THE CITY OF WINNIPEG

BY-LAW NO. 139/2010

A By-law of THE CITY OF WINNIPEG to amend the Water Works By-law.

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

Water Works By-law amended

1 *The Water Works By-law No. 504/73 is amended by this By-law.*

Definitions amended

2 *Section 2 is amended by*

(a) *striking out* "Commissioner of Works and Operations" *wherever it appears in the definition* **"designated officer"** *and substituting* "Director of Water and Waste"*;*

(b) *adding the following definition in alphabetical order:*

"Director" means the Director of Water and Waste for the City of Winnipeg or designate.

Section 38 replaced

3 *Section 38 is repealed and the following is substituted:*

CROSS CONNECTIONS AND BACKFLOW PREVENTION

38 (1) In this section

"air gap" means the unobstructed vertical distance through air between the lowest point of the water supply outlet and the flood level rim of the fixture or device into which the outlet discharges;

"backflow" means the flow of water, whether mixed with another substance or not, back into the City's water system through a water service pipe that has been connected to premises;

"backflow prevention device" means a device or assembly which prevents the backflow of water into the potable water system;

"CAN/CSA-B64.10" means the *Selection and installation of backflow preventers/Maintenance and field testing of backflow preventers manual* published by the Canadian Standards Association and any replacement document published by the Canadian Standards Association;

"cancellation" means that the licence no longer exists and the person must reapply for a new licence in order to legally test backflow prevention devices;

"initial training course" means a training course determined by the Director to provide the knowledge and skills necessary to conduct tests of backflow prevention devices;

"licence" means a backflow prevention device tester licence issued under s. 38.1;

"operating condition" in reference to a backflow prevention device, means that it meets the standards for operation set out in CAN/CSA-B64.10;

"re-certification course" means a training course determined by the Director to adequately refresh and update the knowledge and skills of a currently licensed backflow prevention device tester to the point where he or she can continue to competently conduct tests of backflow prevention devices;

"suspension" means that the permit, licence or authorization is temporarily ineffective for a specified period of time;

"test report" means a document in a form acceptable to the Director in which the results of a test of backflow prevention devices on a premises are set out; and

"test tag" means a document issued by the designated officer which can be attached to the backflow prevention device to indicate information such as the location and type of device and the name and employer of the tester.

38 (2) A person must not connect or cause to be connected, and the owner and occupant of premises must not permit to be connected, a pipe, fixture, fitting, container or appliance in a manner which, under any circumstances, permits or facilitates backflow into the City's water system.

38 (3) The owner and occupant of premises

(a) used for any of the purposes or occupations or containing anything identified as having a severe degree of hazard in the current version of "Guide to Degree of Hazard" contained in CAN/CSA-B64.10; or

(b) identified by the Director, either by address or by category of use or occupancy, and posted on the City website as being at a high risk of backflow;

must ensure that air gaps or backflow prevention devices are installed which are sufficient, in the opinion of a designated officer, to prevent backflow from the premises and from any fixtures on the premises. Once installed, the owner and occupant must ensure that air gaps and backflow prevention devices are maintained in compliance with the Manitoba Plumbing Code and CAN/CSA B64.10.

38 (4) If a backflow prevention device has been installed on premises, the owner or occupant of premises must ensure that

(a) the backflow prevention device is tested before the anniversary of the date it has been installed, cleaned, repaired, relocated or tested previously;

(b) the test required by clause (a) is conducted by an individual licensed under section 38.1 to test backflow prevention devices;

(c) the results of the test required by clause (a) are received by the designated officer within 30 days after the test has been conducted; and

(b) the backflow prevention device is maintained in an operating condition at all times.

38 (5) Even where a backflow prevention device has been installed, the obligation in subsection (4) does not apply if the designated officer

(a) has determined that the premises are no longer being used in a way that falls into a category set out in subsection (3); and

(b) notifies the owner or occupant in writing that it is not necessary to comply with subsection (4).

38 (6) If a backflow prevention device is found not to be in an operating condition or if the Director has reason to believe that it may not be in an operating condition, as part of the powers granted to him or her by this By-law and *The City of Winnipeg Charter,* the Director may shut off the water supply to the premises until the backflow prevention device is repaired or replaced.

LICENSING OF BACKFLOW PREVENTION DEVICE TESTERS

38.1 (1) An individual is entitled to be issued an initial backflow prevention device tester licence by a designated officer if he or she meets the following criteria:

(a) the individual has within 90 days prior to the date of the application successfully completed an initial training course;

(b) the individual pays the applicable fee set out in Schedule B; and

(c) the individual has not been issued a licence that is currently suspended or has been cancelled for a period that is not expired.

38.1 (2) In order to qualify for a renewal of a licence as set out in subsection 22(2) the licence holder must have within the past five years successfully completed an initial training course or a re-certification course.

38.1 (3) Notwithstanding subsection 22(3), the Director may vary the requirement of subsection (1)(a) and allow a licence to be issued to a former licence holder on the

basis of the licence holder having successfully completed a re-certification course within the previous 90 days, if the Director concludes that the licence holder's skill and knowledge can be adequately assured through successfully completing a re-certification course rather than an initial training course.

38.1 (4) A designated employee may suspend or cancel a licence if:

(a) the licence holder has failed to comply with the requirements of subsection 38.2(1);

(b) the past conduct of the licence holder creates a reasonable concern that the he or she will not comply with subsection 38.2(1) in the future; or

(c) the applicant provided false or misleading information in the application that had an effect on the decision to grant the licence.

38.1 (5) Before suspending or cancelling a licence under subsection (4), the designated employee must:

(a) notify the licence holder in writing that suspending or cancelling the licence is being considered;

(b) provide in writing the reasons why suspending or cancelling the licence is being considered; and

(c) give the licence holder a reasonable opportunity to be heard concerning the possible suspension or cancellation of the licence.

38.1 (6) If a designated employee decides to cancel a licence, he or she must identify a date before which, or a time frame within which, the licence holder is not permitted to reapply for the licence.

38.1 (7) A decision concerning the suspension or cancellation of a licence must be sent to the licence holder in accordance with *The City of Winnipeg Charter* and is subject to appeal.

BACKFLOW PREVENTION TESTING

38.2 (1) A licence holder must:

(a) provide the owner and occupant of premises with a written test report within 14 days after the test is conducted;

(b) if a backflow prevention device is not in an operating condition, report this fact to the designated officer and to the owner and occupant of the premises immediately and, in any event, within two working days of the test; and

(c) immediately upon completion of a backflow prevention device test, accurately and fully provide the information required on a test tag and affix the test tag to the backflow prevention device or to the building at a point immediately adjacent to the device.

38.2 (2) No person other than a licensed backflow prevention device tester who is conducting a test of the device may remove a test tag, alter the information contained on it or write on a test tag.

Powers of designated officers set out

4 *The following is added immediately after section 65:*

POWERS OF DESIGNATED OFFICERS

66 Designated officers have the powers of a designated employee under *The City of Winnipeg Charter* to administer and enforce this By-law, including conducting inspections and remedying a violation of this By-law. When an emergency arises that affects or could affect the health or safety of persons or affects or could affect property, designated officers have the authority to take whatever actions or measures are necessary to meet the emergency and to eliminate or reduce its effects.

Appeal established

5 *The following is added immediately after section 66:*

APPEALS

67 (1) A decision made or order issued pursuant to this By-law that is permitted by *The City of Winnipeg Charter* to be appealed may be appealed to the Standing Policy Committee on Infrastructure Renewal and Public Works.

67 (2) Appeals made under subsection (1) must be in writing and accompanied by the applicable appeal fee set out in Schedule B.

Licence fees and appeal fee

6(1) *Section 10 of Schedule "B" is repealed and the following is substituted:*

10. Backflow Prevention Device Tester Licence fee

Initial licence fee	$130.00
Licence renewal fee	$90.00
Administration fee for late renewal	$50.00

6(2) *The following is added immediately after section 25 in Schedule B:*

26.	Appeal Fee	$250.00

Effective date

7 This By-law comes into force on January 1, 2011.

DONE AND PASSED, this day of , 2010.

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Mayor

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City Clerk

Approved as to content:

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Director of Water and Waste

Approved as to form:

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For City Solicitor/Director of
Legal Services