Minutes – Executive Policy Committee – May 14, 2014

Minute No. 328
Report – Standing Policy Committee on Infrastructure Renewal and Public Works – May 6, 2014

Item No. 2 Amendment to Parade Provisions in the City of Winnipeg Traffic By-Law No. 1573/77

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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

1. That amendments to the City of Winnipeg Traffic By-law No. 1573/77 (draft amending by-law attached as Appendix A), 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 – May 14, 2014

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – May 6, 2014

DECISION MAKING HISTORY:

Moved by Deputy Mayor Swandel,

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

Carried

David Sanders submitted a communication dated May 14, 2014 with respect to amendments to the City of Winnipeg Traffic By-law No. 1573/77.

STANDING COMMITTEE RECOMMENDATION:

On May 6, 2014, 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.

Further on May 6, 2014, the Standing Policy Committee on Infrastructure Renewal and Public Works received a presentation titled dated May 6, 2014 from David Sanders with respect to the amendments to the City of Winnipeg Traffic By-law No. 1573/77.

ADMINISTRATIVE REPORT

Title: Amendment to Parade Provisions in the Traffic By-Law No. 1573/77

Critical Path: Standing Policy Committee on Infrastructure Renewal and Public Works, Executive Policy Committee, Council

AUTHORIZATION

Author	Department Head	CFO	CAO
L. Escobar, P.Eng., P.T.O.E.	B.W. Sacher, P.Eng.	n/a	D. Joshi A/CAO

RECOMMENDATIONS

1. That Council enact amendments to the Traffic By-law No. 1573/77 (draft amending by-law attached as Appendix A).
2. That the proper officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

A By-law amendment requires Council enactment.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no financial implications to the recommendations. Features of the by-law amendment are outlined in the History section of this report.

HISTORY

The current Traffic By-Law No. 1573/77 defines "parade" as including "pedestrians" and "vehicles". The By-law adopts the Provincial Highway Traffic Act definition of "vehicles" which specifically excludes bicycles. As a result, Parade Permits cannot currently be issued to groups of cyclists.

The Winnipeg Police Service (WPS) submitted a report to the September 18, 2013 meeting of the Standing Policy Committee on Infrastructure Renewal and Public Works to change By-law 1573/77 to include the term cyclists. However, the report's recommendation to add "bicyclists" to the existing By-law raised concerns it would require cycling groups of more than 10 to obtain a Parade Permit for a recreational ride. Specifically, a letter was submitted by a concerned citizen requesting that the amendment to the Traffic By-law not establish the requirement that a group of cyclists greater than a certain number be deemed a parade.

In response to the concerns, on September 25, 2013, Council concurred in the recommendation of the Standing Policy Committee and referred the report to the Standing Policy Committee on Infrastructure Renewal and Public Works to be included as part of the Traffic By-law review. On October 1, 2013, the Standing Policy Committee on Infrastructure Renewal and Public Works referred the matter to the Winnipeg Public Service as part of the City of Winnipeg Traffic By-law

review. The Public Services' interpreted the disposition as a request to review all aspects of the Traffic By-law related to parades.

The Public Service acknowledges the citizen's concern and notes that it also applies to groups of pedestrians and motorists. In reviewing this concern, the Public Service considered whether or not the City needs to require Parade Permits for groups of pedestrians, cyclists or motorists who are complying with the traffic rules. Accordingly, the proposed by-law amendment in Appendix A represents a fundamental change in how the City deals with parades.

The current by-law automatically defines a group of 30 pedestrians or 10 vehicles as a "parade" and requires them to have a Parade Permit to be on the street. This approach invites criticism about over-regulation and has prompted constitutional challenges that it unduly infringes constitutional rights to freedom of assembly and freedom of speech.

By contrast, the proposed by-law no longer imposes any requirement for any group to obtain a Parade Permit, so long as the group complies with the traffic rules. Instead, the Parade Permit is made available as an option for groups, including groups of cyclists, which are so large that compliance
with The Highway Traffic Act and City by-laws is not realistic or whose event will not allow compliance with the traffic rules. A Parade Permit would also afford parades a level of protection from intrusion from other motorists, cyclists or pedestrians.

Accordingly, the Public Service believes that the citizen's concern will be addressed by repeal of the definition of parade in the proposed by-law amendment and by allowing for parades, marches, rides and other events to take place without a permit provided that there is compliance with The Highway Traffic Act and City by-laws. If a parade does not have a permit and does not comply with the traffic rules, then charges under The Highway Traffic Act and City by-laws could be laid against individual participants.

Key features of the by-law amendment include:

- Groups of pedestrians, cyclists and vehicles of any size would be able to have a parade on the street without a Parade Permit provided that they comply with the requirements of The Highway Traffic Act and specific City by-laws. This ability to have parades, marches, rides and other events without a permit may reduce the demand for Parade Permits from small pedestrian oriented events that exceed 30 participants but that will comply with the traffic rules.
- The by-law provisions explicitly recognize a Use of Street permit as an alternative to a Parade Permit. A Use of Street permit is more appropriate when all or part of a street will be entirely or partially closed to traffic for an extended period of time. For example, Use of Street permits are currently issued for the annual Santa Claus parade, the Pride Winnipeg Parade and the Sikh Parade.
- Cyclists would have the same opportunity to obtain a Parade Permit as pedestrians and vehicles and similarly would not be required to obtain a Parade Permit provided they comply with The Highway Traffic Act and City by-laws.
- Parades, marches, rides and other events that obtain a Parade Permit would be protected from intrusions by non-participants (with the exception of emergency vehicles).
- Parade permits would be required to be issued by the WPS if certain requirements are met, including the size of the group being such that compliance with traffic rules would be difficult, payment of the applicable fee and the applicants having adequate insurance in place.
- All permitted parades would require a police presence in the form of the RCMP, Military Police or the WPS. If a Parade Permit cannot be issued due to a lack of WPS resources,

the WPS would be required to propose a different time and place when the police personnel could be supplied. Alternatively, the applicant would have the option of paying for WPS officers to escort the parade through the Special Duty Program.

- As is currently the case, the WPS would have the ability - but not the requirement - to provide escorts and other assistance for small groups that are not entitled to a Parade Permit.
- Although the current complete exemption for parades of Her Majesty's Armed Forces has been removed, they are still exempt from payment of fees. In practical terms, the Canadian Armed Forces currently notifies the WPS of its parades. This is essential in order to prevent traffic problems and conflicts with other events on the street.
- The proposed amending By-law also amends the Streets By-law to make clear that those participating in a parade under a Parade Permit are not required to also take out a Use of Street permit because they are obstructing vehicles or pedestrians.

FINANCIAL IMPACT

Financial Impact Statement Date: April 3, 2014

Project Name:
Amendment To Parade Provisions In The Traffic By-Law No. 1573/77

COMMENTS:

There is no financial impact associated with the recommendation of this report. Permits for parades are currently issued at no charge to the applicant.

"Original Signed by H. Schoenfeld, CA"
H. Schoenfeld, CA
Acting Manager of Finance & Administration

CONSULTATION

In preparing this report there was consultation with:
Winnipeg Police Service
Legal Services Department

SUBMITTED BY

Department: Public Works
Division: Transportation
Prepared by: S. Chapman, P.Eng., Traffic Management Engineer
Date: April 3, 2014
File No. OB-01

Attachment: *Appendix A – Amendment to By-Law 1573/77 Parade Sections*

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to amend the Traffic By-law and the Streets By-law provisions with respect to parades

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

PART 1
TRAFFIC BY-LAW AMENDED

Traffic By-law amended

1 The Traffic By-law No. 1573/77 is amended by this Part.

Preamble added

2 The following is added as a preamble to the By-law:

WHEREAS *clause 139(i) provides in part as follows:*

> ***General authority***
> *139 Council may pass by-laws respecting streets and the parking of vehicles in the city, including, without limiting the generality of the foregoing, by-laws respecting*
> *…*
> *(i) traffic on streets;*

Definition "parade" repealed

3 The definition "*parade*" in subsection 2(2) is repealed.

Sections 9 to 13 of Traffic By-law replaced

4 Sections 9 to 13 are replaced with the following:

PARADE PERMITS PROVIDE EXEMPTIONS FROM TRAFFIC RULES AND PROTECTION FROM DISRUPTIONS

9(1) Where the Chief of Police has issued a parade permit under section 11, any use of the street other than that contemplated by the parade permit is restricted or prohibited, as the case may be, pursuant to subsection 86(1) of The Highway Traffic Act*.*

9(2) Without restricting the general nature of subsection (1), except as authorized by or permitted by a peace officer escorting an event for which a parade permit has been issued, no person other than a participant of the event may walk, cycle, drive or otherwise move through an event for which a parade permit has been issued. However,

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this prohibition does not apply to the drivers of the following vehicles operating in an emergency:

(a) an ambulance;

(b) a fire department vehicle; or

(c) a police vehicle.

9(3) Participants in an event for which a parade permit has been issued under this By-law or for which a use of street permit has been issued under the Streets By-law who are in compliance with the conditions of the parade permit or use of street permit, and who comply with the directions of a peace officer with respect to the conduct of that event are not required to comply with the following:

(a) the requirements of The Highway Traffic Act *with respect to travelling in a roadway including complying with traffic control devices;*

(b) the prohibitions in the Streets By-law or other by-laws concerning the obstruction of pedestrian or vehicular traffic in a street;

(c) the prohibitions or restrictions in this or other by-laws concerning the riding of horses or horse-drawn vehicles in a street.

ELIGIBILITY FOR PARADE PERMIT

10(1) An event is eligible to be considered for a parade permit if both of the following apply:

(a) it involves the cohesive movement of a group of people – whether on foot or being conveyed - from one point to another on one or more streets; and

(b) it will not occupy any particular area of the street for an extended period of time.

10(2) An event is ineligible for a parade permit but may be eligible for a use of street permit under the Streets By-law if any of the following are applicable:

(a) it involves a group of people which will remain largely stationary during the event;

(b) as a result of the event, pedestrian or vehicular traffic on the street will be significantly affected for a significant period of time;

(c) as a result of the event, the street will not be available for any pedestrian or vehicular traffic for a period of time.

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ISSUING PARADE PERMITS

11(1) In order to appropriately consider whether or not to grant parade permits, the Chief of Police may establish reasonable requirements for applications for parade permits, which may include:

(a) a minimum amount of time prior to a proposed event by which an application must be made;

(b) specific information that must be provided on a parade permit application;

(c) the completion of an application form.

11(2) The Chief of Police must issue a parade permit to an applicant if all of the following requirements are met:

(a) the event for which a parade permit is sought is eligible for a parade permit under section 10;

(b) the applicant has complied with the requirements established by the Chief of Police under subsection 11(1);

(c) the applicant has paid any applicable fees and charges;

(d) the Chief determines that adequate insurance will be in place to protect the City as well as participants and others who may suffer harm or damage as a result of the event for which a parade permit is sought.

(e) adequate security and traffic control for the event will be provided by the Royal Canadian Mounted Police or the Canadian Forces Military Police or can reasonably be provided by the Winnipeg Police Service;

(f) the time, date and route of the proposed event

(i) is unlikely to unduly disrupt traffic along the proposed parade route;

(ii) is unlikely to result in conflicts with other events or parades taking place; and

(iii) does not pose undue security or public safety concerns;

(g) due to the nature of the event, the numbers of people or vehicles involved or for some other reason, it will be difficult or impossible for those involved in the event to remain a cohesive group while complying with The Highway Traffic Act*, the Streets By-law and this By-law.*

11(3) Where the event meets all of the criteria set out in subsection (2) except those set out in clauses (e) or (f), the Chief of Police must propose a reasonable alternative time, date or route that would result in these criteria being met.

11(4) Where the event meets all of the criteria set out in subsection (2) except that

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set out in clause (e), the Chief of Police must authorize the parade permit if the applicant agrees to make use of Winnipeg Police Service members through the WPS Special Duty Program and pays the applicable fees and charges for the event through that program.

11(4) Where the event meets all of the criteria set out in subsection (2) except that set out in clause (2)(g), the Chief is authorized but not required to issue a parade permit with respect to the event.

11(5) No fee is applicable for a parade permit authorizing a parade or other event involving members of Her Majesty's Armed Forces, whether on foot or in vehicles.

CONDITIONS ON PARADE PERMITS

12(1) It is a condition of every parade permit that

(a) members of the Winnipeg Police Service, the Royal Canadian Mounted Police or the Canadian Forces Military Police must escort the event; and

(b) all participants must comply with the directions of the escorting peace officers.

12(2) The Chief of Police may impose additional conditions on a parade permit that are designed to ensure the following

(a) disruption to traffic along the proposed parade route is minimized;

(b) the event for which the parade permit is issued does not result in conflicts with other events or parades taking place;

(c) security or public safety concerns are minimized; and

(d) adequate insurance will be in place in accordance with clause 11(2)(d).

12(3) Without restricting the generality of subsection (2), the conditions imposed by the Chief of Police may include any or all of the following:

(a) a requirement to follow a specific route;

(b) a requirement that the event take place on a specific date and time;

(c) a requirement that the event use only a specified lane or roadway;

(d) restrictions or prohibitions on the activities that may take place during the event.

12(4) If the conditions imposed on a parade permit are not met, the parade permit is invalid.

12(5) The Chief of Police or any member of the Winnipeg Police Service whom the Chief has authorized to exercise this authority may revoke the parade permit prior to or during the parade if he or she concludes that the parade will

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(a) unduly disrupt traffic along the parade route;

(b) result in conflicts with other events or parades taking place; or

(c) pose undue security or public safety concerns.

12(6) If a parade permit is invalid or revoked, the exemptions provided in subsection 9(1) are not applicable and participants in the event must comply with all applicable provisions of The Highway Traffic Act*, the Streets By-law and this By-law.*

PART 2
STREETS BY-LAW AMENDED

Streets By-law amended

5 Subsection 4.01.02 of the Streets By-law No. 1481/77 is replaced by the following:

4.01.02 Notwithstanding subsection 4.01.01

(a) clause 4.01.01(c) does not apply to a mobile food vendor that is operating pursuant to a valid mobile food vendor licence issued under the Doing Business in Winnipeg By-law; and

(b) clauses 4.01.01(a), (b) and (c) do not apply to an individual participating in an event for which a parade permit has been issued under the Traffic By-law.

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DONE AND PASSED, this day of , 2014.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Public Works

Approved as to content

_____
Chief of the Winnipeg Police Service

Approved as to form:

_____
For Director of Legal Services/City Solicitor