THE CITY OF WINNIPEG

BY-LAW NO. 49/2008

A By-law of THE CITY OF WINNIPEG to regulate the modification of rights-of-way to provide access to private real property in the City.

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

Short title

1. This By-law may be referred to as the "Private Access By-law".

Definitions

2. In this By-law

"adjacent", when referring to a street, means the street from which access to the private real property is facilitated by means of a private access;

"application" means an application for a private access required by this By-law;

"approach" means a private approach;

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

"benefitted", when referring to private real property, means the private real property to which access will be, is being or has been facilitated from an adjacent roadway by way of a private access;

"City Forester" means the employee of the City of Winnipeg who has been given this title and, where no employee has been given this title, means the administrator of the branch within a department with responsibility for the care and management of trees within streets;

"conforming", when referring to a proposed or constructed private access, means a private access that conforms to the rules set out in sections 17 to 21 of this By-law;

"contractor" means a person who constructs, removes, relocates or modifies a private access;

"Council Committee" means

(a) the Standing Policy Committee on Infrastructure Renewal and Public Works,
(b) the Standing Policy Committee on Downtown Development, or
(c) the Community Committee in which the real property concerning which application is made is located,

as the case may be;
"designated employee" means the Director and any employee of the City to whom the Director has delegated authority to enforce or administer all or part of this By-law;

"Director" means the Director of Public Works of the City of Winnipeg or delegate;

"geometrics" means the size, shape, grade and location of a private access;

"intersection" means the area within the prolongation or connection of the roadway lines of two or more roadways which join one another at an angle, whether or not one roadway crosses another;

"lane" means a street not more than nine metres in width;

"licenced contractor" means a contractor who holds a valid licence issued pursuant to this By-law;

"loading bay" means a modification of the roadway constructed entirely on the street to permit the parking of vehicles parallel to the flow of traffic on the adjacent roadway and includes transition modifications to permit the entry and exit of vehicles to and from the loading bay;

"lot line" means the line between two adjacent parcels of private real property;

"Manual of Temporary Traffic Control" means the *Manual of Temporary Traffic Control in Work Areas on City Streets*, as adopted by Council, that is applicable at the date of construction of a private access;

"median" means the 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 be used to carry vehicular or pedestrian traffic;

"median opening" means an opening in a non-traversable median that accommodates crossing and turning vehicular traffic;

"non-conforming", when referring to a proposed or actual private access, means a private access that fails to conform to the rules set out in sections 17 to 21 of this By-law;

"non-residential property" means real property that is not residential property as defined in this By-law;

"private access" means a private approach, private walk, loading bay, turning lane or median opening;

"private access permit" means a permit for the construction, modification, relocation or removal of a private access issued pursuant to this By-law;

"private approach" means any modification to a street in order to facilitate vehicular access to private real property and includes a vehicular drive, road, path, culvert, lane widening or other structure constructed or maintained within a street between private real

property and the roadway line for the use or benefit of the owner or occupant of the real property;

"private walk" means

(a) in respect of a benefitting non-residential property:

(i) the modification or removal of a curb; or

(ii) any modification of the boulevard, including the installation of any surfacing material or substance;

in order to facilitate pedestrian access to the property; or

(b) in respect of a benefitting residential property:

(i) the modification or removal of a curb; or

(ii) the installation of asphalt or poured concrete in a boulevard;

to facilitate pedestrian access to the property but does not include other material installed in the boulevard for this purpose;

"property line" means the line between the street and adjacent private real property;

"regional street" means a street listed in Schedule "E" of the Streets By-law No. 1481/77 or a street identified as a regional street in a successor by-law to the Streets By-law;

"residential property" means real property on which a single family or two-family residence is permitted by the relevant zoning by-law to be located and whose access or proposed access is not adjacent to a regional street;

"roadway" means the portion of a street that is improved, designed or ordinarily used for vehicular traffic but does not include a lane;

"roadway line" means the edge of a roadway;

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

"Standard Construction Specifications" means the edition or version of the *Standard Construction Specifications for Surface Works* produced by the Public Works Department of the City of Winnipeg applicable at the date of construction.

"street" means any place or way, including any structure forming part thereof, which or any part of which has been dedicated as a roadway, lane, avenue, footpath, walkway, road or highway pursuant to the Real Property Act or which the public is ordinarily entitled to use for passage, with or without fee or charge therefor, and includes all the space between the boundary lines thereof;

"structure", when referring to a structure within a street, means any constructed object which is located within the boundaries of a street or under the surface of a street;

"transition modification", in the context of a loading bay, means a modification of the street designed to permit vehicles to enter and exit the loading bay;

"turning lane" means a traffic lane within the roadway that is reserved for turning vehicles;

"walk" means a private walk.

OFFENCES

Permit required for construction of private access
3. No person may engage in, and the owner of property must not permit, the construction, modification, relocation or removal of a private access benefitting the property without a private access permit granted pursuant to this By-law.

Owner must hire licenced contractor
4. The owner of a property benefitted by a private access must ensure that it is constructed, removed, modified or relocated by a licenced contractor.

Only licenced contractor may construct access
5. No person other than a licenced contractor, the employees of a licenced contractor or a City employee acting in the course of his or her employment may construct, remove, modify or relocate a private access.

Owner and contractor responsible for compliance during construction
6(1) The owner of property benefitted by a private access and the contractor constructing, removing, relocating or modifying the private access must ensure that the construction, removal, relocation or modification complies with

(a) this By-law,

(b) the permit issued for the work, including any conditions attached to the permit;

(c) the Standard Construction Specifications;

(d) the Manual of Temporary Traffic Control; and

(e) Schedule "C".

6(2) The owner of a property benefitted by a new, enlarged or relocated private access and the contractor carrying out the work must each ensure that the access is not constructed within 2 metres of the outer edge of the trunk of a tree in the street, unless approval has been given in accordance with section 11.

6(3) The contractor constructing, relocating or modifying a private access must not install, and the owner of property benefitted by the private access must not permit the installation of, surfacing material until an inspection is carried out and approval of the work is provided pursuant to section

23.

Owner of property responsible for compliance
7(1) Subject to subsection (2), the owner of property must not permit the existence or use of a private access that benefits his or her property unless the private access meets the standards set out in sections 17 to 21, Schedule "C" and the other requirements imposed by this By-law.

7(2) Subject to sections 24 and 25, the owner of property benefitted by a private approach or private walk may permit the existence or use of an approach or walk:

(a) if the approach or walk was authorized under a By-law in force at the time it was constructed; and

(b) if the approach or walk was constructed with materials and according to standards imposed by the By-law applicable at the time of its construction.

Removal of barricade prohibited
8. Where a designated employee enforces an Order issued under this By-law by barricading or blocking entrance to a private access that does not comply with this By-law or a permit issued under this By-law, no person may remove the barricade or other obstacle that has been placed by the designated employee.

PRIVATE ACCESS PERMITS

Applications for private access permit
9(1) Subject to this section,

(a) the owner of property benefitted by a proposed private access; or

(b) a contractor licenced under this By-law;

may apply for a private access permit in a form prescribed by the Director.

9(2) The Director may accept as an application under this By-law information or a plan submitted by an owner or his or her agent to any department of the City of Winnipeg concerning the proposed development of land, if the information or plan indicates the intended construction, modification, relocation or removal of a private access.

9(3) Unless there has been a material change in circumstances, where a decision has been made in respect of an application pursuant to this By-law, no substantially similar application in respect of the same property may be made within a period of 12 months.

Private access permit issued by Director
10(1) The Director may issue a private access permit to an applicant in accordance with this By-law but, subject to this section, may not approve a private access permit where

(a) the application fee imposed pursuant to this By-law has not been paid;

(b) the existence or location of a proposed private access violates, or the use of it would

result in a violation of, a zoning by-law;

(c) construction, removal, relocation or modification of the private access necessitates the removal of trees or structures on the street and the removal has not been approved in accordance with section 11;

(d) subject to subsection (2), the location of the proposed private access is within two metres of the outer edge of the trunk of a tree in the street and the City Forester has not approved the removal of the tree or approved the location of the private access without removal of the tree in accordance with section 11;

(e) the application is for a loading bay benefitting a residential property; or

(f) subject to subsection (3), the proposed private access does not conform with sections 17 to 21 of this By-law.

10(2) Clause (1)(d) does not apply to a private access replacing another private access and constructed with the same dimensions and in the same location as the private access it replaces.

10(3) Notwithstanding clause (1)(f) and clause 19(b), in respect of a private approach benefitting a non-residential property, the Director may approve a permit for an approach that exceeds 8 metres in width where this is reasonably required to accommodate large trucks or buses and where the location and size of the proposed private approach would not be detrimental to the safe and efficient movement of vehicular and pedestrian traffic on the adjacent roadway or sidewalk.

10(4) Notwithstanding subsection (1), the Director shall issue a private access permit that has been approved by a Council Committee pursuant to sections 12 or 13 and shall impose conditions on the permit that have been established by the Committee pursuant to section 16.

Approval of private access near trees

11(1) Where an application is made for the construction of a private access within 2 metres of a tree within a street, the application may not be approved unless the City Forester

(a) approves the location of the private access without requiring the removal of the tree; or

(b) approves removal of the tree.

11(2) In considering whether to approve the location of the private access without requiring the removal of the tree, approve the removal of the tree, or refuse to approve the proposed private access in the proposed location, the City Forester must take into account:

(a) the impact of the proposed private access on the tree;

(b) the possibility of planting another tree nearby;

(c) the impact of a removal of the tree on the street and neighbourhood; and

(d) the reasonableness of accommodating the tree by relocating or limiting the size of the private access.

11(3) When providing notice of his or her decision to the applicant, the City Forester must provide a copy of his or her decision to the City Councillor for the ward in which the tree is located.

11(4) Unless otherwise specified by the City Forester, where the City Forester approves the removal of the tree, the applicant must pay the costs of removal and reimburse the City for the value of the tree as determined by the City Forester.

11(5) The applicant may appeal the City Forester's decision to the Community Committee for the community in which the tree is located within 14 days of being notified of the decision.

11(6) Where an appeal is taken, no action may be taken to remove the tree until the matter is disposed of on appeal.

11(7) If the Community Committee's decision on appeal is in concurrence with the decision of the City Forester, its decision is final.

11(8) If the Community Committee's decision is not in concurrence with the decision of the City Forester, the matter must be referred to the Standing Policy Committee on Infrastructure Renewal and Public Works and the decision of the Standing Policy Committee on Infrastructure Renewal and Public Works is final.

Reference to Community Committee re. residential properties

12(1) Subject to section 14, where an application for a private approach or walk benefitting a residential property cannot be approved by the Director because it does not comply with clause 10(1)(f), the Community Committee within which the property is located may consider and approve the application using the criteria set out in section 15.

12(2) A decision made by the Community Committee under this section is final.

References to Standing Committee re. non-residential properties

13(1) Subject to section 14, where an application for a private access benefitting a non-residential property located entirely or primarily within the area of the city governed by the Downtown Winnipeg Zoning By-law No. 100/2004 cannot be approved by the Director because the proposed private access does not comply with clause 10(1)(f), the Standing Policy Committee on Downtown Development may consider and approve the application using the criteria set out in section 15.

13(2) Subject to section 14, where an application for a private access benefitting a non-residential property located entirely or primarily within the area of the city that is not governed by the Downtown Winnipeg Zoning By-law No. 100/2004 cannot be approved by the Director because the proposed private access does not comply with clause 10(1)(f), the Standing Policy Committee on Infrastructure Renewal and Public Works may consider and approve the application, using the criteria set out in section 15.

13(3) A decision by the Standing Policy Committee on Downtown Development or the Standing Policy Committee on Infrastructure Renewal and Public Works under this section is final.

Procedure when Director cannot approve application

14(1) Where an application for a private access is made that cannot be approved by the Director pursuant to section 10, the Director must notify the applicant of this fact in compliance with *The City*

of Winnipeg Charter.

14(2) Where an application cannot be approved by the Director because the proposed private access does not comply with clause 10(1)(f), upon payment by the applicant of an administration fee determined by Council from time to time, the Director must immediately forward the application to the Clerk of the relevant Council Committee.

14(3) When the Director forwards the application pursuant to subsection (2), the Director must also forward a report to the relevant Council Committee setting out the reason or reasons why the application cannot be approved by the Director under clause 10(1)(f) and the report may include the position of the Director concerning the substance of the application.

Criteria for approval of permits by Council Committees

15. A Council committee may approve a private access permit under sections 12 and 13 where the Committee considers that:

(a) conformity with the rules set out in sections 17 to 21 would be unreasonable in the circumstances, including the use to which the property is intended to be put;

(b) the location and size of the proposed private access is reasonably required for the use to which the property is intended to be put; and

(c) the location and size of the proposed private access would not be detrimental to the safe and efficient movement of vehicular and pedestrian traffic on the adjacent street.

Time limit and conditions of permits

16(1) A private access permit lapses 24 months after the date it has been issued.

16(2) When approving a private access permit, the Director or a Committee may impose conditions upon the permit that are reasonably necessary

(a) to ensure that the proposed private access is not detrimental to the safe and efficient movement of vehicular and pedestrian traffic on the street;

(b) to ensure the appropriate drainage of the property and nearby properties;

(c) to preserve and protect existing or future street lights, utility poles, trees and other structures or elements within the street;

(d) to protect the street from damage; and

(e) to ensure adequate snow storage capacity on the boulevard.

16(3) Without restricting the generality of subsection (2), a condition imposed on a permit may:

(a) affect the size, location and geometrics of the private access;

(b) include a requirement that the permit holder carry out or pay the costs of construction, supervision and inspection to create additional turning, storage or

other lanes in the street, to create median openings or to otherwise modify or enlarge the adjacent street.

NON-CONFORMING PRIVATE ACCESSES

General rules re. private accesses

17(1) Private accesses are non-conforming if they fail to conform to the following general rules:

(a) the private access must not be detrimental to the safe and efficient movement of vehicular and pedestrian traffic upon the adjacent street;

(b) subject to subsection (2), the projected nearest edge of an approach or nearest point of a loading bay must not be within 6 metres of an intersection or an intersecting street, measured along the property line;

(c) subject to subsection 25(5), an approach must not be within 30 metres of the centre line of a railway track;

(d) two or more approaches benefitting the same assessment holding that are on the same street must be at least 15 metres apart, measured along the property line;

(e) the nearest point of intersection between a private approach and the property line must not be within 1.5 metres of a building or structure on the private real property.

17(2) Clause (1)(b) does not apply

(a) in the case of a private approach benefitting a residential property, where the proposed private approach is within the projected roadway line of a roadway that has come to a dead-end in a T-shaped intersection; and

(b) in the case of a private approach benefitting a non-residential property, when a proposed private approach is centred within the projected roadway line of a roadway that has come to a dead-end in a T-shaped intersection.

Specific rules re. residential approaches

18. Private approaches benefitting residential properties are non-conforming if they fail to conform to the following rules:

(a) an approach must not be less than 3 metres or greater than 6.5 metres wide measured along the property line;

(b) subject to subsection 25(3), a private approach must not extend beyond the lot line of the adjacent property projected into the street if

(i) the approach could negatively impact an existing or future conforming private approach benefitting an adjacent property; and

(ii) an alternate location of the approach is possible, taking into account the proposed or actual location of buildings on the lot;

(c) an approach must not be constructed or allowed to exist where a lane at least 4.5 metres wide is adjacent to the property, whether or not the lane is improved.

Specific rules re. non-residential private approaches

19. Private approaches benefitting non-residential properties are non-conforming if they fail to conform to the following rules:

(a) an approach must not be located immediately adjacent to an existing approach, whether the existing approach is on the same or on adjacent property, where the combined width of the approaches measured along the property line is greater than 8 metres;

(b) subject to subsection 10(3), an approach must not be less than 4 metres or greater than 8 metres wide measured along the property line;

(c) an approach must not exist within 3 metres of the lot line of the adjacent property; and

(d) a private approach must not be located so that a building from which vehicles could enter the approach contains a vehicular ramp of more than 6% grade within 6 metres of the property line.

Specific rules re. loading bays

20(1) Loading bays are non-conforming if they fail to conform to the following rules:

(a) a loading bay must not be constructed or allowed to exist where the boulevard is less than 5.5 metres wide;

(b) a loading bay must be at least three metres wide or such greater width as is necessary to accommodate the vehicles which are intended or likely to utilize the loading bay;

(c) a loading bay must be at least 7 metres long, excluding transition modifications;

(d) transition modifications of a loading bay must be constructed so as to permit entry to and exit from the loading bay in a manner that would not be detrimental to the safe and efficient movement of vehicular and pedestrian traffic on the adjacent roadway or sidewalk; and

(e) subject to subsection (2), the entire loading bay, including transition modifications, must not extend beyond the lot line of the adjacent property projected into the street.

20(2) Clause (1)(e) does not apply where the owner of a property adjacent to the property being benefitted by a loading bay agrees in writing to the extension of the loading bay to the street fronting his or her property.

Specific non-conforming accesses – Schedules A and B

21(1) Subject to this section, a private access is not in conformity with this By-law where it is located on a roadway or a portion of a roadway identified in Schedules “A” or “B”.

21(2) Subsection (1) does not apply where a private access is located on a service road adjacent to the principal roadway identified in Schedule “A”.

21(3) Subsection (1) does not apply where a private access is located on a roadway or portion of a roadway identified in Schedule "B" and there is no other means of access to the property.

21(4) Where a permit for a private access located on a roadway or portion of a roadway identified in Schedule "B" is issued, the permit is temporary and is conditional upon a new private approach or private walk being constructed by the owner of the property when this is possible due to the construction of other roadways, lanes or service roads.

CONSTRUCTION OF PRIVATE ACCESSES

Cost of constructing private access payable by owner

22. Subject to section 24, where construction, modification, relocation or removal of a private access is approved under this By-law, all the costs thereof, including the costs of removing or relocating structures or trees within the street, must be paid by the owner of the property benefitted by the private access.

Inspections

23(1) The person holding a permit for the construction of a private access is responsible to ensure that arrangements are made with a designated employee for an inspection of the work authorized in a permit to take place at a time when all work except the placement of surfacing material is complete.

23(2) Where construction of the private access has been completed without an inspection having been arranged in compliance with subsection (1), the permit holder must, at no cost to the City of Winnipeg, either demonstrate to the satisfaction of a designated employee that the private access meets the requirements of this By-law, including compliance with the Standard Construction Specifications, or must re-construct the private access.

23(3) The permit holder may cancel or reschedule an inspection required under subsection (1) at least 24 hours prior to the scheduled inspection without payment of the fee imposed pursuant to subsection (4).

23(4) An administrative fee for a cancellation or rescheduling of an inspection is payable by the permit holder to the City.

23(5) Where an inspection under subsection (1) takes place and the private access cannot be approved by the designated employee because

(a) the work is not at a stage where an inspection of the work can take place; or

(b) the work has not been carried out in compliance with this By-law;

an inspection fee of $30.00 is payable by the contractor to the City.

23(6) Where an approval cannot be provided because the work has not been carried out in compliance with this By-law, the permit holder is responsible to ensure that arrangements are made with a designated employee for one or more subsequent inspections until the work is approved by

the designated employee and subsections (2), (3), (4) and (5) apply to the subsequent inspections.

MAINTENANCE OF PRIVATE ACCESSES

On-going costs of private accesses

24(1) Subject to this section, the owner of a benefitting property must ensure that a private approach or private walk is maintained to a standard that is consistent with the safe and efficient movement of vehicular and pedestrian traffic using the private approach or private walk as well as vehicular and pedestrian traffic upon the adjacent roadway and sidewalk.

24(2) Subject to subsection (3), where the City of Winnipeg, a utility or any other person engages in work that damages a private access, the person causing the damage must pay the costs of repairing the damage to the Director and the Director must repair the damage, using materials required by Schedule "C" that are as similar as possible to the materials that were damaged.

24(3) Where it is necessary pursuant to subsection (2) for the Director to repair damage to a private approach or private walk, the Director may alter its geometrics in a manner consistent with this By-law.

24(4) Subject to the Local Improvement Regulation By-law No. 98/72 and any other relevant local improvement by-law, where the surface of a roadway is improved and an adjacent private approach was in compliance with Schedule "C" prior to the improvement, the Director must improve the surface of the private approach to the standard of the new roadway surface in compliance with Schedule "C" at no cost to the owner of the property benefitted by the private approach.

24(5) Where the surface of a roadway is improved and an adjacent private approach was not in compliance with Schedule "C" prior to the improvement, the owner of the property benefitted by the private approach must, at his or her own expense, improve the private approach to the standards of the new roadway surface in compliance with Schedule "C" to this By-law.

Removal or modification of private access

25(1) Where

(a) the owner of the property benefitted by the private access agrees to its removal, modification or relocation;

(b) subject to subsection (2), the private access is detrimental to the safe and efficient movement of vehicular and pedestrian traffic upon the adjacent roadway or sidewalk; or

(c) the private approach is not in use, access to the property by way of the private approach has been blocked and removal of the private approach would permit additional space for parking on the roadway;

the Director may remove, modify or relocate the private access at no cost to the owner of the property benefitted by the private approach.

25(2) Notwithstanding that a private approach is detrimental to the safe and efficient movement of vehicular and pedestrian traffic upon the adjacent roadway or sidewalk, where the private approach:

(a) is in use;

(b) is the sole means of access to the property; and

(c) is otherwise in compliance with this By-law;

the Director must not remove the private approach unless the property owner agrees to its removal or the Director provides an alternative means of access to the property at no cost to the owner of the property.

25(3) Notwithstanding clause 18(b) and subject to subsection (4), in order to accommodate an approach benefitting the adjacent property, the Director may authorize the removal or modification of that portion of a private approach that has been permitted to extend beyond the lot line of the adjacent property projected into the street.

25(4) The costs of the removal or modification referred to in subsection (3) must be borne by the owner of the property being benefitted by the approach being constructed.

25(5) Notwithstanding that a private access has been approved by the City and is otherwise in compliance with this By-law, where Transport Canada or a railway company requires the removal, modification or relocation of the private access as a condition of maintaining a railway crossing, it must be removed, modified or relocated at the expense of the owner of the benefitting property.

LICENCE FOR CONTRACTORS

Criteria for issuing contractors licences

26(1) Subject to subsection (2), the Director shall issue an annual contractor's licence to a person who

(a) pays a fee for a licence in an amount established by Council from time to time;

(b) provides, in form and substance satisfactory to the Director, a policy of commercial general liability insurance in the amount determined by the Director and on terms satisfactory to the Director;

(c) provides security in an amount established by the Director and in a form satisfactory to the Director;

(d) has demonstrated the knowledge and ability to meet the requirements of this By-law and other applicable by-laws, the Standard Construction Specifications and the Manual of Temporary Traffic Control.

26(2) For the purposes of issuing contractor's licences, the Director may distinguish between different categories of private access and, without restricting the generality of the foregoing, may draw a distinction between the construction of private accesses benefitting residential and non-residential property.

26(3) The Director may impose conditions upon a contractor's licence.

26(4) A contractor's licence expires on December 31 of the year for which it was issued.

26(5) A licence fee is payable in full notwithstanding that a licence may be issued during the course of a calendar year.

Knowledge and ability determined

27. Without limiting the generality of clause 26(1)(d), in determining whether an applicant for a licence is able to meet the requirements of this By-law and other applicable by-laws, the Standard Construction Specifications and the requirements of the Manual of Temporary Traffic Control, the Director may:

(a) require that the applicant or, if appropriate, an employee of the applicant complete a written or verbal examination;

(b) rely on observations and reports of the applicant's past work;

(c) issue a probationary licence to the applicant, and subject the work of a probationary contractor to a specific inspection regime.

Failure to meet requirements

28(1) Where a licenced contractor fails to call for an inspection in compliance with section 23, or fails to meet the standards of construction required by the Standard Construction Specifications or the requirements of the Manual of Temporary Traffic Control, or otherwise fails to comply with this or another By-law, the Director may

(a) require that the contractor and, if appropriate, the contractor's employees complete a written or verbal examination concerning the contents of:

(i) this By-law and other applicable by-laws;

(ii) the Standard Construction Specifications;

(iii) the Manual of Temporary Traffic Control;

(b) substitute the contractor's licence with a probationary licence;

(c) impose conditions upon the contractor's licence;

(d) subject the contractor to a specific inspection regime;

(e) suspend the contractor's licence for a period of less than 12 months;

(f) revoke the contractor's licence;

(g) refuse to renew the contractor's licence.

28(2) Before acting under subsection (1), the Director must give the contractor a reasonable opportunity to be heard.

28(3) Where the Director has revoked or refused to renew a contractor's licence, the Director must specify a period of time after which the contractor may re-apply for a licence and the period of time may not be greater than 12 months.

28(3) A contractor's licence is conditional upon the maintenance of a policy of commercial general liability insurance as required by clause 26(1)(b) and a failure to maintain the policy of insurance renders the licence immediately invalid.

Security utilized
29(1) Where a private access that has been constructed by a licenced contractor does not comply with this By-law, the conditions imposed on a permit or the Standard Construction Specifications, the licenced contractor must bring the private access into compliance within a reasonable period of time specified by the Director.

29(2) Where a licenced contractor fails to comply with subsection (1), the Director may bring the private access into compliance and may utilize all or part of the security provided by the licenced contractor in order to pay the costs of doing so.

29(3) Where a licenced contractor fails to comply with one or more of the requirements of section 23, the Director may utilize the security provided by the licenced contractor to pay the fees imposed by that section.

29(4) Where the Director utilizes all or part of a security pursuant to subsections (2) or (3), the contractor's licence is suspended until such time as the contractor provides additional security sufficient to meet the requirements of section 27.

29(5) The Director may retain a security provided by a licenced contractor for a period of up to two years following the expiration of the contractor's licence as a guarantee that work done by the contractor during the period of the licence complies with this By-law.

ADMINISTRATION

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

Appeals
31(1) Subject to this section, a person who is entitled under *The City of Winnipeg Charter* to appeal an order or decision made under this By-law may make the appeal to the Standing Policy Committee on Infrastructure Renewal and Public Works in accordance with *The City of Winnipeg Charter*.

31(2) A decision by the Director under section 10 that is subject to appeal in respect of a private access benefitting a residential property may be appealed to the Community Committee within which the property is located.

31(3) A decision by the Director under section 10 that is subject to appeal in respect of a private access benefitting a non-residential property located entirely or primarily within the area of the city governed by the Downtown Winnipeg Zoning By-law No. 100/2004 may be appealed to the Standing Policy Committee on Downtown Development.

31(4) A decision of a Council Committee concerning an appeal under this section is final and is not subject to further appeal.

31(5) An appeal fee in the amount of $100.00 is payable when an appeal is filed under this section but may be refunded by the Council Committee hearing the appeal if the Committee concludes that the appeal has been made in good faith and has some merit.

Address for service
32. Where an address for service is required, an address determined by one of the following methods may be used:

(a) if the person to be served has made an application for a permit or licence under this By-law, the mailing address, electronic mail address or facsimile number provided in the application;

(b) 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.

Fees
33(1) Except as otherwise set out in this By-law, the amount of a fee referred to in this By-law may be set by the Director from time to time.

33(2) Subject to subsection (3), where the Director cannot approve an application because it does not comply with clauses 10(1)(b) to (e), the Director shall refund the application fee to the applicant, subject to the retention of an administrative fee.

33(3) An application fee shall not be refunded where the applicant has provided materially erroneous or misleading information in the application.

Minimum penalties
34(1) A fine in the amount of $30.00 is hereby established as a minimum penalty for a contravention of section 3.

34(2) Fines in the following amounts are hereby established as minimum penalties for contraventions of sections 4 or 5:

(a)	First offence	$300.00
(b)	Second offence	$700.00
(c)	Third and subsequent offences	$2000.00

Schedules form part of By-law
35. Schedules “A”, “B” and “C”, attached hereto, form part of this By-law.

By-law No. 6546/95 repealed
36(1) Subject to subsection (2) and section 37, the Private Approaches By-law No. 6546/95 is hereby repealed.

36(2) Subclauses 8(c)(i) to (v) of the Private Approaches By-law No. 6546/95 remain in force until January 1, 2009.

Transition
37(1) This By-law is a successor to the Private Approaches By-law No. 6546/95 and any references in any By-laws or other documents to the Private Approaches By-law is deemed to be a reference to this By-law.

37(2) Permits and approvals for the construction of private approaches issued pursuant to the Private Approaches By-law No. 6546/95 lapse on April 1, 2010.

Coming into effect
38(1) Subject to subsection (2), this By-law comes into force on April 1, 2008.

38(2) Sections 26 to 29 of this By-law come into force on January 1, 2009.

DONE AND PASSED, in Council assembled, this day of , 2008.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Public Works

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services

SCHEDULE "A"
(Section 21)

Subject to section 21, no private approach may be constructed on the following streets:

- **Broadway**
- **Bishop Grandin Boulevard**
- The interchange of **Bishop Grandin Boulevard** (Route 165) and **Pembina Highway**, including connecting rights of way
- **Chief Peguis Trail**
- The interchange of **Concordia Avenue** and **Lagimodiere Boulevard** and connecting rights of way
- **Disraeli Bridge** and **Disraeli Overpass of the C.P.R. Yards** and approaches thereto, including the connecting rights of way to the approaches lying to the north and south of the Red River from Main Street to the Canadian Pacific Railway Yards and Henderson Highway between Hespeler Avenue and the Red River
- **Donald Street** between Corydon Avenue and Hargrave Place
- **Dunkirk Drive** and the St. Vital Bridge between Jubilee Avenue and St. Mary's Road, including the interchange and connecting roadways at Kingston Row and Dunkirk Drive
- **Fermor Avenue** between St. Anne's Road and Lagimodiere Boulevard
- **Graham Avenue**
- **Kenaston Boulevard** between the South Perimeter Highway (P.T.H. 101) and Taylor Avenue
- **Lagimodiere Boulevard** between Fermor Avenue and the northern boundary of the City of Winnipeg
- **Main Street** between the Red River and Sutherland Avenue
- **Moray Street** between Grant Avenue and Pinewood Drive
- **Pembina Highway** between Father Labonte Avenue and the southern boundary of the City of Winnipeg
- **Portage Avenue** between Main Street and Maryland Street

- **The St. James Bridges**, and their approaches, interchanges and connecting streets, between Academy Road and Ness Avenue.

- **Sterling Lyon Parkway**

SCHEDULE "B"
(Section 21)

Subject to section 21, no private approach may be constructed on the following streets:

- **Bison Drive** between Waverley Street and Pembina Highway
- **Waverley Street** between Mathers Avenue and Bison Drive
- **Fermor Avenue** between Lagimodiere Boulevard and Plessis Road

SCHEDULE "C"
(Sections 6, 7, 24)

1. In this Schedule, a reference to a concrete surface includes a surface constructed of paving stones and includes a surface constructed of a concrete underlay with an asphalt overlay.

2. The surface type set out in Column "B" must be applied to a private approach adjacent to a roadway type set out in Column "A"

Column "A" Type of Roadway	Column "B" Type of Private Approach Surface Required
Concrete roadway with curb	Concrete
Concrete roadway with asphalt or concrete shoulders	Concrete
Concrete roadway with gravel shoulders adjacent to residential property or property zoned for agricultural use	Gravel, asphalt or concrete
Concrete roadway with gravel shoulders adjacent to non-residential property zoned for other than agricultural use	Concrete
Asphalt roadway with curb	Asphalt or concrete
Asphalt roadway with asphalt or concrete shoulders	Asphalt or concrete
Asphalt roadway with gravel shoulders adjacent to residential property or property zoned for agricultural use	Gravel, asphalt or concrete
Asphalt roadway with gravel shoulders adjacent to non-residential property zoned for other than agricultural use	Asphalt or concrete
Gravel roadway	Gravel