**Minutes – Executive Policy Committee – March 12, 2008**

**Minute No. 199**
**Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 4, 2008**

**Item No. 3 New Private Access By-law**
**File SC-1.1**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submits the following to Council:

1. That the Private Access By-law, outlined as Appendix 1 in the report dated February 15, 2008, which repeals and replaces the Private Approaches By-law No. 6546/95, be enacted.

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

**Minutes – Executive Policy Committee – March 12, 2008**

**Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 4, 2008**

DECISION MAKING HISTORY:

Moved by Councillor Clement,

That the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On March 4, 2008, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

**RE: NEW PRIVATE ACCESS BY-LAW**

**FOR SUBMISSION TO:** **Standing Policy Committee on Infrastructure Renewal and Public Works**

**ORIGINAL REPORT SIGNED BY:** **Director of Public Works**

**REPORT DATE:** **February 15th, 2008**

**RECOMMENDATIONS:**

1. That the attached Private Access By-law (Appendix 1), which repeals and replaces the Private Approaches By-law No. 6546/95, be enacted by Council.

2. That the proper Officers of the City be authorized to do all the things necessary to implement the foregoing.

## Report Summary

**Key Issues:**

- The proposed Private Access By-law (Attachment 1) repeals and replaces the Private Approaches By-law No. 6546/95. In some respects, the basic structure will remain the same; for example, applications for "non-conforming" private approaches will still be heard by Council Committees. However, the By-law also makes changes designed to cut "red tape" and better ensure that private approaches meet the standards established in the By-law.

- The proposed By-law cuts "red tape" in the following ways:

  - Rather than requiring both an approval and a permit before a private access can be constructed, the proposed By-law will only require a permit.

  - The proposed By-law eliminates the requirement for public notice and a public hearing before a private access can be located on a regional street.

  - The proposed By-law eliminates the requirement for a permit for residential private walks that are constructed of paving stones or pre-cast concrete blocks.

  - The proposed By-law eliminates the need for a private approach application where a development plan that contemplates a private approach has already been submitted to the City for approval;

  - The proposed By-law allows residential private approaches as wide as 6.5 meters (22 feet) to be approved by the Director without reference to a community committee.

- The proposed By-law permits only licensed contractors to construct private approaches.

- The proposed By-law replaces the current requirement for a security bond in the amount of $20,000 with the requirement for security in an amount and in a form determined by the Director. This amount will be established as $25,000 but if the contractor's work is limited to residential private approaches, the security required will be $10,000. Security can be provided in the form of a letter of credit.

- The proposed By-law requires that licensed contractors carry commercial general liability insurance to protect the City against claims if the construction of the private approach results in harm to people or property.

- The proposed By-law requires the approval of the City Forester before a private access may be constructed within 2 metres of the outside edge of the trunk of an existing boulevard tree. Appeals of the City Forester's decisions are heard by the local Community Committee. If the Community Committee disagrees with the City Forester, the Standing Policy Committee on Infrastructure Renewal and Public Works will have the final word.

- Subject to the Local Improvement Regulation By-law No. 98/72 and any other relevant local improvement by-law, the proposed By-law provides that, when the road surface is upgraded, the City will pay the costs of matching upgrades for private approaches that met the standards of the old surface. However, where a private approach does not meet the standards of the old surface, the property owner will still be responsible for the costs of the upgrade.

- To defray the costs of hearing appeals of decisions made under the By-law, the proposed By-law imposes an administrative fee of $100.00, which can be refunded if the committee hearing the appeal determines that the appeal has merit and has been made in good faith.

- As a transitional measure, the By-law provides that the revised contractor's license requirements will come into force on January 1st, 2009.

**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 adoption of this Report would result in an overhauled process for approval of private accesses.

**Policy Implications**

( ) No

(X) Yes

Comment(s): The adoption of this Report would result in an overhauled process for approval of private accesses.

**Regulatory Implications**

( ) None

(X) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s): The proposed by-laws would reduce "red tape" by:

- eliminating a step in the approval process for private accesses,
- eliminating the requirement for public hearings for private approaches on regional streets;
- allowing private approaches as wide as 6.5 metres (22 feet) without reference to a community committee;
- eliminating permits for residential private walks constructed of pre-cast concrete blocks or paving stones;
- eliminating the need for a private approach application if a development plan that contemplates a private approach has been submitted to the City for approval.

The proposed Private Access By-law would require that all private accesses be constructed by licensed contractors. In addition, licensed contractors would have to carry CGL insurance and provide security that can be accessed by the City to correct improperly placed or improperly constructed private accesses. The proposed by-law also imposes a refundable administrative fee for appeals as well as penalties and administrative fees for failing to comply with inspection requirements.

**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): Changes to the existing By-law conditions will result in property owners no longer being required to pay the costs to upgrade their existing approach when street upgrading or reconstruction is undertaken by the City providing the existing approach was constructed to the standards of the existing street surface. When existing approaches meet standards outlined above, the costs to upgrade the existing approach as part of the street renewal will be borne by the City. It is not possible to quantify these costs as they are project specific. The average annual cost associated with these approach renewals will be minimal and funded through the Public Works capital program.

## Report

**REASON FOR THE REPORT:**

The Report recommends the enactment of a By-law; only Council has authority to enact by-laws.

**HISTORY:**

The Private Approaches By-law was enacted in 1995. However, the current version is not significantly different than a Private Approaches By-law enacted in 1973. Effectively, the By-law has not been overhauled since the creation of Unicity.

The Public Works Department for some time has believed that a streamlined, plain language By-law was needed in order to simply and clarify the process for obtaining authorization to construct private approaches (including median openings), private walks, lane widenings and loading bays (collectively known as “private accesses”). The current By-law has an unnecessary layer of approval (i.e. “red tape”), uses old-fashioned and inappropriate terminology, and lacks clarity as to the obligations of property owners and licensed contractors. The goal of an overhauled By-law was to make the process for obtaining and maintaining private accesses more straightforward, less frustrating and easier to enforce while better protecting the public interest in the use of public rights of way.

**DISCUSSION:**

Private approaches (including median openings), private walks, lane widenings and loading bays are collectively known as “private accesses”. They are all ways in which private property owners can access their properties through land (typically a boulevard) that forms part of the street right-of-way.

In many cases, these points of access are critical features for an owner’s enjoyment of residential property or for the success of a business venture. Nevertheless, the fact remains that private accesses involve the private use of public rights-of-way. Construction of a private access does not mean that the owner of benefitting property owns that part of the right-of-way. The City retains a responsibility to manage the right-of-way in the public interest. Among other things, the City has an interest in ensuring that:

- vehicles can enter and exit private approaches without causing traffic accidents and traffic snarls,
- pedestrians can travel on sidewalks safely and without undue disruption,
- sufficient boulevard space is left for snow storage,
- trees and green space on boulevards are retained for the benefit of all,
- streets do not deteriorate due to improperly constructed accesses,
- private accesses do not impede proper drainage from private property,

- construction of private accesses is done without endangering or disrupting motorists or pedestrians; and
- disputes do not arise between adjacent property owners over the location and construction of private accesses.

The By-law and Policy proposed in this Report overhaul the current system of dealing with private accesses. While ensuring that the public interest is protected, they cut the "red tape" inherent in the current system by:

- eliminating one level of authorization before construction of a private access can proceed;
- eliminating the requirement for public notice and a public hearing before a private access can be located on a regional street;
- not requiring a separate application for a private approach where a development plan that contemplates a private approach has been submitted to the City for approval;
- allowing residential private approaches as wide as 6.5 meters (22 feet) to be approved by the Director without reference to a community committee;
- eliminating the need for a permit for a residential private walk constructed of paving stones or pre-cast concrete blocks;
- clarifying that, when the City upgrades the surface of an adjacent street, the City will pay to upgrade the surface of adjoining private approaches that are otherwise in compliance with the By-law;
- providing certainty and transparency for the public by setting out the criteria for approval of a private access, the obligations of property owners and the rules concerning construction and maintenance of a private access.

Obviously, clarity about the process and the requirements associated with private accesses assists property owners, developers and contractors. However, it also gives the Administration better tools to enforce the By-law so as to ensure that private accesses are well-constructed and properly located. The number of improperly located and improperly constructed private accesses will also be reduced by the requirement that all private approaches be constructed by licensed contractors.

<u>What will stay the same</u>?

Some aspects of the new Private Access By-law remain unchanged:

- As with the current By-law, where an application for a private access meets certain criteria, the Director will issue a permit. Where certain criteria are not met, the application is defined as "non-conforming". In these situations, the Director has no authority to issue a permit – the application can only be approved by a Council committee.

- Community Committees will continue to hear applications for non-conforming private accesses benefiting residential properties. The Standing Policy Committee on Infrastructure Renewal and Public Works will continue to hear

most applications for non-conforming private accesses benefiting non-residential properties. Applications for non-conforming private accesses benefiting non-residential properties in the downtown area will be heard by the Standing Policy Committee on Downtown Development.

- With some minor changes, largely reflecting existing practice, the criteria that determine whether an application is non-conforming remain the same.

What is new?

Some features of the proposed By-law are new:

- The existing By-law requires filling out an application for a new private access; the proposed By-law provides that, whatever department of the City receives it, information or a plan for development that indicates an intention to construct a private access can be accepted as an application. This reduces the "red tape" for citizens by eliminating the paperwork required for a private access permit.

- The existing By-law requires that applicants apply for and be issued two documents before construction of a private access can take place – first, an "approval" (that approves the size, shape, grade and location of a private access) and then, when construction is ready to begin, a "permit" (that sets out the terms and conditions of construction). By contrast, the proposed By-law requires that applicants only apply once for a single permit, and even that may not require filling out an application form (see previous point). Besides cutting "red tape" for citizens, this also reduces internal "red tape" by reducing departmental paperwork.

- The existing By-law requires that newspaper notices be published, a public hearing held and the By-law be amended whenever a private access is proposed for a street set out in Schedule "A" (large regional streets). The new By-law retains Schedule "A" unchanged but allows the Standing Policy Committee on Infrastructure Renewal and Public Works to approve a private access on such a street in the same way as it would any other non-conforming application. Again, this significantly reduces the "red tape" associated with getting a permit.

- The existing By-law does not set out the rules and standards for construction but rather requires that construction must be "as the Director requires". While it is flexible, this approach could potentially be arbitrary, unclear and uncertain for property owners and contractors. The new By-law specifically requires compliance with the Standard Construction Specifications and the Manual of Temporary Traffic Control, published by the Department of Public Works. This provides certainty and predictability for property owners and contractors.

- The existing By-law allows the Director to reject applications when he or she is of the opinion that they "would be detrimental to the public interest". The proposed By-law eliminates this broad discretion and sets out specific criteria. These

include compliance with zoning by-laws and the effect of a proposed private access on "the safe and efficient movement of vehicular and pedestrian traffic upon the adjacent street". Again, this provides certainty and clarity for property owners and contractors.

- The existing By-law requires approval by the local community committee for residential private approaches more than 5.5 meters (18 feet) wide. The proposed By-law will only require a reference to the community committee for residential private approaches that are more than 6.5 meters (22 feet) wide. This will allow quicker approvals and eliminate an additional step in the process for many residential private approaches.

- The existing By-law allows owners of residential properties to apply for and construct a private approach benefitting their property. However, it is very difficult for inexperienced individuals without the appropriate construction equipment to meet the requirements of the Standard Construction Specifications. In addition, this "loophole" was frequently used by unlicensed (and often unqualified) contractors to operate by claiming that they were merely "assisting" the property owner in constructing the private approach. The result has been improperly located and improperly constructed private approaches on the public right of way. The new By-law takes the same approach as the Sewer By-law; to ensure that construction on the right of way meets the required standards; the new By-law permits only licensed contractors to construct private accesses.

- The current By-law requires licensed contractors to provide a bond in the amount of $20,000 as well as an indemnity. The new By-law requires that licensed contractors provide security in a form and in an amount determined by the Director. This amount will be initially set at $25,000. If the contractor's work is limited to residential private approaches, the security will be $10,000. This security can be realized if the private access doesn't meet standards and needs to be modified or replaced. It can also be realized to pay penalties imposed on a contractor for failing to comply with the inspection provisions of the By-law.

- The existing By-law requires that permit holders indemnify the City from any legal claim arising from construction of the private approach. The new By-law requires that licensed contractors carry a commercial general liability insurance policy in an amount and with terms determined by the Director. The amount of an insurance policy will be established as a minimum of $2.0 million with the City added as an additional insured, the deductible to be paid by the contractor. Since most qualified contractors already carry commercial general liability insurance, this will provide significantly better protection from liability for the City at little or no additional cost to contractors.

- The existing By-law requires permits for all "pedestrian crossings" between the roadway and the private property. The new By-law does not require permits for private walks benefitting residential properties unless they are constructed of

asphalt or concrete or unless they remove or modify the curb. This will cut red tape by eliminating the need for permits for residential private walks constructed of pre-cast concrete blocks or paving stones.

- In order to ensure that private accesses meet the standards set out in the By-law, the permit holder will be responsible for arranging an inspection prior to installing the surfacing material. A failure to call for an inspection will result in the permit holder having either to demonstrate to the satisfaction of the inspector that the private access has been properly located and constructed, or to re-construct the private access.

- If more than one inspection is required due to a lack of compliance with By-law standards, an inspection fee of $30 for each additional inspection is imposed. These fees can be collected by deducting them from the security provided as a condition of the contractor's licence.

- The proposed By-law requires the approval of the City Forester before a private access may be constructed over an existing boulevard tree or within two metres of the outside edge of the trunk of an existing boulevard tree. Excavation for the construction of the approach leads to tree root removal which adversely affects boulevard trees because they rely on these roots for nutrition and structural stability. Removing too many roots may lead to the decline, death, and structural failure of the tree. The two metre distance is a minimum standard to reasonably protect the tree.

- Where a proposed private approach is located on top of or within two metres of an existing tree, the proposed By-law sets out the process and criteria by which the City Forester must decide to (a) approve the proposed location of the private access, (b) approve the removal and relocation of the tree or (c) deny both solutions, effectively requiring the applicant to locate the private approach somewhere else. After making a decision, the City Forester must provide the applicant and the local councillor with a copy of the decision. The applicant can appeal the decision to the local Community Committee. If the Community Committee agrees with the City Forester, its decision is final. If it disagrees, the issue is automatically referred to the Standing Policy Committee on Infrastructure Renewal and Public Works, whose decision is final. This approach is very similar to the current process for removal or relocation of trees in streets but is more consistent with authority and requirements imposed by *The City of Winnipeg Charter*. Essentially,

- The language of the existing By-law is less than ideally clear about some issues, including the obligations of property owners to obtain permits and comply with the By-law. The new By-law uses "plain language" and clarifies these matters, thereby making the By-law easier to apply and enforce.

- The existing By-law provides that property owners (and not the City) are obliged to pay for an upgrade to the surface of their private approaches when the surface

of the adjacent street is upgraded. Nevertheless, exceptions to this rule have been made in the past. Subject to the Local Improvement Regulation By-law No. 98/72 and any other relevant local improvement by-law, the new By-law provides that the City will pay the costs of matching upgrades for private approaches that met the standards of the old surface. However, where a private approach does not meet the standards of the old surface, the property owner will still be responsible for the costs of the upgrade. It is not possible to quantify these costs as they are project specific. The average annual cost associated with these approach renewals will be minimal and funded through the Public Works capital program.

- To defray the costs of hearing appeals of decisions made under the By-law, the proposed By-law imposes an administrative fee of $100.00, which can be refunded if the committee hearing the appeal determines that the appeal has merit and has been made in good faith. This is an approach that has been adopted for other By-laws, including the Vacant and Derelict Building By-law.

## Effective Date

The attached proposed By-laws will take effect on April 1, 2008. This will provide an opportunity to educate the industry and property owners about the new requirements before the beginning of the 2008 construction season.

As a transitional measure, the By-law provides that the revised contractor's license requirements will come into force on January 1st, 2009.

## Consultation

The following individuals and groups were consulted as part of the preparation of the proposed By-law and their comments and suggestions were considered and, in many cases, incorporated into the final draft.

CentreVenture Development Corporation
Manitoba Home Builders Association
Manitoba Heavy Construction Association
Winnipeg Construction Association
Individual member of the Manitoba Association of Architects
Individual building contractor
Individual developer

## Financial Impact Statement

**Date:** February 15, 2008

**Project Name:**
NEW PRIVATE ACCESS BY-LAW

**First Year of Program** **2008**

| | 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: Changes to the existing By-law conditions will result in property owners no longer being required to pay the costs to upgrade their existing approach when street upgrading or reconstruction is undertaken by the City providing the existing approach was constructed to the standards of the existing street surface. When existing approaches meet standards outlined above, the costs to upgrade the existing approach as part of the street renewal will be borne by the City. It is not possible to quantify these costs as they are project specific. The average annual cost associated with these approach renewals will be minimal and funded through the Public Works capital program.**

*"Original Signed by Darcy Stewart, CA"*
Manager of Finance & Administration

**IN PREPARING THIS REPORT THERE WAS:**

**Internal Consultation With and Concurrence By:**
Engineering Division, Water and Waste Department
Planning and Land Use Division, Planning, Property and Development Department
Legal Services Division, Corporate Services Department

**External Consultation With:**

CentreVenture Development Corporation
Manitoba Home Builders Association
Manitoba Heavy Construction Association
Winnipeg Construction Association
Individual Member of the Manitoba Association of Architects
Individual Building Contractor
Individual Developer

**THIS REPORT SUBMITTED BY:**

| | |
|---|---|
| Department: | Public Works Department & Internal Services - CSD |
| Division: | Transportation Engineering & Legal Services |
| Prepared by: | Harold Dick ..... 986-2290 |
| | Scott Payne, C.E.T., P.M.P. ..... 986-3615 |
| Processed by: | Kathy Ross ..... 986-4141 |
| File No. | BYL-01-07 |
| Document Name: | L:\Admin\Reports 2008\Scott Payne\January\Private Access Bylaw\Private Access Report Feb 15 08.doc |

## APPENDIX 1
## PRIVATE ACCESS BY-LAW

## THE CITY OF WINNIPEG

## BY-LAW NO.

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;

**"licensed 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 edition or version of the *Manual of Temporary Traffic Control in Work Areas on City Streets* produced by the Public Works Department of the City of Winnipeg 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 therefore, 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 licensed contractor**
4 The owner of a property benefitted by a private access must ensure that it is constructed, removed, modified or relocated by a licensed contractor.

**Only licensed contractor may construct access**
5 No person other than a licensed contractor, the employees of a licensed 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 licensed 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 to 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 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 are each 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 licensed 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 licensed contractor does not comply with this By-law, the conditions imposed on a permit or the Standard Construction Specifications, the licensed contractor must bring the private access into compliance within a reasonable period of time specified by the Director.

29(2) Where a licensed 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 licensed contractor in order to pay the costs of doing so.

29(3) Where a licensed contractor fails to comply with one or more of the requirements of section 23, the Director may utilize the security provided by the licensed 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 licensed 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 license 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(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"<br>Type of Roadway | Column "B"<br>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 |