Report - Standing Policy Committee on Property and Development - March 25, 2008

Item No. 16 Establishment of Mechanical Permit and a Mechanical Contractor's Licence
File EB-1.1

STANDING COMMITTEE RECOMMENDATION:

On April 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Winnipeg Building By-Law No. 4555/87 be amended to establish a mechanical permit process and a mechanical contractor's license as outlined in the draft amending By-law, Attachment A, to the report from the Acting Director of Planning, Property and Development dated March 10, 2008.

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

Report - Standing Policy Committee on Property and Development - March 25, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 9, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 25, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: Establishment of Mechanical Permit and a Mechanical Contractor's Licence

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Acting Director of Planning, Property and Development

REPORT DATE: March 10, 2008

RECOMMENDATION:

1. **That the Winnipeg Building By-Law 4555/87 be amended to establish a mechanical permit process and a mechanical contractor's license (see Draft amending By-law, Attachment A).**

2. **That the proper officers of the City do all things necessary to carry out the intent of the foregoing.**

Report Summary

Key Issues:

- Currently, the Building By-law and Building Code require a Building Permit for the installation of mechanical works that are associated with a building. However, the By-law is unclear on what constitutes a mechanical system and when a permit is needed. The Mechanical Contractors Association of Manitoba has requested clarifications and improvements.

- Requiring approval of the mechanical system at the time a building permit is issued can be an obstacle to construction as it may delay issuance of a building permit. Issuing a separate mechanical permit later in the process would allow a building permit to be issued and construction to begin before the mechanical system plans are approved.

- Mechanical systems are too complicated to be installed by untrained individuals. This report recommends that mechanical contractors should be licensed based on the model used for electrical and plumbing contracts and that mechanical permits should be issued only to licensed mechanical contractors.

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):
This report proposes the introduction of a new mechanical systems permit and a mechanical contractor's licence.

Policy Implications

( ) No

(X) Yes

Comment(s):
This report proposes the introduction of a new mechanical systems permit and a mechanical contractor's licence.

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s):
This report proposes the introduction of a new mechanical systems permit and a mechanical contractor's licence. However, the new permit will actually facilitate construction projects by allowing building permits to be issued prior to approval of mechanical system plans.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:
Council approval is required for any By-law amendments.

HISTORY:

In 2005, the Mechanical Contractors Association of Manitoba (MCAM) contacted the City expressing concern about confusion and conflicting information that their members were having about the need for a permit for the installation of a mechanical system. The MCAM wanted the City to establish clear guidelines on what work would require a permit.

Subsequently, numerous meetings have been held between the MCAM and members of the Public Service since 2005 to develop a plan to address the MCAM's concerns.

DISCUSSION:
Mechanical systems, in the context of construction, refers to heating and ventilating systems, mechanical hazardous process systems and fire protection systems, such as sprinkler systems, in a building.

Currently, a permit is required whenever work regulated by the Manitoba Building Code (MBC) is to be undertaken. Part 3 and Part 6 of the MBC regulate mechanical systems for buildings. The current Building By-Law requires a Building Permit for any regulated mechanical work. The current Building By-Law requires the architectural, structural, electrical and mechanical drawings to be approved before a Building Permit can be issued.

There are a number of problems with the current situation.

First, neither the Building Code nor the Building By-law provides a definition of "mechanical system". The result is that it is not clear when a permit is required prior to working on a mechanical system. This was a particular concern for the MCAM.

Second, requiring a building permit for work on mechanical systems means that a building permit for new construction cannot be issued until plans for mechanical systems are approved. If the mechanical systems drawings are not ready, the building permit will be held up. However, in new construction, especially with building shell permits, the mechanical systems are typically not completed until a later stage in construction, once the building tenant space has been finalized. The result of this system is that building permits that authorize new construction are unnecessarily delayed due to a lack of mechanical systems drawings that could and should be dealt with at a later stage.

In meetings with MCAM members and the members of the Public Service, a consensus was reached that a mechanical permit, with defined limits, issued only to licensed mechanical contractors would best serve everyone's needs. The By-law would set out clearly what mechanical systems work would require a permit. The By-law would also establish qualifications for licensed mechanical contractors, based on a model already used for electrical contractors and plumbing contractors.

The Permits X-Press Project, established to address and recommend improvements to the building permit process, has identified the mechanical permit as a possible means to provide more options and flexibility to the owner and builder in the issuance of permits.

With a mechanical permit system in place, the City would be able to issue a building permit for new construction without having to require that complete mechanical systems drawings be submitted. Then at some later point, but prior to the mechanical systems being installed, mechanical systems plans could be submitted and approved and a separate permit issued for the mechanical system.

In the case of alterations to an existing building, the work is often done in stages with different contractors being involved with the different aspects of work. It is not uncommon for a building contractor to be responsible only for the tenant space, excluding any mechanical (HVAC) work. A separate mechanical contractor is often responsible for the mechanical work. A separate mechanical permit would allow the City to issue an independent permit to each contractor separately rather than requiring that all contractors coordinate their activities and obtain a single permit prior to any one of them beginning work.

Therefore, although this Report proposes an additional permit, the proposed changes actually reduce the regulatory burden on owners and builders because it permits construction to begin more quickly and provides more options and flexibility in obtaining permits for building construction.

The establishment of a mechanical contractor's licence is proposed to ensure that mechanical permits are only issued to people who are competent to install, replace, repair and maintain them. A similar system is already in place for plumbing contractors and electrical contractors. A licence will also give the City some additional options in the process of achieving compliance with Recommendation 10 of the Red Tape Commission - establishing an audit-based model similar to the certified professional program that would apply to the various trades that are involved in building construction.

Financial Impact Statement

Date: March 7, 2008

Project Name:

First Year of Program 2008

Proposed changes to the Winnipeg Building By-law 4555/87 and the Planning, Development and Buildings Fees Bylaw 166/2004 to establish a mechanical permit, a mechanical contractor's license and related fees.

	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	50,000	50,000	50,000	50,000	50,000
Net Cost/(Benefit)	$ (50,000)	$ (50,000)	$ (50,000)	$ (50,000)	$ (50,000)
Less: Existing Budget Amounts	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: It is anticipated that the introduction of a mechanical permit will result in revenues of approximately $50,000 per annum.

"Original signed by"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

- **Legal Services**

External Consultation With:

- **Mechanical Contractors Association of Manitoba**
- **General open house meeting with contractors**

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Development and Inspections
Prepared by:	Deepak Joshi
PPD File No.	

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THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to create a mechanical permit and a mechanical contractor's licence.

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

Building By-law amended

1(1) The Winnipeg Building By-law No. 4555/87 is amended by this section.

1(2) Section 3.3 is amended by adding the following in alphabetical order:

"Cooking equipment ventilation system" **includes one or more of the following: a ventilating system, an exhaust system, a make-up air system, a hood, ductwork and fire suppression system.**

"Fire protection system" *includes one or more of the following: a wet sprinkler system, a dry sprinkler system, a pre-action system, a chemical suppression system, an inert gas suppression system, a wet or dry standpipe system.*

"HVAC system" *includes one or more of the following: a heating system, ventilating system, air-conditioning system, exhaust system, fire dampers and smoke dampers.*

"Mechanical hazardous process system" *includes one or more of the following: a bio- hazard laboratory fume hood and associated exhaust system, a dust collection system, a welding exhaust system, a flammable or combustible storage system, an explosion relief system, a painting, coating and spray operation.*

"Mechanical system" *includes an HVAC system, a mechanical hazardous process system, a cooking equipment ventilation system and a fire protection system.*

1(3) Section 7.1 is amended by striking out "*building and plumbing contractors*" and substituting "*building, mechanical and plumbing contractors*".

1(4) Sentence 14.1.2(1) is amended by adding "*or licenced contractor*" immediately after "*person responsible*".

1(5) Subsections 14.1.16 and 14.1.17 are repealed and the following is substituted:

DRAFT

14.1.16 Applicable fees set out in the Planning, Development and Building Fees By-law are payable in respect of permits, certificates and inspections referred to in this section.

1(6) Sentence 14.2.3(1) is amended by striking out *"Property,"* immediately after *"Planning,"*.

1(7) The following is added after subsection 14.7.2:

MECHANICAL PERMITS AND CERTIFICATES

14.8.1(1) Except as provided in Sentence (2) herein, a mechanical system or any element of a mechanical system must not be constructed, extended, altered, renewed or repaired unless a mechanical permit has been obtained from the designated employee.

(2) Subject to Sentence (3), a mechanical permit is not required when the construction, extension, alteration, renewal or repair:

(a) is limited to duct alterations, additions or deletions that take place at the fan or service connection;

(b) does not result in removal or alteration of either smoke or fire dampers;

(c) does not affect or alter the integrity of existing fire-rated shafts and enclosures;

(d) is limited to the replacement, relocation or addition of sprinkler heads with the same capacity, zone and hydraulic flow as those previously approved;

(e) is limited to the replacement of one or more existing standpipe valves or hoses with the same capacity as those being replaced;

(f) is limited to maintenance of an existing mechanical system;

(g) is limited to replacing existing cooking equipment;

(h) is limited to replacing an existing commercial kitchen exhaust fan;

(i) is limited to replacing or relocating a chiller; or

(j) takes place in a single family or two family residential dwelling.

(3) *Although a permit is not required for the construction, extension, alterations, renewals or repairs referred to in Sentence (2), the work referred to in that Sentence must fully comply with the Code, this By-law and other applicable by-laws and, in addition, must not result in the building contravening the Code, this By-law or other applicable by-laws.*

14.8.2(1) *An application for a mechanical permit may only be made by a licenced mechanical contractor and may only be issued to a licenced mechanical contractor. A mechanical permit is not transferable.*

(2) *An application for a mechanical permit must be accompanied by:*

(a) *specifications or a description of the proposed work; and*

(b) *where requested by a designated employee, a plan that shows*

(i) *the type, location, capacity and size of all equipment, ducts and dampers and associated heating, venting, air movement and air handling equipment; or*

(ii) *the type, location and size of all fire protection equipment and systems.*

(3) *Where an application requires that the applicant declare the value of the work for which the permit is sought, the applicant must set out the total monetary worth of the permanent or fixed equipment and devices as well as the labour, materials and other devices necessary to complete the work for which the permit is being sought without excluding any of the work because of any other permits required by another by-law, regulation or agency.*

14.8.3(1) *Where a designated employee has reasonable grounds to conclude that the permit holder is not competent to perform the work for which the permit has been issued, the designated employee is authorized to revoke the permit and require that a new permit be issued to another licenced mechanical contractor before the work is completed.*

(2) *A permit issued under this section expires unless the work for which it was issued is initiated within a six month period and continued without unreasonable interruption until completion.*

(3) Where a mechanical system has been inspected and approved, a designated employee, upon request and payment of fee, must issue a certificate of mechanical inspection to the permit holder or the property owner.

1(8) The following is added after subsection 17.9.1:

MECHANICAL CONTRACTOR'S LICENCE

17.10.1 No individual, partnership, firm, corporation or government department may place, install, maintain, repair or replace a mechanical system in the City of Winnipeg without a Mechanical Contractor's Licence issued under this section and, in particular, no individual, partnership, firm, corporation or government department may:

(a) perform any work on HVAC systems or mechanical hazardous process systems to which this or any other by-law applies without a Mechanical Contractor's Licence "M1";

(b) perform any work on fire protection systems to which this or any other by-law applies without a Mechanical Contractor's Licence "M2";

(c) perform any work on cooking equipment ventilation systems and fire protection systems for cooking equipment ventilation systems and equipment to which this or any other by-law applies without a Mechanical Contractor's Licence "M3".

QUALIFICATIONS OF LICENCE HOLDER

17.10.2 A Mechanical Contractor's Licence may only be issued to an individual, partnership, firm, corporation or government department if the individual or the partner, employee or official applying on behalf of the partnership, firm, corporation or government department either:

(a) holds journeyman certification in the field for which a licence is being sought; or

(b) is a factory-trained and factory-certified installer in the field for which a licence is being sought.

APPLICATION FOR LICENCE

17.10.3(1) An application for a Mechanical Contractor's Licence must contain the following information:

(a) the name and business address of the applicant; and

(b) where the applicant is not an individual, the names and addresses of:

(i) the partners in a partnership;

(ii) the officers of a corporation and their titles;

(iii) the head of a government department and his or her title.

(2) An application for a Mechanical Contractor's Licence must be accompanied by a licence fee as specified in the Planning, Development and Building Fees By-law for the year or portion of a year for which the licence is sought.

TERMS AND CONDITIONS OF LICENCE

17.10.4(1) A Mechanical Contractor's Licence is not transferable. Where the individual who applied for a Mechanical Contractor's Licence on behalf of partnership, firm, corporation or government department is not longer employed by or acting on behalf of the partnership, firm, corporation or government department, the licence expires.

(2) A Mechanical Contractor's Licence expires on December 31 of the year in which it was issued.

(3) A Mechanical Contractor's Licence is renewable.

(4) A Mechanical Contractor's Licence is conditional upon the licence holder providing immediate notification to the designated employee of any of the following:

(a) a change in business address or location;

(b) the dissolution of the partnership, firm or corporation;

(c) a change of the name of the partnership, firm, corporation or government department;

(d) a change in the individuals holding corporate offices.

SUSPENSION AND REVOCATION OF LICENCE

17.10.5(1) Where the designated employee concludes that the holder of a Mechanical Contractor's Licence has violated any of the relevant provisions of this or another by-law or Code, he or she may suspend the licence for a period of up to 12 months or revoke the licence permanently.

(2) Prior to suspending or revoking a Mechanical Contractor's Licence, the designated employee must provide the licence holder an opportunity to be heard.

REVIEW COMMITTEE

17.10.6(1) A review committee is hereby established, which consists of

(a) the Designated Employee;

(b) a City of Winnipeg employee or other individual appointed by the Designated Employee; and

(c) an individual appointed by the Mechanical Contractor's Association of Manitoba.

(2) The Review Committee is empowered to determine whether an applicant's qualifications, as set out in subsection 17.10.2, are relevant to the field for which a licence is being sought.

Effective date

2. This By-law comes into force on May 1, 2008.

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

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Mayor

_____
City Clerk

Approved as to content:

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Director of Planning, Property and Development

Certified as to form:

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City Solicitor/Manager of Legal Services