addresses on their buildings that are large enough to be seen from the street. In these situations, the new provision requires street addresses to be posted both on the building and on signs that are visible from the street.

- In order to achieve a consistent appeal process, the two levels of appeals for orders previously issued under the Maintenance and Occupancy By-law concerning property standards was changed with the result that community committees will no longer hear appeals of property standards requirements. (Under that By-law, a property owner could appeal to the community committee and had a second appeal to the Standing Policy Committee on Property and Development.)

- In general, appeals will be heard by the Standing Policy Committee on Protection and Community Services. However, the Neighbourhood Liveability By-law also provides that the administrative body that currently hears appeals of mosquito control orders will also hear appeals of orders to cut grass and weeds and to comply with the boulevard maintenance provisions of the By-law. This will ensure that, when there is a need for quick compliance with an order, an appeal from the order can be heard quickly.

- A refundable appeal fee of $250 has been imposed in the new By-law. As with the appeal fee imposed under the Vacant and Derelict Buildings By-law, this fee can be refunded by the appeal body if the appeal has been made in good faith and has some merit.

Coming into force

In determining an appropriate date for the proposed Neighbourhood Liveability By-law to come into force, several factors have been taken into account.

- As noted earlier, the By-law is closely tied to the new Zoning By-law No. 200/2006, which takes effect on March 1, 2008. From a legal perspective, it is important that the Neighbourhood Liveability By-law must not take effect prior to the Zoning By-law coming into force. If the Neighbourhood Liveability By-law comes into force before the Zoning By-law takes effect, references within the By-law to the Zoning By-law will be meaningless and unenforceable.

- Despite the fact that the proposed By-law does not represent a substantive overhaul of the existing By-law provisions, the fact that the Neighbourhood Liveability By-law has reorganized all or part of 17 by-laws will result in a significant amount of administrative work. Some of the by-laws that were folded into the new By-law have never been coded into the AMANDA electronic enforcement database and will now need to be coded. In addition, all the by-law provisions that have been coded into AMANDA will have to be recoded and the AMANDA business rules will have to be re-written. This may require additional consultant services procured from the software provider. Aside from the electronic issues, new forms will have to be created and new processes developed. The Community

Service Department advises that it is critical that the development of the new enforcement processes, technology systems, and staff training take place concurrently as a component of the January – November 1, 2008 implementation phase of the Community by-law Enforcement Services. Over those 10 months, while attempting to maintain the current level of enforcement services, the Community Services Department, with the assistance of enforcement staff and/or resources from the multiple departments that are being transferred to the Community By-law Enforcement Services, will be required to focus its efforts on the development of the new systems required for the successful launch of the Community By-law Enforcement Services by November 1, 2008. Therefore, it is not practical from a resource perspective to implement the new By-law prior to the date that the Community By-law Enforcement Services becomes operational.

- As noted, the proposed By-law has been drafted on the assumption that it will be largely enforced by the new stand-alone by-law enforcement unit. This assumption has allowed the By-law to be organized in ways that make sense to ordinary residents of Winnipeg rather than being organized to suit the purposes of the various departments and units that currently enforce the 17 by-laws being consolidated. An ambitious date of November 1, 2008 has been projected as the date the new stand-alone by-law enforcement unit will begin operations. The close connection between the new By-law and the new by-law enforcement unit presents a compelling reason for bringing the proposed By-law into force on November 1, 2008, the date the new unit is scheduled to begin operations. Bringing the By-law into effect prior to the new unit becoming operational would require multiple enforcement units in several departments each to adjust their operations to accommodate the new By-law, only to adjust again when their enforcement staff join the new unit. A November 1, 2008 implementation date for both the By-law and the Unit will minimize confusion for the public, as the expectation is that the new by-law and enforcement unit will streamline regulatory requirements and processes.

For these reasons, it is recommended that the proposed Neighbourhood Liveability By-law come into force on November 1, 2008, the date the proposed stand-alone by-law enforcement unit is scheduled to begin operations.

Financial Impact Statement

Date: November 29, 2007

Project Name:

First Year of Program **2008**

Consolidation of Existing Neighbourhood Liveability By-Laws

	2008	2009	2010	2011	2012
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: There is minimal financial impact relating to the updating of court forms and other documents which will be accommodated within existing budgets.

(Original signed by R. Abeyskera)

Radhika Abeysekera
Manager of Finance & Administration
Internal Services Dept.

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Winnipeg Fire Paramedic Service
Community Services Department
Planning, Property and Development Department
Public Works Department
Winnipeg Police Service

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department: Internal Services
Division: Legal Services
Prepared by: Harold Dick
File No.



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NEIGHBOURHOOD LIVEABILITY BY-LAW

TABLE OF CONTENTS

Introduction	section 1
Part 1 – Standards Applicable to All Properties	
Division 1 – Basic Maintenance	section 3
Division 2 – Derelict Vehicles	section 18
Part 2 – Residential Properties	section 26
Part 3 – Littering and Garbage	section 53
Part 4 – Handbills, Posters and Temporary Signs	section 58
Part 5 – Noise Control	section 65
Part 6 – Open Air Burning	section 72
Part 7 – Addresses and Building Names	section 83
Part 8 – Boulevard Maintenance	section 86
Part 9 – Mosquito Control	section 94
Part 10 – Administration	
Division 1 – Permits	section 99
Division 2 – Appeals	section 104
Division 3 – Miscellaneous	section 107
Division 4 – Penalties	section 109
Division 5 – Consequential Amendments	section 110
Division 6 – Coming into force	section 114

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to regulate the maintenance of properties and other aspects of neighbourhood liveability in order to develop and maintain safe, orderly, viable and sustainable communities and to promote and maintain the health, safety and welfare of residents.

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

Short Title

1. This By-law may be referred to as the "Neighbourhood Liveability By-law".

Definitions

2. In this By-law

"accessory structure" means a building or structure that is located on the same zoning lot as, and is subordinate or incidental to, a principal building or structure or use, and includes an outbuilding, garage, utility building, play structure, sign and structures supporting a sign, garbage enclosure, awning, fence, racking, storage unit or container, deck, antenna, canopy, marquee, satellite dish, mechanical penthouse, hot tub, fountain, water barrel, pond and swimming pool;

"back lane" means a street that has been designed, constructed and intended to provide access to and service at the rear of places of residence or business;

"basement" means that portion of a building between two floor levels which is partly or wholly below the adjacent finished grade;

"bathroom" means a room containing a bathtub or shower and a sink;

"boulevard" means the portion of a street on either side of a roadway but does not include a sidewalk, median or traffic island;

"Chief Administrative Officer" means the Chief Administrative Officer of the City of Winnipeg or delegate;

"Chief of Police" means the Chief of Police of the City of Winnipeg or delegate;

"Code" means the Manitoba Building Code and the Plumbing Code adopted by the Winnipeg Building By-law, the Manitoba Fire Code adopted by the Fire Prevention By-law and the Electrical Code adopted by the Electrical By-law, whichever is applicable;

"designated employee" means the Chief Administrative Officer of the City of Winnipeg or an employee of the City of Winnipeg to whom he or she has delegated the authority to

administer or enforce all or part of this By-law;

"directional sign" means:

(a) a sign which directs the public to or denotes the name of any thoroughfare, route, educational institution, public building, historical site, or hospital;

(b) a sign which denotes any public or transportation facility;

"dwelling" means a building or other structure, all or part of which has been used, is used or is capable of being used for human habitation, and includes:

(a) a single or two-family dwelling house;

(b) an apartment block or other multiple family residential building;

(c) a group home, assisted living facility and dormitory;

(d) a live-work space;

(e) a mobile home or recreational vehicle;

(f) a hostel; and

(g) a hotel;

"dwelling unit" means

(a) a single family dwelling house;

(b) a suite within a dwelling; or

(c) one or more connected rooms within a dwelling, which may or may not include sanitary or kitchen facilities, used as a residence by a single person or by two or more people, whether related or not, who are living together as a housekeeping unit;

"election sign" means a sign used to promote a candidate or party during a municipal, provincial or federal election, or any election held pursuant to *The Local Authorities Election Act* or *The Public Schools Act*;

"enforcement officer" means

(a) an employee of the City of Winnipeg to whom the designated employee has delegated authority to enforce, implement or administer all or part of this By-law; and

(b) any public health inspector with jurisdiction to enforce by-laws related to public health and safety within the boundaries of the City of Winnipeg; and

(c) a member of the Winnipeg Police Service;

"extended boulevard" means a boulevard that

(a) is at least 20 feet wide, as measured from the roadway to the sidewalk or property line; or

(b) is intended to accommodate future street development;

"fence" means a constructed barrier or wall that is a fixture and includes a retaining wall and a railing enclosing a property;

"garage sale sign" means a sign advertising the sale of personal or household goods from a residential property;

"garbage" includes:

(a) animal, vegetable and agricultural wastes, including manure;

(b) ashes;

(c) large items of refuse, including appliances, indoor furniture, dilapidated outdoor furniture, mattresses, large auto parts and crates;

(d) construction and demolition wastes;

(e) dead animals;

(f) industrial refuse;

(g) rubbish;

(h) abandoned or unattended shopping carts;

(i) hazardous wastes;

(j) wrecked, dismantled, partially dismantled, inoperative, discarded, or abandoned trailers, machinery or vehicles or parts thereof;

(k) any deserted or discarded article, product or goods of manufacture;

but does not include a derelict vehicle, as defined in Division 2 of Part 1;

"guard" means a guard as required by *The Manitoba Building Code*, adopted by the Winnipeg Building By-law, for stairs, landings, porches, balconies, mezzanines, galleries, raised walkways and roofs to which access is provided for purposes other than maintenance;

"habitable room" means any room in a dwelling that is used or capable of being used for living, sleeping, cooking or eating or any combination thereof;

"handbill" means any printed or written matter, sample or device, and includes a circular, leaflet, pamphlet, paper or booklet that does not identify itself as being directed to a particular person but does not include a newspaper, mail or notices delivered by Canada Post and material distributed during a municipal, provincial or federal election which has been authorized by the official agent of a candidate;

"hardwired", in relation to an electrical appliance or device, means the process or condition by which the appliance or device has been permanently connected to an electrical circuit installed in compliance with the Electrical By-law;

"heating system" means:

(a) a central furnace fuelled by natural gas, propane, electricity or oil;

(b) a geothermal heat pump;

(c) hardwired baseboard heaters;

(d) a stove fuelled by wood or other solid fuel; or

(e) a furnace fuelled by wood and another fuel;

but does not include one or more electrical space heaters connected by electrical cords to an electrical outlet;

"lux" means the SI unit of illuminance equal to one lumen per m^2;

"median" means a portion of a street in the centre of a roadway that is maintained to improve traffic safety by separating lanes of opposing traffic and is not intended to carry vehicular traffic;

"mobile sign" means a sign which is mounted on a trailer, vehicle, stand or similar support structure which is designed in such a manner that the sign can be readily relocated to another location, and which may include copy that can be changed through the use of removable characters or panels.

"newspaper" means any newspaper or magazine of general circulation for which the occupant has paid or requested delivery;

"non-habitable room" means any room in a dwelling or dwelling unit other than a habitable room and includes a bathroom, toilet room, laundry, pantry, lobby, communicating corridor, stairway, closet, boiler room, locker room or other space for service and maintenance of the dwelling, for public or common use, and for access to and vertical travel between storeys;

"non-residential property" means real property that is not residential property as defined in this section but does not include a street or a park;

"non-standard treatment" means a modification of the turf planted by the City on a boulevard, median or traffic island and includes aggregate, objects, solid materials or vegetation planted or placed within the boulevard;

"noxious weed" means a noxious weed as defined in *The Noxious Weeds Act*;

"nuisance" means any condition, matter, thing or activity, other than a noise or sound regulated by Part 5 (Noise Control), which causes undue annoyance or offence to a reasonable individual of ordinary sensitivity occupying adjacent properties or dwelling units or living in the neighbourhood;

"occupant" means any person who occupies a property;

"owner" in relation to real property, includes a person who is the owner of a freehold estate in the real property, including

(a) the person identified on the certificate of title as a sole owner, joint tenant, or tenant in common of a freehold estate;

(b) a person who is registered under *The Condominium Act* as the owner, as defined in that Act, of a unit under that Act;

(c) a real owner, as defined in subsection 1(1) of *The Municipal Assessment Act* ;

and further includes a person who is responsible for the real property and any person

(a) managing a building, whether on his or her own account or as agent or trustee of any other person;

(b) who is receiving, is entitled to receive or would receive the rent for the building if the building were rented;

(c) who, despite having sold the real property under an agreement for sale, has paid any real property taxes on the property after the effective date of the agreement;

(d) for the time being receiving installments of the purchase price of a property sold under an agreement for sale whether on his or her own account or as an agent or trustee of any other person; and

(e) who would receive the installments of the purchase price if such land or premises were sold under an agreement for sale;

"park" means a park as defined in The City Of Winnipeg Parks and Recreation By-Law No. 3219/82;

"person" includes a firm, partnership, association or other body, whether incorporated or unincorporated;

"poster" means a sign which is not self-supporting and is attached with its entire back surface against a pole or wall or other structure;

"principal building" means a building or structure that contains one or more principal uses permitted by the zoning by-law applicable to the property;

"private access" means any modification to a street in order to facilitate vehicular access to private property and includes:

(a) a vehicular drive, road, path, culvert or other structure constructed or maintained within a street between private property and the edge of a roadway for the use or benefit of the owner or occupant of the property;

(b) a loading bay constructed entirely on the street to permit parking of vehicles;

(c) an opening or other modification to a median within the street that facilitates access to private property;

(d) a traffic lane within the roadway that is reserved for turning vehicles; and

(e) a private walk;

"protective surface" includes any layer of material over an exterior or interior surface of a building to protect the surface against deterioration and, includes, without limitation paint, varnish, stucco, brick or stone facing, wood and asphalt shingle and insul-bric siding;

"property" means the total of all contiguous land described in a single certificate of title;

"residential property", unless otherwise defined, means property which falls within a "Residential and Residential-Related" use category under the Winnipeg Zoning By-law No. 200/2006 or the Downtown Winnipeg Zoning By-law No.100/2004 and includes dwellings and accessory structures on the property;

"roadway" means the portion of a street that is improved, designed or ordinarily used for vehicular traffic and includes a back lane but does not include a multi-use path or a sidewalk;

"rubbish" includes:

(a) combustible items such as paper, rags, boxes, bedding and wood;

(b) non-combustible items such as tin cans, metals, pressurized containers, ceramics, metal foils, plastics and glass; and

(c) vegetative wastes, such as prunings, grass clippings, weeds, leaves and general garden wastes;

"sidewalk" means a footpath, whether or not paved or improved, that is intended primarily for the use of pedestrians and that either

(a) forms part of a street; or

(b) although not part of a street, is publicly maintained and set aside for pedestrian traffic only;

"sign" includes

(a) a letter, word or numeral;

(b) a pictorial representation, illustration or decoration; or

(c) an emblem, symbol, logo or trademark;

that is placed on an object, including paper, cloth or wood and includes a flag and a poster;

"street" means any place or way, including any structure forming part thereof, which or any part of which the public is ordinarily entitled to use for the passage of vehicles or pedestrians,

with or without fee or charge therefor, and includes all the space between the boundary lines thereof and includes:

(a) roadways;

(b) sidewalks;

(c) medians;

(d) boulevards;

(e) traffic islands; and

(f) private accesses;

but does not include any place or way that is governed by the Parks and Recreation By-law;

"suite" means one or more connected rooms in a dwelling used or intended to be used for human habitation by one or more people, containing cooking, eating, living, sleeping and sanitary facilities;

"toilet room" means a room which contains a toilet;

"traffic control device" means a sign or signal installed by the City which directs and regulates traffic;

"traffic island" means the area between traffic lanes for the control of vehicle movement or pedestrian refuge which is not intended to carry vehicular traffic;

"turf" means a layer of grass, whether planted or not, but does not include ornamental grasses that have been planted;

"utilities" means infrastructure used in the provision of electric power, natural gas, telephone, cable television, telecommunications services, sewer, storm sewer, water and traffic signals.

PART 1
STANDARDS APPLICABLE TO ALL PROPERTIES

Application of this Part

3(1) Unless otherwise stated, this Part applies to all properties in the City, whether occupied or vacant, except streets and parks.

3(2) Unless otherwise stated, the obligation for compliance with the provisions of this Part is imposed on both the owner and the occupant of a property.

3(3) The obligation for compliance imposed on occupants by this Part is imposed only in respect of that portion of the property which they are legally authorized to occupy.

DIVISION 1 – BASIC MAINTENANCE

Properties must be safe

4(1) Subject to subsection (2), properties must be maintained so as to prevent the existence of objects and conditions that pose health, safety, fire or accident hazards to people, animals or neighbouring properties.

4(2) Subject to subsection (3), the obligation in subsection (1) includes the obligation to repair, remove, rectify or otherwise prevent the existence of:

(a) buildings or structures that constitute a fire hazard or are likely to fall or cause an explosion;

(b) floors, stairs, walls and other structural aspects of buildings or structures that are insecure or pose a danger to people or animals who enter the building or structure;

(c) a vacant building or structure that is unguarded or open so that entry can be easily gained to it;

(d) uncovered and unguarded well, holes, excavations and other openings;

(e) refrigerators and freezers that are not in use and other airtight containers that are large enough to hold a human being, unless the container is not placed door-side down on the ground and:

(i) the container is incapable of being locked;

(ii) the lock on the door is capable of being released from the inside; or

(iii) the lock or door has been removed;

(f) sharp objects that could result in injuries, such as nails projecting from boards.

4(3) Where it is necessary

(a) for a temporary period in order to permit construction or for other valid reasons; or

(b) for the use to which non-residential property is being put in accordance with the relevant zoning by-law;

that a property contain hazardous articles or materials or objects or conditions that pose health, safety, fire or accident hazards, it is not a contravention of subsection (2) if

(i) reasonable precautions are taken to prevent unauthorized individuals from entering the area;

(ii) reasonable notice of the hazard is provided to individuals who may be harmed by it; and

(iii) the existence in that location of the article, material, object or condition does not violate a By-law or other legislative provision.

General obligation to maintain property

5. Properties must be maintained so that they do not substantially depreciate the value of other land and buildings in the vicinity.

Properties must be kept free of garbage

6(1) Garbage must not be allowed to accumulate upon a property.

6(2) Garbage must not be allowed to blow or otherwise be carried from a property onto other property, a street or a park.

6(3) Garbage that is eligible for removal under the Solid Waste By-Law must be stored in receptacles or plastic garbage bags that are protected from damage and made available for removal in accordance with the Solid Waste By-law.

Properties must be properly drained

7(1) Properties must be maintained so as to prevent water draining in a way that negatively affects buildings on the property or neighbouring properties or that creates hazardous conditions.

7(2) The obligation imposed in subsection (1) includes the obligation to ensure that a property is:

(a) covered with sufficient ground cover to prevent erosion; and

(b) graded in such a manner so as to prevent:

(i) excessive or recurring ponding of water;

(ii) excessive dampness from occurring in buildings on or adjacent to the yard; or

(iii) a hazardous condition from being created on any private or public walkway.

Vegetation on properties

8(1) Plants and vegetation must be kept trimmed so as not to become unsightly.

8(2) Other than on properties zoned for agricultural grazing and feeding and agricultural cultivation, turf must be kept trimmed to a maximum length of 15 cm (6 inches).

8(3) Noxious weeds must be controlled on all properties.

8(4) Trees or shrubs on property must not be allowed to interfere with:

(a) the City's works, including sewer and water pipes;

(b) the operations of the City on the street;

(c) pedestrian or vehicular traffic on the street;

(d) motorists' or pedestrians' view of directional signs or traffic control devices;

(e) the sightlines of motorists or pedestrians.

Walkways, driveways and parking spaces

9(1) A walkway must be provided from the principal entrance of every principal building to a public street or to a driveway affording access to a public street.

9(2) Every walkway, driveway and parking space must be surfaced with stone, asphalt, concrete, gravel or aggregate or other similar material and must be maintained so as to afford safe passage under normal use and weather conditions.

9(3) Subsection (2) does not apply to private accesses.

Exterior walls of buildings

10(1) Exterior walls of buildings must be maintained in good repair.

10(2) The obligation in subsection (1) includes the obligation to:

(a) ensure that the exterior surfaces of buildings are constructed of materials that provide adequate protection from the weather;

(b) protect the exterior walls, chimneys, coping, flashing and other components from deterioration by the application of a protective surface and by restoration and repair;

(c) ensure that the paint on a painted surface is maintained and renewed so that no more than 25% percent of the area of any painted surface is blistered, cracked, flaked, scaled, or chalked away;

(d) ensure that the mortar of any masonry, chimney or stone wall is not loose or has fallen out.

Roofs of buildings

11(1) Roofs must be kept in good repair.

11(2) The obligation in subsection (1) includes the obligation to ensure that

(a) roofs are constructed and maintained so as to prevent moisture from entering the building;

(b) facia boards, soffits, cornices, flashing, eavestroughing and downspouts are maintained in a watertight condition;

(c) where the protective surface of a roof consists of wood shingles, they are maintained in good repair and are painted, stained or otherwise treated as may be necessary to protect against deterioration.

11(3) Loose or unsecured objects, including dangerous accumulations of snow or ice or both, must be removed from the roof of a building.

11(4) Roof drainage must be controlled in order to eliminate or minimize runoff that

(a) accumulates or causes ground erosion or ponding;

(b) causes dampness in the walls, ceilings or floors of any portion of any neighbouring building;

(c) accumulates on sidewalks or stairs in a manner so as to create a hazardous condition.

11(5) The obligation in subsection (4) includes the obligation to install eavestroughs and downspouts on any pitched roof.

Foundations of buildings

12. Every foundation wall of a building must be maintained in good repair and must be structurally sound so as to prevent undue settlement of the building.

Porches and entrances

13(1) Porches and entrances to a building must be maintained in good repair so that no component is broken, loose, rotted, warped, out-of-plumb, off-level or out of alignment.

13(2) Exterior steps must be kept in good repair so as to provide safe use under normal use and weather conditions and, if constructed of wood, must be protected against deterioration by the application of an appropriate protective coating.

Accessory structures

14. Accessory structures, including fences, must be maintained in a condition that is:

(a) weather resistant, through the application of appropriate materials, including paint and preservatives; and

(b) in good repair.

Termite infestations

15(1) Where termites are found in, on or around any wooden structure, tree or tree stump, the owner must

(a) treat the surrounding soil with an appropriate, registered insecticide capable of exterminating termites; and

(b) remove or treat the structure, tree or tree stump to make it resistant to termites.

15(2) A structure that has been infested with termites must not be moved until a designated employee certifies that it is free of termites and that it is structurally capable of being moved.

15(3) A wooden structure may not be erected for a period of three years within 100 m of any area that has been infested with termites unless

(a) the soil surrounding the structure to a depth lower than the foundation of the structure; and

(b) the basement and lowest storey of the structure;

have been treated with an insecticide capable of killing termites so that there is no access to the structure except through the treated soil.

15(4) The treatments required by subsections (1) and (3) must be applied by a pesticide applicator who holds a valid licence for this purpose.

Pigeons

16(1) In this section

"aviary" means a pen or run enclosed by wire immediately adjacent to a loft, into which pigeons can only enter directly from the loft;

"loft" means a building, structure or coop in which pigeons are housed or kept;

"racing pigeon" means a pigeon banded with a seamless, numbered leg band issued by an active racing club or association and raised for the purpose of racing;

"show pigeon" means a pigeon banded with a seamless, numbered leg band issued by an active show club or association and raised for the purpose of show.

16(2) The occupant of property must not keep pigeons or allow pigeons to be kept on the property unless authorized by an annual permit issued by a designated employee.

16(3) Subject to subsection (4), the occupant of property must ensure that no more than 40 pigeons over the age of one month are kept on a property unless specifically authorized by the annual permit.

16(4) Notwithstanding subsection (3), up to 150 racing pigeons and show pigeons may be kept on a property.

16(5) The owner and occupant of property must ensure that pigeons kept on the property are contained within a loft which:

(a) provides at least 0.6 m of floor space for each pigeon;

(b) is dry and well-ventilated;

(c) is cleaned regularly, kept in a sanitary condition and is disinfected at least twice annually;

(d) is not located within 6 m of a principal building on the property and is not located within 9 m of any other principal building.

16(6) Subject to subsection (7), the occupant of property must ensure that pigeons being kept on the property are contained within the loft and aviary.

16(7) Subsection (6) does not apply to

(a) 20 or fewer racing pigeons and show pigeons released for exercise at any one time and supervised by a person located on the property to ensure that the pigeons do not roost on other properties;

(b) racing pigeons returning to the loft from a supervised race or training flight.

16(8) Notwithstanding subsection (7), the occupant of property must not allow any pigeons being kept on the property from being released:

(a) after 9:00 a.m. on Saturdays, Sundays or statutory holidays; and

(b) between the hours of 9:00 a.m. and 4:00 p.m. on any other day during the months of May, June, July, August and September.

Minimum heat in non-residential buildings

17(1) Subject to this section, the occupant of a non-residential building must ensure that areas of the building used for any business, trade or occupation are maintained at

(a) a temperature of no less than 20°C (68° F) during the time that individuals employed by the business or engaged in a trade or occupation are present or are required to be in those areas; and

(b) a temperature of no less than 15.5^{o}C (60° F) at all other times.

17(2) Section (1) does not apply

(a) to all or part of a building used for a business, trade or occupation which can only be properly or efficiently carried on in temperatures lower than 68° F;

(b) during a period when a heating boiler is shut down at the request of the Manitoba Department of Labour for the purposes of an inspection under *The Steam and Pressure Plant Act*.

DIVISION 2 – DERELICT VEHICLES

Definitions
18. In this Division

"building" means a structure with four walls and a roof but does not include a carport, tarp or covering for a vehicle;

"derelict vehicle" means a used motor vehicle or the body or chassis of a used motor vehicle that

(a) is not in an operating condition and is rusted, wrecked or partly wrecked, or is dismantled or partly dismantled;

(b) is not insured and registered under *The Highway Traffic Act* and does not have a current, valid license plate attached to it; and

(c) has been entirely or partially located outside of a building for more than one month;

"operating condition", in relation to a vehicle, means that it is capable of being driven on a highway in compliance with *The Highway Traffic Act*;

Application of this Division
19. This Division applies to all residential and non-residential properties in the City of Winnipeg except a property that is the subject of a subsisting licence issued by the City of Winnipeg as a scrap yard or used material yard.

Prohibition on storing derelict vehicles on property
20(1) A person must not park, store or leave a derelict vehicle on a residential or non-residential property.

20(2) An owner or occupant must not permit a derelict vehicle to be parked, stored or left on his or her property.

Compliance orders
21. Any order to remedy a contravention of section 21 (prohibition on storing derelict vehicles on property) must provide a date for compliance at least thirty days after the date the order was served.

Removal of derelict vehicle
22(1) Where an order to remedy a contravention of section 21 (prohibition on storing derelict vehicles on property) has been issued, a designated employee may take action to remedy the contravention in accordance with *The City of Winnipeg Charter* and such action may include removing the derelict vehicle from the private property to a place of impoundment.

22(2) Within 72 hours after removing a derelict vehicle from private property to a place of impoundment, the designated employee must notify

(a) the owner of the derelict vehicle, if known; and

(b) the owner or occupant of the private property on which the derelict vehicle was situated;

of the removal by personal service, or by sending it by registered mail or delivery to an address determined in accordance with this By-law.

22(3) The notice of the removal of a derelict vehicle required by subsection (2) must:

(a) describe the derelict vehicle and the location from which it was removed;

(b) identify the place of impoundment to which it has been removed;

(c) set out the costs that must be paid before the derelict vehicle may be returned to the owner; and

(d) advise that a failure to redeem the derelict vehicle by paying the costs could result in the derelict vehicle being disposed of by the City of Winnipeg.

Redemption of derelict vehicle
23. The owner of a derelict vehicle may redeem it by providing proof of ownership and paying the costs of removing it, not to exceed $100.00, and the daily costs of storing it, not to exceed $20.00 per day.

Sale of derelict vehicle by the City
24. If a derelict vehicle has not been redeemed by the owner within 10 days after has been removed, the designated employee may dispose of the derelict vehicle and may execute a bill of sale to the purchaser of the derelict vehicle.

Proceeds of sale
25. The proceeds of the sale of a derelict vehicle may be used to offset the costs incurred by the City in enforcing this By-law, including removing and storing the derelict vehicle, and any balance remaining must be paid to the owner of the derelict vehicle or, if another person claims the balance, to the Court of Queen's Bench to be paid out as the court orders.

PART 2
RESIDENTIAL PROPERTIES

Application of this Part
26(1) Unless otherwise stated, this Part applies to all residential properties in the City of Winnipeg which are not vacant, as that term is defined in the Vacant and Derelict Buildings By-law, including dwellings and accessory structures on those properties.

26(2) The obligations imposed by this Part are in addition to, and not in lieu of, any obligation imposed by Part 1 of this By-law.

26(3) Unless otherwise stated, the obligation for compliance with the provisions of this Part is imposed on both the owner and the occupant of a property.

26(4) The obligation for compliance imposed on occupants by this Part is imposed only in respect of that portion of the property which they are legally authorized to occupy.

Limitations on structures and vehicles used for residence

27(1) Subject to subsection (2), other than in a camping ground or a mobile home park zoned for this purpose, a person must not

(a) reside in;

(b) use as a shelter; or

(c) store his or her clothing or personal effects in for the purpose of living in;

an automobile, mobile home, recreational vehicle, camper, tent or other temporary structure.

27(2) It is not a contravention of subsection (1) if a person does any of the things set out in subsection (1) for a period of not more than three days or for a longer period with the written permission of a designated employee.

27(3) A designated employee may issue permission under subsection (2) only if, and to the extent that, the person doing any of the things set out in subsection (1) will not result in a nuisance or an unsanitary condition.

27(4) A person must not

(a) reside in;

(b) use as a shelter; or

(c) store his or her clothing or personal effects in for the purpose of living in;

all or any part of a building and the owner of property must not permit the use of, or rent or offer to rent, all or any part of a building for any of these purposes unless

(a) the building is located on residential property;

(b) the building has been designed and constructed or renovated for the purpose of human habitation; and

(c) the building meets the standards set out in this By-law.

General duties and obligations

28(1) All repairs to dwellings and accessory structures must be made in a manner accepted as good workmanship in the trade concerned, with materials suitable and sufficient for the purpose and in compliance with all applicable by-laws and regulations.

28(2) The owner and occupant of a dwelling or dwelling unit must:

(a) limit the occupancy of the dwelling or dwelling unit to the maximum number of individuals permitted by this By-law or any other by-law;

(b) maintain safe and unobstructed means of egress to the exterior of the dwelling;

(c) maintain all required safety features and equipment in good working order;

(d) maintain the floors, walls, ceilings, furnishings and fixtures in a clean and sanitary

condition;

(e) keep it free from rubbish, garbage and other debris or conditions which constitute a fire, accident or health hazard;

(f) maintain all plumbing, cooking and refrigeration fixtures and appliances as well as other building equipment and storage facilities in a clean and sanitary condition and provide reasonable care in their operation and use.

Nuisances and unsanitary conditions

29(1) The owner and occupant must ensure that nuisances and unsanitary conditions are not created or allowed to exist on residential properties.

29(2) The obligation imposed by subsection (1) includes the obligation to keep yards free of:

(a) infestations of insects, rats, mice and other pests and vermin;

(b) any condition, matter, or thing that provides or may provide food or harbourage for pests or vermin.

29(3) The obligation imposed by subsection (1), includes the obligation to prevent the existence of mice, rats, lice, bed bugs, cockroaches, silverfish or other rodents, insects or vermin in any part of a dwelling or accessory building.

Furnished accommodations

30. Where furnished accommodations are provided in any dwelling, all furniture, refrigerators, cooking appliances, beds, bedspreads, bedsprings, pillows, mattresses, bed linen, blankets, bed covers, blinds and curtains must be maintained in good repair and in a clean and sanitary condition.

Exterior surfaces

31. Exterior walls of a dwelling must be free of holes, breaks, loose or rotting boards or timbers and any other condition which might admit insects, rodents or pests to the interior of the wall or the interior space of the dwelling.

Foundations and structural elements

32(1) The foundations of a dwelling must be maintained in a condition so as to prevent the entrance of moisture, rodents, insects or vermin.

32(2) The obligation in subsection (1) includes the obligation to ensure that unprotected openings in an exterior wall or foundation are screened with wire mesh or other such material that will effectively exclude rodents, insects and vermin.

32(3) The structural elements of a dwelling must be capable of sustaining safely the weight of the dwelling and any normal load to which it may be subjected;

32(4) Where a dwelling is on a surface foundation, its beams or joists must be maintained free of rot and must not be settling.

32(5) Where a dwelling on a surface foundation has settled or has beams that have rotted to the point where the habitability of the dwelling is adversely affected, a new foundation must be constructed and concrete piers must be installed, broken or rotted joists, beams and floors be renewed and the building levelled.

Basement floors and walls
33(1) Basement walls and floors of a dwelling must be constructed of masonry, concrete, preserved wood or other material impervious to external moisture.

33(2) Materials in basement walls and floors of a dwelling that have been damaged or show evidence of rot or other deterioration must be repaired or replaced.

33(3) Basement floors of a dwelling must be so constructed as to effectively drain all water into a catch basin which must be connected to a sewerage system, or another subsurface water drainage system.

Floors
34(1) The floors of a dwelling must be maintained so that they are:

(a) free of loose, warped, protruding or rotting floors boards;

(b) free of wide holes or cracks;

(c) maintained in a clean and sanitary condition.

34(2) Vertical openings on a floor of a dwelling, including service spaces, chutes, air vents and elevator shafts, must be covered or barricaded in a manner that prevents accident or injury.

34(3) Floor coverings in a dwelling must be in good repair, well fitted and capable of being easily cleaned.

34(4) Floors of kitchens, bathrooms, shower rooms, toilet rooms, laundry areas or other areas in a dwelling where large amounts or water are likely to be present must be finished with a material that is resistant to water.

34(5) Floor covering replacements in a dwelling must be a minimum of 2 mm in thickness.

34(6) A smooth subfloor underlay must be provided under resilient flooring, parquet flooring, ceramic tile, felted synthetic fibre floor coverings or carpeting laid over lumber floors in a dwelling.

34(7) Where necessary to prevent condensation, mould, or frost buildup in a dwelling, the floors of habitable rooms adjacent to any unheated area must be insulated and have a vapour barrier installed in accordance with Code.

Walls and ceilings
35(1) Walls and ceilings in a dwelling, including door jams and stops, baseboards, quarter round and other components, must be maintained in good repair.

35(2) The obligation in subsection (1) includes the obligation to finish the walls and ceilings with paint, varnish, stain or wallpaper and to maintain walls and ceilings:

(a) in a safe condition and free from loose plaster and other hazards;

(b) in a clean condition; and

(c) free of holes, large cracks and loose plaster.

35(3) In a dwelling, a waterproof finish such as ceramic, plastic or metal tile, sheet vinyl, tempered

hardboard, laminated thermosetting decorate sheets or linoleum must be installed to a height of not less than:

(a) 1.8 m above the floor in shower stalls;

(b) 1.2 m above the rims of bathtubs equipped with showers;

(c) 400 mm above the rims of bathtubs not equipped with showers.

35(4) Where necessary to prevent condensation, mould, or frost buildup in a dwelling, the walls and ceilings of habitable rooms adjacent to any unheated area must be insulated and have a vapour barrier installed in accordance with Code.

Doors and windows

36(1) When closed, every exterior door to a dwelling and every door to a dwelling unit within a dwelling:

(a) must be properly fitted within its frame;

(b) must be equipped with hardware so as to be capable of being locked from both inside and outside;

(c) must allow individuals within the dwelling unit to exit without the use of a key; and

(d) must not be secured with a lock and hasp.

36(2) All windows in a dwelling that are capable of being opened must have locking hardware capable of being opened from inside the dwelling unit.

36(3) All windows, exterior doors, basement and attic hatchways and their frames and other components in a dwelling, must be so constructed and maintained to completely exclude moisture and substantially exclude wind from entering the structure.

36(4) Windows in a dwelling, including frames, sashes, casings, weatherstripping and other components, must be kept in good repair.

36(5) Windows in a dwelling must be properly glazed.

36(6) All enclosed spaces in a dwelling must be provided with an opening of sufficient size to permit entry to the space and fitted with a door or panel to enclose the opening.

Screens and storm windows and doors

37(1) Close-fitting screened sashes must be installed on all openable windows in a dwelling from May 1 to November 1 in each year and must be maintained in good condition.

37(2) Screens on sashes required by subsection (1) must be composed of not less than number 14 mesh which is maintained free of holes.

37(3) Where necessary to prevent rodents, insects or vermin from gaining entry to the dwelling, close fitting screen doors must be installed in exterior doorways and must be maintained in good condition.

37(4) Storm sashes, used in windows required for ventilation in a dwelling, must be provided with

sliding or hinged sub-sashes or with an other openable device.

37(5) Where necessary to protect against the elements

(a) properly fitting storm doors must be provided; and

(b) storm windows must be provided for the windows of habitable rooms and basements;

in a dwelling from November 1 to April 30 in each year.

Guards and handrails

38(1) Within a dwelling, every interior stair that has more than two risers must have the sides of the stair, the landing and the floor level around the stairwell enclosed by walls or protected by guards, except that a stair to an unfinished basement may have one unprotected side.

38(2) Every exterior landing or porch that is attached to a dwelling and that is more than 90 cm above the adjacent grade, and every balcony, mezzanine, gallery, raised walkway and roof to which access is provided for other than maintenance purposes, must be protected by guards on all open sides.

38(3) Within a dwelling, a handrail must be installed on at least one side of all interior stairs having more than two risers and on exterior stairs having more than three risers.

38(4) Where this section requires that stairs must be protected by handrails or guards, the handrails and guards must be at least 75 cm in height above a line drawn through the outside edges of the stair nosings and 90 cm in height above landings.

38(5) Where this section requires that guards must be installed around accessible roof levels, porches, exterior balconies or walkways to which access is provided, the guards must be at least 107 cm in height, except that those within dwelling units may be 90 cm in height.

38(6) Where balustrades are used as a guard in compliance with this section, they must prevent the passage of a spherical object having a diameter of 10 cm through the balustrade.

38(7) All guards and handrails required by this section must be maintained in good repair and must be firmly attached so as to provide reasonable protection against accident and injury.

38(8) Fire escapes on the exterior of dwellings must be maintained in good repair and free of obstructions.

38(9) When stairs within or attached to a dwelling are replaced or substantially repaired, the guards and handrails must be constructed so as to meet the standards of the current edition of the Manitoba Building Code.

Kitchens

39(1) Within a dwelling, a kitchen must be equipped with a kitchen sink and a counter work surface at least 150 cm long and 55 cm wide, including the area occupied by the kitchen sink.

39(2) The backsplash and countertop around the kitchen sink within a dwelling must have a water-resistant surface.

39(3) Storage cabinets must be installed under the counter work surface in a kitchen within a dwelling, providing at least 1.0 m2 of shelf area, and must be maintained in good repair and in a clean condition.

39(4) A clear space of 60 cm must be provided above the heating elements of any cooking appliance within a dwelling.

Bedrooms

40(1) A bedroom or other room used for sleeping purposes within a dwelling must have at least one closet or wardrobe for storage of clothing.

40(2) The closet or wardrobe required by subsection (1) must:

(a) have at least 0.5 m2 of floor area;

(b) be at least 55 cm deep; and

(c) have a shelf of not less than 27.5 cm in depth at least 1.5 m from the floor.

40(3) Bedrooms within a dwelling must be equipped with a close fitting door with hardware so as to ensure privacy.

Plumbing standards

41(1) Every dwelling must be provided with an adequate supply of running water that is safe and fit for human consumption without further treatment.

41(2) Every sink, wash basin, bathtub or shower in a dwelling must have hot and cold running water and every toilet must have running water in a supply and at a pressure adequate for the purpose for which that fixture is intended to be used.

41(3) In every dwelling, hot water must be supplied at a minimum temperature of 43° C (110° F) and must not exceed a maximum of 57° C (135° F) at the tap.

41(4) All plumbing in a dwelling, including fixtures, drains, water pipes and connecting lines to the water and sewer systems, must be:

(a) protected from freezing; and

(b) maintained in good working order; and

(c) free from leaks or other defects.

41(5) Every dwelling must be provided with at least the following:

(a) a kitchen sink;

(b) a toilet;

(c) a washbasin; and

(d) subject to subsection (6), a bathtub.

41(6) Notwithstanding clause (5)(d), a dwelling may be provided with a shower rather than a bathtub where there is insufficient space in the dwelling unit for a bathtub.

41(7) Sewage or organic waste from a dwelling must be discharged into a sewerage system as required by the Sewer By-law.

Sanitary facilities

42(1) Bathrooms and toilet rooms in a dwelling must be fully enclosed and fitted with a door and hardware so as to be capable of being locked from the inside in order to provide privacy for the occupant.

42(2) In a dwelling, a wash basin must be installed either in the same room as a toilet or in an accessible adjacent room.

42(3) Bathtubs, showers and toilets in a dwelling must not be located in a habitable room.

42(4) Seats must be provided for all toilets in a dwelling and must be kept in good repair.

42(5) No person may restrict or hinder an occupant from using the toilet, bathtub, shower or wash basin in a dwelling.

42(6) Where sanitary facilities are shared by occupants of more than one dwelling unit:

(a) all occupants must have convenient access to a toilet, wash basin and bathtub or shower;

(b) all of the required plumbing facilities must be located within the building so as to be accessible from a common hall or passageway to all persons sharing such facilities without going outside the building and without going through another dwelling unit;

(c) required plumbing facilities must not be located more than one floor away from every dwelling unit; and

(d) no more than ten occupants may share a

(i) toilet,

(ii) wash basin; or

(iii) bathtub or shower.

Heating standards

43(1) A dwelling must be provided with a heating system

(a) installed under permit and in compliance with Code;

(b) maintained in a safe and good working condition; and

(c) supplied with fuel or power so as to provide the dwelling with sufficient heat in compliance with this section.

43(2) Subject to subsection (4), a room temperature of not less than 70° F (21° C), measured at a height of 75 cm from the floor in the centre of each occupied room within a dwelling, must be maintained between the hours of 7:00 a.m. and 11:00 p.m.

43(3) Subject to subsection (4), a room temperature of not less than 65° F (18° C), measured at a height of 75 cm from the floor in the centre of each occupied room within a dwelling, must be maintained between the hours of 11:00 p.m. and 7:00 a.m.

43(4) Subsections (2) and (3) do not apply during a period when a heating boiler is shut down at the request of the Manitoba Department of Labour for the purposes of an inspection under *The Steam and Pressure Plant Act*.

43(5) When operating, a space heater within a dwelling must be

(a) located so as not to cause a fire hazard to walls, curtains or furniture;

(b) located so as not to impede the movement of persons within the room where the heater is located; and

(c) operated and maintained in accordance with the manufacturer's instructions.

43(6) A space within a dwelling that contains fuel burning equipment must be provided with a natural or mechanical means of supplying fresh air for combustion.

43(7) A fuel-fired heating appliance within a dwelling must be vented by means of rigid connections to a chimney or vent flue in compliance with The Winnipeg Building By-Law.

43(8) Every chimney, smoke pipe and flue of a dwelling must:

(a) be maintained so as to prevent any gases, water or any liquid from leaking into the dwelling;

(b) be kept clear of obstructions; and

(c) have all defective masonry or metal components repaired or replaced.

43(9) Where all or part of a heating system or an auxiliary heating system in a dwelling burns solid or liquid fuel, a receptacle approved by the Department of Labour for the storage of the fuel must be provided and maintained in a convenient location and must be constructed so as to be free from fire

or other hazards.

43(10) Within a dwelling, a fireplace capable of being used and its components must have been designed and must be maintained so that adjacent combustible material and structural members are not heated to unsafe temperatures.

Gas and open flame appliances

44(1) Within a dwelling, gas stoves, gas water heaters, gas fireplaces and other gas appliances that use open flames:

(a) must be provided with suitable pipes or flues or other effective means for the removal of the products of combustion;

(b) must be kept in good repair;

(c) must not be installed in any room used for sleeping purposes.

44(2) A room used for sleeping purposes in a dwelling must be separated by a door from a room in which a gas or open-flame appliance is located.

44(3) A person must not use or allow to be used for sleeping purposes in a dwelling any room that contains a gas or open-flame appliance, or any room which is not separated by a door from such a room.

Ventilation

45(1) All enclosed spaces within a dwelling must be capable of being and must be ventilated sufficiently to prevent mould, mildew and condensation and to provide for an exchange of fresh air.

45(2) Unless serviced by a operational central air conditioning system, habitable rooms within a dwelling, except kitchens and bathrooms, must have at least one window which can be easily opened and held in an open position by window hardware.

45(3) An openable window, a local vent or a mechanical ventilation system must be located in all bathrooms and toilet rooms in a dwelling.

45(4) A mechanical ventilation system installed in a bathroom, toilet room or kitchen in a dwelling must be:

(a) capable of completely changing the air in the room at least once per hour; and

(b) maintained in good repair and working order.

Electrical services

46(1) Every dwelling must be connected to an electrical supply system and must be hardwired for electricity.

46(2) A supply of hardwired electric power must be available at all times in all areas of every occupied dwelling.

46(3) The capacity of the electrical service to the dwelling and the system of circuits distributing the electrical supply within the dwelling must be adequate for the actual use and intended use of the dwelling.

46(4) Electrical wiring, circuits, fuses, circuit breakers and electrical equipment within a dwelling must be maintained at all times in compliance with the provisions of The Winnipeg Electrical By-Law.

46(5) Subject to subsection (6), every habitable room within a dwelling must be provided with at least one electrical receptacle.

46(6) Every kitchen or room where cooking takes place must be provided with at least two receptacles, suitably located, one for a refrigerator and one over or adjacent to the counter work surface. At least one of the receptacles must be supplied by a branch circuit that does not supply any other outlets.

46(7) If an electric range is provided in a dwelling unit, a receptacle in addition to those required by subsections (5) and (6) must be provided exclusively for the electric range.

46(8) A receptacle and receptacle circuit on an electric range may be taken into account in determining compliance with subsection (6).

46(9) All lighting and appliance branch circuits must be protected by an overcurrent device rated at not more than 15 amperes and must be protected from inadvertent overfusing by the insertion of a fuse rejector into the fuse holder, or by the use of a circuit breaker.

46(10) Extension cords must not be used in place of hardwiring for receptacles, lighting fixtures and switches, and must be replaced with hardwiring.

Light

47(1) Common stairways, corridors and halls as well as storage rooms, locker rooms and service rooms in a multiple family dwelling must at all times be capable of being illuminated to an average level of at least 50 lux at the floor level to provide safe passage and to facilitate cleaning.

47(2) All rooms in a dwelling must be capable of being illuminated by artificial light adequate for the use to which the room is being put.

47(3) Every habitable room must have one or more windows, sliding glass doors or a combination thereof, with translucent panels that face directly to the outside, sufficient to produce an unobstructed light transmitting area of not less than 10% of the floor area for living and dining rooms and not less than 5% of the floor area for bedrooms.

47(4) In calculating compliance with subsection (3), the area of a window whose natural light is blocked by a wall or other portion of the building located less than 1 meter from the window must not be included as contributing to the required minimum window area of the room.

47(5) In calculating compliance with subsection (3), skylights which are constructed so as to be watertight and protected in a suitable manner against condensation may be included in the calculation so long as they are not the sole source of natural light in any room.

Smoke alarms

48(1) The requirements imposed by this section are in addition to, and not in lieu of, requirements imposed by the Fire Prevention By-law and other regulations.

48(2) Smoke alarms conforming to CAN/ULC-S531-02 "Standard for Smoke Alarms" must be

installed in every dwelling unit.

48(3) Smoke alarms within dwelling units must be installed between each sleeping area and the remainder of the dwelling unit and, where the sleeping areas are accessed by a hallway, the smoke alarms must be installed within the hallway.

48(4) Smoke alarms in a dwelling must be installed on or near the ceiling and otherwise in conformance with CAN/ULC-S553-02 “Installation of Smoke Alarms”.

48(5) Smoke alarms must be hardwired unless they are located in a dwelling constructed prior to 1981 which has not subsequently renovated in a way that would permit hardwiring.

48(6) Where smoke alarms are installed with hardwired, there must be no disconnect switch between the overcurrent device and the smoke alarm.

Fire alarm and smoke alarm systems

49. All fire alarm systems and smoke alarm systems installed in a dwelling must be operational and in good repair at all times.

Space requirements

50(1) Except as provided in section 52 and 53, all dwellings must meet the following minimum space requirements:

(a) habitable rooms, bathrooms and toilet rooms must have a ceiling height of not less than 210 cm;

(b) hallways, corridors and passageways must have a ceiling height of not less than 210 cm and a width of not less than 85 cm;

(c) stairways must have a minimum head room of at least 195 cm, measured vertically from a line drawn through the outer edges of the nosings;

(d) Each room used for sleeping in a dwelling:

(i) must have a floor area of at least 5.6 m2 for a single occupant; and

(ii) must have at least 3.7 m2 of floor area for each occupant when two or more persons occupy the room;

(e) the total area of the habitable rooms in each dwelling unit must total at least 7.4 m2 for each occupant of a dwelling;

50(2) Where a dwelling is being rented, a designated employee is authorized to affix to the dwelling a card setting out the number of persons who may occupy the dwelling and the owner must ensure that the number of occupants of the dwelling does not exceed the number posted.

Basement occupancies

51(1) Notwithstanding any other provision in this Part, space in a basement must not be used or permitted to be as a dwelling unit or habitable room unless it meets the following requirements:

(a) floors and walls must be impervious to leakage of underground and surface run-off

water;

(b) each habitable room must be separated from a fuel-fired heating appliance by walls and doors;

(c) access to each habitable room must be possible without passing through a furnace, boiler or service room;

(d) every habitable room must be provided with:

(i) sufficient artificial or natural lighting to produce an average illumination of at least 119 lux at the floor level;

(ii) subject to clause (g), a window which is capable of being opened with a minimum unobstructed area of at least 0.3 m2; and

(e) in addition to complying with clause (d), rooms used for living and eating must be provided with a window with a total glass area of not less than 10% of the floor area of the room;

(f) in addition to complying with clause (d), bedrooms and rooms used for sleeping must be provided with a window with a total glass area of not less than 5% of the floor area or the room.

(g) a kitchen, bathroom and toilet room must have either

(i) a window which is capable of being opened with a minimum unobstructed area of at least 0.3 m2; or

(ii) mechanical ventilation to produce at least one air change per hour;

51(2) Where basement windows are surrounded by window wells, only that part of the window which is above a 45° line projected downwards from the top of the window well must be used in calculating the light transmitting area required by clause (1)(d).

51(3) At least one-half of the floor area of every habitable room in a basement must have a ceiling height of 210 cm and the floor area of that part of any room where the ceiling height is less than 180 cm must not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy of the dwelling unit set out in section 51 (general space requirements).

51(4) No overhead obstructions in a basement dwelling unit may exist except where the ceiling height is at least 210 cm and the obstructions do not descend more than 17.5 cm from the ceiling.

51(5) Stairs leading to a basement dwelling must be at least 75 cm in width, have a maximum rise of 20 cm, a minimum run of 21 cm and a minimum tread width of 23.5 cm and must provide a minimum headroom clearance of 195 cm measured vertically from a line shown through the outer edges of the nosings.

51(6) Subject to subsection (7), a dwelling unit or habitable room in a basement must have at least two means of egress.

51(7) Where it is not practical to provide two means of egress from a dwelling unit or habitable

room in a basement, the dwelling unit or habitable room must have one means of egress and must also comply with the following:

(a) an access to grade must be provided by an unobstructed opening of not less than 50 cm in width or height with a minimum of 0.37 m2 in area which must be easily opened from inside the building without the use of keys, tools, or special knowledge;

(b) where the sill of the opening referred to in clause (a) is higher than 50 cm above the floor, a stair and landing constructed to the following requirements must be installed to provide access to the opening:

(i) the stair must be at least 55 cm in width and must have a maximum rise of not more than 20 cm, a minimum run of 21 cm and a minimum tread width of 23.5 cm;

(ii) the landing must be located not less than 45 cm or more than 60 cm below the sill of the opening, and must be at least 55 cm in width or be as wide as the width of the opening, whichever is greater;

(iii) the stair and landing must be protected by guards and handrails in accordance with s. 40 (Guards and handrails);

(c) the window must be hinged to swing on its vertical axis and must have no obstructions such as screens or storm windows to impede its swing;

(d) where the window is of a double-hung or check-rail type, it must be equipped with a device that will hold it in an open position; and

(f) a permanent sign must be placed on or adjacent to the opening referred to in clause (a) to indicate that the opening is an emergency exit.

51(8) Catch basins must not be located in any habitable room in a basement.

51(9) Where a dwelling unit exists in a basement, plumbing fixtures, including catch basins, installed below the level of the adjacent street must be protected from backflow by the installation of an backwater valve in accordance with Code.

Attic and partial storey occupancies

52(1) Notwithstanding section 50 (general space requirements), dwellings in attics or partial storeys must meet the following requirements:

(a) at least one-half of the floor area of every habitable room must have a ceiling height of at least 210 cm;

(b) stairways leading to the dwelling must be at least 75 cm wide and must not be inclined to an angle of more than 50 degrees from horizontal and must provide a minimum clearance height of 180 cm measured vertically from a line drawn through the outer edges of the nosings.

52(2) The floor area of that part of any room in a dwelling in an attic or partial storey where the ceiling height is less than 137 cm must not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy of the dwelling unit under clause 50(1)(e);

PART 3
LITTERING AND GARBAGE

Littering prohibited
53(1) Subject to subsection (2), a person must not deposit, discard, or leave garbage on a street, in a public place, or on private property.

53(2) Subsection (1) does not apply when the garbage is deposited into a litter receptacle or a garbage container in compliance with the Solid Waste By-law.

Spitting prohibited
54. A person must not spit in a public place except in a litter receptacle.

Garbage and litter from vehicles
55(1) The driver of a vehicle must ensure that garbage is not blown off, thrown, dumped or deposited from a vehicle.

55(2) The driver of a vehicle that is carrying a load of garbage must ensure that:

(a) the garbage is properly secured by a tarpaulin, net or other device that completely covers the load; and

(b) no piece of garbage blows off or otherwise leaves the vehicle while it is in motion.

Duty of property owners/occupants
56. The owner and occupant of property must ensure that

(a) the public sidewalk and the boulevard in front of and flanking the property; and

(b) a back lane in rear of the property;

is kept free of garbage.

Duty of business owners
57. The owner of a business that sells food or drinks in containers or papers must collect and dispose of the containers and papers discarded on the premises or on adjoining public or private land within a distance of 100 metres of the businesses.

PART 4
HANDBILLS, POSTERS AND TEMPORARY SIGNS ON STREETS

Delivery of handbills
58(1) A person must not leave a handbill on residential property if

(a) a sign on the property states: “No handbills”, “No flyers”, “No trespassing”, “No pedlars or agents” or otherwise indicates that handbills are not wanted;

(b) the occupant in any other way indicates that handbills are not wanted;

(c) the property is vacant.

58(2) A person who leaves handbills on residential property must place them so that they will not be blown by the wind from the place where they were left.

58(3) A person must not deposit or leave a handbill on or attached to a vehicle.

Posters on private property
59. A person must not post a poster on property without the permission of the occupant or owner of the property.

Posters and temporary signs on streets
60(1) Subject to section 62, a person must not place or post, or cause the placing or posting of a sign within a street if it:

(a) is a hazard to vehicular or pedestrian traffic;

(b) is attached to or obstructing a directional sign, a traffic control device or a sign erected, placed or authorized by the City of Winnipeg, the Province of Manitoba or the Government of Canada, including the post or standard supporting the sign or traffic control device;

(c) causes damage to property, including trees or a structure within a street;

(d) is located within a median or traffic island;

(e) is attached to a pole, wall or other structure by something other than clear adhesive tape;

60(2) Subject to section 62, a person must not place or post, or cause the placing or posting of a sign within any street unless the sign displays on its face

(a) the name and telephone number of the person responsible for placing the sign or causing it to be placed; and

(b) the date the sign was placed;

60(3) Subject to section 62, the person placing or posting, or causing to be placed or posted, a sign within any street must remove it within 14 days of the date it was posted or within 24 hours after the event identified in the sign, whichever is sooner.

60(4) Notwithstanding subsection 60(3), garage sale signs may not be placed within a street earlier than the day prior to the garage sale.

Temporary signs on streets
61(1) Subject to section 62, a person must not place or post, or cause the placing or posting of a sign, other than a poster, within any street which is identified on Schedule “A”, which Schedule is attached to and forms part of this By-law.

61(2) Subject to section 62, a person must not place or post, or cause the placing or posting of a

sign, other than a poster, within any street which is identified on Schedule "A", if the sign

(a) is within 30 metres of an intersection, measured from the nearest curb of the intersection;

(b) is within 30 metres of a turning lane, deceleration or acceleration lane or traffic storage lane;

(c) is within 2 metres of a curb or the edge of a roadway;

(d) is within 0.5 metres of a sidewalk;

(e) is within 5.0 metres of a private access;

(f) is permanently affixed;

(g) is supported by string, rope, wire or metal stakes;

(h) is a mobile sign;

(i) is greater than 0.6 square metres in size;

(j) is higher than 1 metre, measured from the existing grade to the top of the sign;

(k) has more than 2 faces per sign;

(l) is illuminated, electrified, spins or rotates;

(m) could be reasonably mistaken for a street sign or a traffic control device;

Exceptions to sign restrictions

62(1) Sections 60 and 61 do not apply to:

(a) signs placed, posted or erected by the City of Winnipeg;

(b) signs, including advertising, placed, posted or erected on facilities owned by the City of Winnipeg, including Winnipeg Transit facilities, pursuant to agreements with the City of Winnipeg;

(c) signs placed, posted or erected by Manitoba Hydro or other utility companies upon their own poles or structures of the Province of Manitoba or the Government of Canada;

(d) signs placed, posted or erected by a Business Improvement Zone to beautify or improve the zone;

(e) signs specially authorized under or required by:

(i) the Downtown Winnipeg Zoning By-law;

(ii) the Winnipeg Zoning By-law;

(iii) the Winnipeg Building By-law;

(iv) the Encroachment By-law;

(v) the Traffic By-law;

(vi) the Streets By-law.

62(2). Notwithstanding subsection 60(3), the obligation to remove a sign no later than 14 days after it was placed does not apply to an election sign that is placed within the street no earlier than the date notice is given of the opening of nominations and is removed within 7 days after the close of polls for that election.

Removal of signs by City
63(1) A sign is permitted to be placed within a street on condition that it may be removed by or on behalf of the City of Winnipeg in order to allow work to be done on or within the street without notice to the person who owns or has placed the sign.

63(2) A sign removed pursuant to subsection (1) must be retained by a designated employee for a period of three days, during which time the person whose name appears on the sign pursuant to clause 61(2)(a) may reclaim it.

63(3) A sign that contravenes this By-law may be removed by a designated employee and destroyed forthwith without notice.

Posters in City buildings
64(1) Members of the public may not post notices and posters on property or in buildings owned or occupied by the City except on notice boards and poster areas designated for this purpose and with the approval of a designated employee.

64(2) A notice board or poster area not less than 60 cm by 60 cm must be provided for use by the public at every branch library, community office, arena, swimming pool and wading pool operated by the City of Winnipeg.

64(3) An employee designated for this purpose must:

(a) record on the poster the date it was received and the date it was posted;

(b) post notices and posters in the order they were received and as space becomes available;

(c) remove a poster immediately after the event it is publicizing or two weeks after it was posted, whichever occurs earlier;

PART 5
NOISE CONTROL

Definitions
65. In this Part

"'A' weighted sound level" means the sound pressure level in decibels, designated as

dBA, measured on a precision sound level meter using the "A" weighting network and "slow" meter response;

"ambient sound level" means the 'A' weighted sound level at a point of reception, excluding the noise or sound which is the subject of an investigation for a potential contravention of this Part;

"Decibel (dB)" means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of pressure of the sound measured to the reference pressure, which is 20 micropascals;

"point of reception" means any point on any property where sound, originating from other property, is heard by a person who is engaged in normal activities;

"precision sound level meter" means an instrument used to measure sound levels and specified as Type I or Type II Precision Sound Level Meter in CSA specification, Z107, 1-1973, or the American National Standards Institute specification, ANSI SI.4-1971 (R1976), as amended from time to time.

"statutory holiday" means a holiday identified in *The Interpretation Act*;

"weekday" means every day of the week except Saturday, Sunday and statutory holidays.

Exemptions

66. This Part does not apply to:

(a) emergency sirens and signals used during an emergency by an ambulance, fire vehicle or police vehicle;

(b) sound produced in the course of constructing, maintaining, rehabilitating or otherwise working on a street or property owned by the City of Winnipeg;

(c) military bands or parades or other parades operating under a permit issued under the Traffic By-law or a successor by-law;

(d) activities normally associated with

(i) places of religious worship, religious retreat and religious instruction that qualify for a partial exemption from real property taxation under clause 22(1)(i) of *The Municipal Assessment Act*; and

(ii) public schools, as that term is used in *The Public Schools Act*, and private schools, as that term is used in *The Education Administration Act*;

including worship services, children's play and school-sponsored activities on school yards, and the ringing of church or school bells.

(e) sound producing devices used during the month of December for the rendering of Christmas carols;

(f) aircraft and railway rolling stock;

(g) an activity, work or undertaking performed by or through the City in respect of public services, facilities or installations;

(h) an activity for which a permit has been issued by the designated employee under this Part.

Noise nuisance prohibited

67(1) Except to the extent permitted under this By-law, a person must not make or continue, or cause to be made or continued, or own or harbour an animal that makes:

(a) an unreasonably loud, unnecessary or excessive noise or sound;

(b) a noise or sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable individual of ordinary sensitivity; or

(c) a noise or sound which is so harsh, prolongued, unnatural or unusual in time and place so as to occasion unreasonable discomfort to any individual or so as to detrimentally affect residential properties or places of business.

67(2) In determining whether a noise or sound has been made which contravenes subsection (1), the following factors, among others, may be taken into account:

(a) the time of day and day of the week on which the noise or sound was made;

(b) the nature and use of the area from which the noise or sound emanates and the nature and use of the area at which it is received;

(c) the nature of the event or activity producing the noise or sound;

(d) the volume, duration and nature of the sound, including whether it is recurrent, intermittent or constant; and

(e) the 'A' weighted sound level of the noise or sound and the ambient sound level, if measured, but not 'B', 'C' or 'linear' weighted sound levels.

Certain activities prohibited

68. A person must not

(a) except in any emergency, engage, operate, apply or otherwise use an engine retarder brake in any vehicle driven within the City of Winnipeg;

(b) offer for sale or sell anything by shouting or amplified sound within any residential or commercial district;

Certain activities prohibited at specific times

69(1) A person must not do any of the following before 7:00 a.m. and after 9:00 p.m. on weekdays or before 9:00 a.m. and after 9:00 p.m. on Saturdays, Sundays and statutory holidays:

(a) operate or permit the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device out of doors within 150 m of a residential property;

(b) operate or permit the operation of heavy equipment, machinery or tools used in construction, drilling or demolition within 150 m of a residential property;

(c) repair, rebuild, modify or test out of doors any motor vehicle, motorcycle, motor boat, outboard motor or recreational vehicle within 150 m of a residential property.

69(2) A person must not:

(a) operate or permit the operation of any engine or motor in or on any motor vehicle or attached auxiliary equipment for a continuous period exceeding 10 minutes, while such vehicle is stationary within 150 meters of a residential property before 7:00 a.m. and after 10:00 p.m. on any day;

(b) operate or permit the operation of a powered model vehicle before 9:00 a.m. and after 9:00 p.m. on any day.

Air conditioners, fans, etc.

70(1) Subject to subsection (2), the owner and occupant of property must ensure that air conditioning equipment, air moving devices or fans located on his or her property do not collectively exceed a sound level at the point of reception of

(a) 55 dBA between 7:00 a.m. and 9:00 p.m.; and

(b) 50 dBA between 9:00 p.m. and 7:00 a.m.

70(2) Notwithstanding subsection (1), where the ambient sound level at the point of reception exceeds the sound level limits set out in subsection (1), the air conditioning equipment, air moving device or fan is not contravening this section unless the sound level it produces measures 5 dBA in excess of the ambient sound level.

Permits

71(1) The designated employee may issue a permit authorizing an activity that would otherwise be prohibited under this By-law and, in so doing, in addition to exercising the powers granted in section 100, the designated employee may impose conditions on the permit designed to restrict or minimize the noise produced by or in the course of the activity or its effect on people.

71(2) In addition to exercising the authority granted in section 102, an enforcement officer may suspend and a designated employee may revoke a permit issued under subsection (1) where the designated employee concludes that if the activity authorized by the permit were to proceed it would or be likely to

(a) create an undue noise nuisance;

(b) not comply with this By-law and other applicable laws, by-laws, codes and regulations; or

PART 6
OPEN AIR BURNING

Definitions

72. In this Part:

"approved receptacle" means an approved fire pit, approved outdoor barbeque, approved outdoor fireplace or approved outdoor warming fire receptacle that meets the requirements set out in this Part;

"Chief" means the Chief of the Winnipeg Fire Paramedic Service or delegate;

"open-air fire" means a fire set outdoors for any purpose, including cooking, recreation, generation of heat, the disposal of wood, stubble or crop residue and for religious or ceremonial purposes;

"operate", in relation to a portable barbeque, includes lighting, igniting, maintaining a fire within and cooking on a portable barbeque;

"permit" means an open-air fire permit issued under this Part;

"person in charge of an open-air fire" includes a person who ignites an open-air fire and the owner or occupant of any property on which an open-air fire is set;

"person in charge of a portable barbeque" includes a person who ignites a portable barbeque, the owner of the portable barbeque and the owner or occupant of any property on which a portable barbeque is operated;

"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;

All open-air fires subject to this Part

73. A person must not set any open-air fire, and the owner or occupant of any property may not permit any open-air fire to be set or to remain lit on the property, unless the fire meets the requirements of this Part.

Open-air fire permit required

74(1) Subject to subsection (2), a person must not set any open-air fire within the City of Winnipeg, and the owner or occupant of any property may not permit any open-air fire to be set or to remain lit on the property, unless the Chief has issued an open air fire permit authorizing the fire.

74(2) Subsection (1) does not apply to

(a) fires set and contained within an approved receptacle and maintained in accordance with this By-law on a residential property;

(b) fires set and maintained for ceremonial or religious purposes which are contained within an approved receptacle and maintained in accordance with this By-law;

(c) portable barbeques that are fuelled, operated and maintained in conformance with the manufacturer's instructions;

(d) appliances that are approved by the Canadian Gas Association (CGA), are installed, operated and maintained in conformance with the manufacturer's instructions, and are fuelled by propane or natural gas;

(e) fires permitted by the City in outdoor fire pits, outdoor barbeques or outdoor fireplaces provided as fixtures in campgrounds or parks owned by the City of Winnipeg; and

(f) burning conducted by the Winnipeg Fire Paramedic Service or persons authorized by the Chief for the purpose of training members of the Winnipeg Fire Paramedic Service and the public.

Requirements for fire pits

75. 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 Chief;

(b) be at least 15 cm (6 in) in height above the surrounding grade but no more than 60 cm (24 in) in depth when measured from the top of the cit opening to the bottom of the pit;

(c) have an opening that does not exceed 75 cm (2.5 ft) in diameter or an area of .56 m^2 (6 ft^2) and in which neither the width nor length is greater than 75 cm (2.5 ft);

(d) have a spark arrestor, grille or mesh with openings no larger than 12 mm (1/2 in) and constructed of a non-combustible material, which is used to cover the entire area of the fire pit opening; and

(e) not be used for commercial or industrial applications.

Requirements for outdoor barbeques

76. An approved outdoor barbeque must

(a) be constructed of masonry, concrete, heavy gauge metal or other noncombustible materials acceptable to the Chief;

(b) be enclosed on all sides, except for any opening completely covered by a removable, non-combustible spark arrestor, grille or mesh with openings no larger than 12 mm (1/2 in);

(c) have a cooking surface which is at least 75 cm (2.5 feet) and no more than 120 cm (4 ft) in height when measured from the surrounding grade;

(d) have a cooking surface which does not exceed 75 cm (2.5 ft) in diameter or an area of .56 m^2(6 ft^2), and in which neither the width nor length is greater than 75 cm (2.5 ft); and

(e) not be used for commercial or industrial applications.

Requirements for outdoor fireplaces

77. An approved outdoor fireplace must

(a) be constructed of masonry, concrete, heavy gauge metal or mesh or other non-combustible materials acceptable to the Chief;

(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 its chimney opening entirely covered by a non-combustible spark arrestor, grille or mesh with openings no larger than 12 mm (1/2 in);

(d) have a side opening to the fire chamber which does not exceed 0.56 m^2(6ft^2) in area, and in which neither the width nor length is greater than 75 cm (2.5 ft);

(e) has its side opening entirely covered by a non-combustible spark arrestor, grille or mesh with openings no larger than 12mm (1/2 in); and

(f) not be used for commercial or industrial applications.

Requirements for outdoor warming fire receptacles

78. An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 225 litres (50 gallons) with all openings entirely covered by removable, non-combustible spark arrestors, grilles or mesh with openings no larger than 12 mm (1/2 inch).

Rules regarding all open air fires

79. 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:

(i) reduced visibility on any highway or road;

(ii) a rapid spread of fire through grass or brushed area;

(e) the fire is not set or maintained when the wind exceeds 25 kilometres per hour (15 miles per hour);

(f) if the fire becomes uncontrollable or spreads beyond its assigned limits, the Winnipeg Fire Paramedic Service is alerted by calling 911.

Rules regarding fires in receptacles

80(1) Unless a permit issued pursuant to subsection (2) permits otherwise, a person in charge of an open air fire on the grounds of a residential property must ensure that

(a) the fire is maintained within an approved receptacle;

(b) the fire is maintained a minimum of 3 metres (10 feet), as measured from the nearest edge of the fire, from any combustible buildings or structures, combustible fences, trees and overhead wires;

(c) only clean, dry, unpainted and untreated wood is burned and no grass, leaves, brush or tree prunings are burned in the fire.

80(2) A designated employee may issue a permit authorizing a fire that does not strictly comply with subsection (1) where the designated employee is satisfied that doing so will not expose people or property to undue risk.

Operation of portable barbeque

81(1) A person in charge of a portable barbeque must ensure that it is

(a) operated only out of doors in a well ventilated area;

(b) operated and maintained in accordance with the manufacturer's instructions;

(c) not operated within 1 metre (39"), or such greater distance as may be recommended by the manufacturer of the portable barbeque, from combustible materials; and

(d) not left unattended when lit.

81(2) A person must not operate a portable barbeque within 20 feet of any building unless it

(a) is located in the yard of a single family dwelling;

(b) uses electricity or natural gas as a heat source; or

(c) uses propane as fuel and equipped with a Quick Connect Coupling Valve (Q.C.C.1) and an Overfill Protection Device (O.P.D.).

81(3) 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.

81(4) Notwithstanding subsections (1) and (2), no one may store a portable barbeque on a balcony, patio or deck of a multiple family dwelling unless it

(a) uses electricity or natural gas as a heat source; or

(b) uses propane as fuel and is equipped with a Quick Connect Coupling Valve (Q.C.C.1) and an Overfill Protection Device (O.P.D.).

Storage and handling of propane storage cylinders (tanks)

82(1) The owner of a propane storage cylinder designed for use on a portable barbeque and the occupant of the property 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 metres (6.5 feet) of a portable barbeque.

82(2) The owner of a propane storage cylinder designed for use on a portable barbeque and the occupant 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 20 pound tanks are stored on any balcony, including any tank attached to a portable barbeque;

(c) tank valves are not nearer than 1 metre (39 inches) from any door or window that is lower than the valve.

PART 7
ADDRESSES AND BUILDING NAMES

Street address and name to be attached to building

83(1) Subject to this section, the owner of a principal building must ensure that the number assigned to and any name approved for the building under this Part is attached to the building or otherwise posted on the property so as to be clearly visible from the street on which it is located.

83(2) Where a principal building on a property is in a location that results in a building number or name not being clearly visible from the street, the number assigned to and name approved for the building must be both attached to the building and displayed in another form that is clearly visible from the street. Where more than one principal building is located on a single property, the requirement that the numbers be displayed in another form that is clearly visible from the street may be met by displaying the range of building numbers on that property.

83(3) Where a property is adjacent to a back lane, the number assigned to the building must be attached to the building or to a fence or accessory structure so as to be clearly visible from the back lane.

83(4) Building numbers required to be attached or displayed by in this section must be at least 8 cm (3 inches) in height and of a colour that contrasts with the colour of the structure to which it is attached so as to be clearly visible.

83(5) The owner of a building must ensure that no other numbers or names are attached to the building that could be confused with the numbers assigned or names approved under this Part.

83(6) The owner of a building must ensure that the number assigned to a building under this Part is clearly visible from the street while the building is under construction.

Designated employee to assign addresses

84(1) A designated employee must assign numbers to each principal building in the City of Winnipeg at the time a building permit is issued.

84(2) When assigning numbers to buildings, the designated employee may use any method that is convenient and rational but must try to accommodate the following principles:

(a) where a street terminates at a river, the numbering of buildings on the street should begin at the river;

(b) the numbering of buildings on parallel streets should correspond to each other.

84(3) A designated employee may change the number assigned to a building to correct an error or to mitigate any confusion or inconvenience.

Building names to be approved by designated employee

85(1) The owner of an apartment block, high rise condominium or commercial building, must not

(a) name or rename the building;

(b) attach a name to the building or otherwise post it on the property;

unless the name has first been approved for use on that building by the designated employee.

85(2) The designated employee must approve the use of a building name unless it is the same as, or is likely to cause confusion with, the approved or commonly-used name of another building or place in the City of Winnipeg or would be offensive to a person of ordinary sensibilities.

85(3) The designated employee may require that the name approved for a building under this section be changed in order to correct an error or to mitigate any confusion or inconvenience.

85(4) Where the designated employee acts under subsection (3), he or she must notify the owner of the building of this action and order the owner to remove the existing name from the building within a reasonable period of time.

PART 8
BOULEVARD MAINTENANCE

Definitions

86. In this Part

"adjacent", when referring to the proximity of boulevards to private property, includes boulevards that are separated from private property by sidewalks;

"shrub" means a woody plant smaller than a tree and having a very short stem with low branches;

"tree" means any species of woody plant which, at maturity, is usually 5 or more metres in height, having one or more self-supporting trunks and includes the roots, branches, trunk, crown and all parts thereof.

Obligation to maintain boulevard

87(1) Subject to the provisions of this section and section 87, the owner and occupant of property

adjacent to a boulevard are each responsible for maintaining that portion of the boulevard that is adjacent to the property and are each guilty of an offence under this By-law for failing to do so.

87(2) The obligation imposed in subsection (1) includes the obligation to ensure that no aspect of the boulevard nor anything located on the boulevard contravenes the restrictions on non-standard boulevard treatments set out subsection 88(3) or, alternatively, that the boulevard fully complies with a permit issued under section 89.

87(3) The obligation imposed in subsection (1) includes the obligation to

(a) keep turf and any vegetation that has not been planted pursuant to this Bylaw or the designated employee's authorization trimmed to a maximum length of 15 cm (6 in);

(b) ensure that vegetation that has been planted, other than turf, is no more than 1.0 m (39 in) in height; and

(c) ensure that the boulevard is kept free of garbage.

87(4) The obligation imposed in this section applies whether or not a non-standard boulevard treatment has been applied to the boulevard.

87(5) The obligation imposed in subsection (1) does not include the responsibility to maintain trees within the boulevard and does not supersede any Policy adopted by the City respecting the removal of trees from boulevards.

Exceptions

88. The obligation imposed in section 85 and the authorization provided in section 87 do not apply to the following:

(a) boulevards adjacent to regional streets listed in Schedule "E" of the Streets By-law No. 1481/77;

(b) boulevards flanking properties adjacent to regional streets listed in Schedule "E" of the Streets By-law No. 1481/77;

(c) ditches in which turf has never been planted;

(d) boulevards located at the rear of a property;

(e) extended boulevards.

Authorization for non-standard boulevard treatments

89(1) Without restricting the obligation imposed under section 85 and subject to the provisions of this Part, the owner or occupant of property may apply a non-standard treatment to that portion of the boulevard that is adjacent to the property.

89(2) Prior to making any excavation in a boulevard, the owner or occupant of property must contact owners of utilities and other underground structures to ensure that no underground structures will be disturbed or damaged by the proposed excavation.

89(3) The owner or occupant of property need not obtain a permit under this Part to apply a non-standard boulevard treatment under subsection (1) if the non-standard boulevard treatment:

(a) does not interfere with the movement of vehicular or pedestrian traffic upon the right of way;

(b) does not obscure the sightlines of pedestrians or drivers of vehicles;

(c) does not obscure or obstruct access to

(i) fire hydrants;

(ii) installations belonging to the City of Winnipeg, Manitoba Hydro or Manitoba Telephone System; or

(iii) post office boxes located in the boulevard;

(d) does not inhibit or obstruct snow removal operations, including the storage of snow removed from the roadway or sidewalk;

(e) does not include any object weighing more than 10 kilograms;

(f) does not include vegetation that is or will be more than 1.0 m in height when fully grown;

(g) does not include a shrub or shrubs;

(h) does not include noxious weeds as defined in *The Noxious Weeds Act*;

(i) does not include a plant that is a fruit or vegetable;

(j) does not include vegetation other than turf located within 1.0 m from the curb;

(k) does not include vegetation other than turf within 0.5 m from the public sidewalk;

(l) does not harm a tree planted in the boulevard;

(m) does not result in trees planted or removed except to the extent authorized under the tree removal policy of the City of Winnipeg;

(n) does not result in the placement of aggregate materials smaller than 20 mm (¾ in) or greater than 40 mm (1½ in) on the boulevard;

(o) does not result in the placement of aggregate to a depth of more than 75 mm (3 in);

(p) with the exception of concrete paving stones that are installed flush to grade, does not result in the placement of asphalt or concrete on the boulevard;

(q) does not create or widen a private access for which a permit is required under the Private Approaches By-law or a successor by-law;

(r) ensures that the boulevard is graded so that water flows from the edge of the street into the roadway and that vegetation or objects do not obstruct rainwater and snow melt from flowing from the edge of the street into the roadway; and

(s) in the absence of an agreement with the owner of neighbouring property, does not allow non-standard vegetation to spread beyond that portion of the boulevard that is adjacent to his or her property.

89(4) Where a non-standard boulevard treatment results in the undermining or failure of the adjacent roadway, the owner of the property adjacent to the boulevard to which a non-standard treatment has been applied must pay a fee equal to the reasonable costs of replacing the non-standard boulevard treatment with turf.

Other non-standard treatments

90(1) Except as authorized in section 87, a person must not apply a non-standard treatment to a boulevard without a permit issued by the designated employee.

90(2) A person must not apply a non-standard treatment to a median or traffic island without a permit issued by the designated employee.

90(3) The designated employee may issue a permit for a non-standard treatment pursuant to subsections (1) and (2) only if he or she is satisfied that the non-standard treatment:

(a) will comply with applicable by-laws;

(b) will not

(i) interfere with the movement of vehicular or pedestrian traffic upon the right of way;

(ii) obscure the sightlines of drivers of vehicles or of pedestrians;

(iii) obscure or obstruct access to fire hydrants or installations belonging to the City of Winnipeg, Manitoba Hydro or Manitoba Telephone System;

(iv) inhibit or obstruct snow removal operations, including the storage of snow removed from the roadway or sidewalk; or

(v) cause damage to the roadway or any installation of the City; and

(c) is otherwise in the public interest.

Items placed in boulevard become City property

91. Where a person is authorized by or pursuant to this By-law to apply a non-standard boulevard treatment to a portion of the boulevard or a non-standard treatment to a median or traffic island, the authorization is granted subject to the condition that any

(a) vegetation planted on;

(b) items placed on and affixed to; and

(c) improvements made to;

the boulevard, median or traffic island become the property of the City of Winnipeg and are subject to removal or destruction by the City, or with the authorization of the City, without any obligation on the City to replace or repair them or to compensate the owner or occupant of the property for their loss or destruction.

Damage to boulevards
92(1) Subject to sections 87 and 88, in the absence of a permit issued by the designated employee, a person must not

(a) break, dig up, remove, injure, damage or deface trees, shrubs, plants or turf located in a boulevard;

(b) make an excavation deeper than 30 centimetres (one foot) into a boulevard;

(c) subject to subsection (2), deposit or store any substance upon a boulevard.

92(2) Notwithstanding clause (1)(c), the owner or occupant of property adjacent to a boulevard may deposit soil or well-rotted lawn dressing on a boulevard for up to seven days.

92(3) A person must not make an excavation into a boulevard unless he or she has first contacted owners of utilities and other underground structures to ensure that no underground structures will be disturbed or damaged by the proposed excavation.

92(4) The designated employee may issue a permit for the activities referred to in this section after taking into account:

(a) the possibility of damage to the boulevard or anything located in or under the boulevard as a result of the proposed activity;

(b) the safety of the applicant, motorists, pedestrians and others while the activity takes place;

(c) other relevant facts;

and may impose reasonable conditions on the authorization.

Director may enter into agreements
93. The Director of Public Works of the City of Winnipeg may enter into and execute agreements with individuals, businesses, organizations or groups that are consistent with other By-laws and Policies, to plant, prune, protect, nurture or remove trees in the right of way.

PART 9
MOSQUITO CONTROL

Definitions
94. In this Part

"larval and pupal development site" includes a low-lying area, receptacle or any other place or thing that contains mosquitoes in the egg, larval or pupal stages of development or in which mosquitoes in those stages of development can reasonably be expected to be found in the appropriate environmental conditions;

"larvicide" means any chemical or combination of chemicals, other compound or any material used for destroying mosquitoes at the larval stage of development;

"low-lying area" means an area in which standing water is able to accumulate or other wet location where mosquitoes are or are likely to congregate or breed at any stage of development and includes pools, ponds, sloughs, lakes, and ditches, whether natural or created by humans, but does not include flowing rivers and streams;

"mosquito" means any insect of the family classification of Culicidae in any stage of its development;

"mosquito larva" means a mosquito in the larval stage of development;

"property" does not include the interior of a building;

"receptacle" means an object in which standing water can accumulate and in which mosquitoes can breed as a result of its location and position and includes but is not limited to such objects as basins, barrels, pots, cans, tarpaulins, swimming and wading pools, boats, canoes, spare tires and clogged eavestroughs and drainpipes.

Larval and pupal development sites prohibited

95. An owner or occupant of property must not permit a larval and pupal development site to exist on the property.

Inspection programs conducted by public notice

96(1) In order to determine whether this By-law is being complied with, the designated employee may conduct an inspection program by public notice in accordance with *The City of Winnipeg Charter*.

96(2) Employees of the City of Winnipeg who hold the following positions within a period of one year after the coming into force of this Part are hereby appointed as designated employees for the purpose of entering on and inspecting land in accordance with a public notice of an inspection to determine whether this By-law is being complied with:

(a) Administrative Coordinator of By-law Enforcement Services;

(b) Entomologist – Insect Control Services;

(c) By-law Constables who have been authorized to enforce this Part; and

(d) Entomology Technicians and Entomology Technical Assistants.

Orders to deal with larval and pupal development site

97(1) An order to remedy a contravention of section 95 (Larval and pupal development sites prohibited) may require the owner or occupant to implement a program or measure for the elimination of the site or the prevention and control of mosquito breeding in the site.

97(2) A program or measure under subsection (1) ordered by an inspector may require several actions or options for preventing or controlling mosquito breeding, including one or more of the following:

(a) relocating, resituating or repositioning receptacles so that they will not permit the

accumulation of stormwater;

(b) removing obstacles to the drainage of stormwater from eavestroughs, drainpipes, and similar sites;

(c) eliminating low-lying areas by filling them in or elevating them, installing or creating a system of drainage or taking some other action to prevent the possibility of the accumulation of storm water;

(d) introducing fish or other natural organisms to ornamental ponds and other similar sites in order to reduce or eliminate the proliferation of mosquito larvae through breeding;

(e) draining or cleaning receptacles on a regular basis;

(f) applying a larvicide to a larval and pupal development site;

(g) taking other actions to eliminate or reduce the possibility of mosquito breeding.

97(3) An order made under subsection (1) may specify a continuing action or series of actions to be taken.

Notice of entry for larviciding

98. Notice of entry for the purposes of larviciding as a service on private property may be given by annually publishing in a newspaper having general circulation in the city a notice setting out the purpose for which entry is being made, the chemical or biological agents employed and the dates between which entries to private property may take place without further notice and, pursuant to section 119 of *The City of Winnipeg Charter*, the requirements for giving notice of entry for these purposes are hereby varied.

PART 10
ADMINISTRATION

DIVISION 1 - PERMITS

When permits may be issued

99(1) Subject to this Division, where this By-law prohibits an activity unless the activity is permitted by a designated employee or provides that an activity may take place if authorized or permitted by a designated employee, a designated employee may issue a permit authorizing the activity if he or she concludes that

(a) the activity is unlikely to create an undue hazard to people or property or, alternatively, that conditions can be imposed on the permit so that it will not create an undue hazard to people or property;

(b) the activity will comply with this By-law and other applicable by-laws and relevant provincial and federal statutory provisions;

(c) the activity will not create an undue noise or nuisance to people in the vicinity or that that conditions can be imposed on the permit so that it will not create an undue noise or nuisance;

(d) where the activity is proposed to take place on private property, the owner or occupant of the property has authorized the activity to take place;

99(2) A designated employee must refuse to issue a permit where he or she reasonably concludes that the activity for which a permit is sought cannot be conducted in compliance with subsection (1), even with appropriate conditions imposed upon the permit.

99(3) A designated employee may refuse to issue a permit to an applicant or in respect of an applicant who has failed to comply with

(a) by-law provisions relevant to the activity for which the permit is being sought; or

(b) conditions imposed on a similar permit;

or if a similar permit has been revoked within the preceding year.

Conditions on permits

100(1) A designated employee may impose reasonable conditions upon permits in order to

(a) prevent, reduce, mitigate or compensate for any potential harm or damage to people or property;

(b) ensure that the activity will comply with this By-law and other applicable by-laws and relevant provincial and federal statutory provisions;

(c) ensure that the activity will not create an undue noise or an undue nuisance to adjacent properties or to people in the vicinity or to minimize or mitigate the any nuisance caused;

(d) facilitate the administration of the permit.

100(2) Without limiting the generality of subsection (1), the designated employee may require as a condition of a permit, that the applicant

(a) provide proof of insurance in any amount sufficient to compensate the City of Winnipeg or any other person for harm or damage suffered as a result of the permitted activity;

(b) provide a deposit of monies, bond or surety sufficient to compensate the City of Winnipeg for harm or damage suffered as a result of the permitted activity;

(c) indemnify the City against against all loss, costs, charges or damages caused by or arising out of anything done pursuant to the permit;

(d) conduct the activity in a particular manner, at specified locations or at specified times;

(e) utilize certain persons or categories of persons to carry out specified aspects of the activity;

(f) provide details of plans for the activity before the permit becomes effective;

(g) provide evidence of compliance with applicable laws, by-laws, codes and regulations

and/or with conditions imposed upon the permit;

(h) complete the activity by a specified date or within a specified period of time;

(i) obtain approval of owners of utilities that might be affected by the activity prior to the initiation of the activity; or

(j) construct hoardings or other protective structures;

(k) require inspections of the site prior to or during the activity permitted.

100(3) It is a condition of all permits issued pursuant to this By-law that the permit holder

(a) must comply with this By-law and other applicable by-laws and relevant provincial and federal statutory provisions in carrying out the activity authorized by the permit;

(b) must comply with any conditions imposed upon the permit;

(c) must not create an undue hazard to people or property;

(d) must ensure that the permit is available for examination by an enforcement officer at the site of the permitted activity at all reasonable times.

Permit may be flexible

101. 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 at a single area or location.

Suspension and revocation of permit

102(1) An enforcement officer may suspend a permit immediately for up to 30 days where the enforcement officer concludes that, if the activity authorized by the permit were to proceed or to continue, it would or be likely to

(a) create an undue hazard to people or property;

(b) unduly disrupt or interfere with vehicular or pedestrian traffic;

(c) result in harm or damage to the street or structures on the street or to private property; or

(d) not comply with this By-law and other applicable laws, by-laws, codes and regulations.

102(2) A designated employee may revoke a permit where

(a) misleading or false information was provided upon which the decision to issue the permit was based;

(b) the facts giving on which the decision to issue the permit was based have changed and would not now justify issuing the permit;

(c) the designated employee concludes that if the activity authorized by the permit were to proceed or to continue it would or be likely to

(i) create an undue hazard to people or property;

(ii) unduly disrupt or interfere with vehicular or pedestrian traffic;

(iii) result in harm or damage to the street or structures on the street or to private property; or

(iv) not comply with this By-law and other applicable laws, by-laws, codes and regulations; or

(d) the permit holder has failed to observe a condition imposed on a permit or has failed to comply with this and other applicable laws, by-laws, codes and regulations;

102(3) Before revoking a permit, a designated employee must give the permit holder a reasonable opportunity to be heard.

102(4) Where a designated employee has revoked a permit, the applicant may not apply for a similar permit for a period of one year or such lesser period as the designated employee may impose at the time of the revocation.

Administration of permits
103(1) A designated employee may impose requirements reasonably required to administer the issuance of permits, including requirements concerning:

(a) the completion and submission of application forms;

(b) the provision of information reasonably required in order to consider an application;

(c) reasonable time limitations for the submission of application forms.

103(2) Where a fee for a permit has been imposed pursuant to this or another By-law, the designated employee must not issue a permit until the fee has been paid.

DIVISI0N 2 - APPEALS

Appeals to Protection and Community Services Committee
104. Subject to section 105, 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 Protection and Community Services in accordance with *The City of Winnipeg Charter*.

Appeals to hearing body
105(1) Notwithstanding section 104, where an appeal from an order or decision made in the enforcement or administration of subsections 9(1) and 9(2) (vegetation on properties), Part 8 (Boulevard Maintenance) or Part 9 (Mosquito Control) is authorized by *The City of Winnipeg Charter*, the appeal may be made to a hearing body consisting of

(a) the Chief Administrative Officer of the City;

(b) the Chief Financial Officer of the City;

(c) the Director of Planning, Property and Development; and

(d) the Director of Water and Waste;

or their delegates.

105(2) The Chief Administrative Officer of the City or his or her designate shall serve as the Chair of the hearing body referred to in subsection (1) and the Chief Financial Officer of the City or his or her designate shall be the vice-chairperson.

105(3) The hearing body referred to in subsection (1) shall sit in panels of three members selected by the chairperson.

105(4) Sections 54.10 and 54.11 of the Procedure By-law apply to hearings conducted under this section and the hearing body may adopt other rules of practice and procedure.

Administration fee for appeals
106(1) Subject to subsections (2) and (3), an administration fee of $250.00 is hereby imposed for an appeal made under section 104 and 105.

106(2) An appeal may not be accepted by the City Clerk until the fee imposed by subsection (1) has been paid to the City Clerk.

106(3) The appeal body hearing the appeal may order the administration fee referred to in subsection (1) to be refunded to the appellant if the appeal has been made in good faith and has some merit.

DIVISION 3 - MISCELLANEOUS

Powers of designated employees and enforcement officers
107. Designated employees and enforcement officers to whom these powers have been delegated 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*.

Address for service
108(1) Where an address for service of an order or notice is required, the following shall be used:

(a) if the person to be served is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property; and

(b) if the person to be served is the occupant of real property, the address assigned to that property under Part 7 of this By-law.

108(2) Where an address for service is required for sending an order or notice issued under Division 2 of Part 1 to the owner of a derelict vehicle, the last address registered for that vehicle at the Motor Vehicle Branch shall be used.

DIVISION 4 – PENALTIES

Penalties for violation of Part 5 (Noise control)

109(1) An individual who contravenes Part 5 of this By-law (Noise Control) is guilty of an offence as is liable, upon summary conviction, to the following penalties:

(a) for a first offence, to a minimum fine of $50.00;

(b) for a second offence, to a minimum fine of $100.00; and

(c) for a third and subsequent offences, to a minimum fine of $150.00.

109(2) A corporation that contravenes Part 5 of this By-law (Noise Control) is guilty of an offence as is liable, upon summary conviction, to the following penalties:

(a) for a first offence, to a minimum fine of $100.00;

(b) for a second offence, to a minimum fine of $200.00; and

(c) for a third and subsequent offences, to a minimum fine of $300.00.

DIVISION 5 – CONSEQUENTIAL AMENDMENTS

Repealed by-laws

110. The following by-laws are repealed in their entirety:

(a) the Anti-Litter By-law No. 1075/75;

(b) the Boulevard Maintenance By-law No. 125/2007;

(c) the Building Names and Numbers By-law No. 1416/76;

(d) the Derelict Vehicles By-law No 41/2005;

(e) the Handbill and Poster By-law No. 1076/75;

(f) the Maintenance and Occupancy By-law No. 4903/88;

(g) the Mosquito Control By-law No. 101/2003;

(h) the Minimum Standard of Housing Repair By-law No. 19165/65;

(i) the Noise Control By-law No. 2480/79;

(j) the Pigeon Control By-law No. 978/75;

(k) the Refrigerators and Freezers By-law No. 17267/54;

(l) the Smoking Regulation By-law No. 88/2003;

(m) the Temporary Street Signs By-law No. 64/2003;

(n) the Termite Control By-law No. 4891/88;

(o) the Tree Trimming By-law No. 8155/2002;

(p) the Unsightly Premises By-law No. 8151/2003;

(q) the Winnipeg Heating By-law No. 19791/70.

Fire Prevention By-law amended
111. Part 3 of the Fire Prevention By-law No. 150/2004 is repealed.

City Organization By-law amended
112(1) The City Organization By-law No. 7100/97 is amended by this section.

112(2) Clause 10(k.1) is repealed and the following is substituted:

"k.1) To hear and decide appeals against orders or decisions made under the Neighbourhood Liveability By-law."

112(3) Clause 11(a.1) is repealed.

Streets By-law amended
113. The Streets By-law No. 1481/77 is amended by adding the following immediately after section 4.07:

"CONDUCTING BUSINESS ON A BOULEVARD

4.07(1) A person must not use a boulevard for business purposes or to conduct business on a boulevard unless the Director has issued a permit for the use of a street authorizing this activity.

4.07(2) The Director may issue a permit authorizing a person to use a boulevard for business purposes or to conduct business on a boulevard after taking into account:

(a) the possibility of damage to the boulevard as a result of the proposed activity;

(b) the safety of the applicant, motorists, pedestrians and others while the activity takes place;

(c) the impact on other businesses in the area; and

(d) other relevant facts;

and may impose reasonable conditions on the permit."

DIVISION 6 – COMING INTO FORCE

Coming into force
1145. This By-law comes into force on November 1, 2008.

DONE AND PASSED, in Council assembled, this day of , 2008.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Approved as to form:

_____
for City Solicitor/Manager of
Legal Services

SCHEDULE "A"
(Section 61)

Streets on Which Temporary Signs are Prohibited

STREETS	LENGTH
Bishop Grandin Boulevard	Between Kenaston Boulevard and Lagimodiere Boulevard
Bison Drive	Between Waverley Street and Pembina Highway
Brookside Boulevard	Entire length
Oak Point Highway	Entire length
King Edward Street	Entire length
Century Street	Entire length
St. James Bridge	Entire length
Kenaston Boulevard (ROUTE 90)	Between Inkster Boulevard and Bishop Grandin Boulevard
Chief Peguis Trail	Between Main Street and Henderson Highway
Donald Street and Midtown Bridge	Between Red River and Osborne Street
Dunkirk Drive and St. Vital Bridge	Between Red River and Fermor Avenue
Fermor Avenue	Between Dunkirk Drive and Plessis Road
Henderson Highway	Between Red River and Glenway Avenue
Lagimodiere Boulevard	Between Prairie Grove Road and North City Limit
Moray Street & Moray Bridge	Between Roblin Boulevard and Portage Avenue
Osborne Street and Osborne Bridge	Between Assiniboine River and St. Vital Bridge
Pembina Highway	Between Osborne Street and South City Limit
Portage Avenue	Between Spence Street and St. Charles Street
St. James Street	Between Portage Avenue and Wellington Avenue
Waverley Street	Between Taylor Avenue and Bison Drive
Wellington Avenue	Between James A. Richardson International Airport and St. James Street
Grant Avenue	Between Shaftesbury Boulevard and Roblin Boulevard
Main Street	Between Logan Avenue and North City Limit
St. Anne's Road	Between Fermor Avenue and St Mary's Road
St. Mary's Road	Between St. Anne's Road and Queen Elizabeth Way
Corydon Avenue/Roblin Boulevard	Between Shaftesbury Boulevard and West City Limit
boulevard Provencher	Entire length