Minute No. 318
Report – Standing Policy Committee on Protection and Community Services – April 13, 2015

Item No. 3 Neighbourhood Liveability By-law No. 1/2008 Review – Basement Occupancy Standards

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and adopted the following:

1. That the proposed amendments to the *Neighbourhood Liveability By-law No. 1/2008* (draft amending By-law attached as Appendix A) be approved, in order to ensure better alignment of both the Basement Occupancy and the Gas and Open Flame Appliances sections of the *By-law* with the standards set out in the *Manitoba Building Code*.

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 Protection and Community Services – April 13, 2015

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Protection and Community Services be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 22, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and the Winnipeg Public Service, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 13, 2015, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **Neighbourhood Liveability By-law No. 1/2008 Review – Basement Occupancy Standards**

Critical Path: Standing Policy Committee on Protection and Community Services, Executive Policy Committee, Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. de Graaf	C. Wightman	M. Ruta	M. Jack A/CAO

RECOMMENDATIONS

1. That Council approves the proposed amendments to the *Neighbourhood Liveability By-law No. 1/2008* (draft amending By-law attached as Appendix A) in order to ensure better alignment of both the Basement Occupancy and the Gas and Open Flame Appliances sections of the *By-law* with the standards set out in the *Manitoba Building Code*.

2. That the proper officers of the City be authorized to do all things necessary in order to implement the intent of the foregoing.

REASON FOR THE REPORT

Council approval is required to enact the proposed amendments in this Report. *The Neighbourhood Liveability By-law No.1/2008 (NLB)* needs to be reviewed in order to ensure that it is up-to-date and consistent with the current version of the *Manitoba Building Code (MBC).*

IMPLICATIONS OF THE RECOMMENDATIONS

The goal of this report is to ensure that the basement occupancy standards set out in the *NLB* are reasonable, in keeping with current *MBC* standards, and continue to meet the intent of life safety, individual and community well-being, and sustainable communities.

The *NLB* establishes general standards for properties throughout the city. It applies to all buildings, whenever they were last constructed or renovated. It is intended to supplement, but not to replace, the *Manitoba Building Code.*

As a general rule, since the *NLB* applies to buildings that may have been constructed or last renovated years ago, its standards should not be more stringent than the *MBC* for new construction or renovations.

This review focuses on basement occupancy standards. These standards may currently be found in section 51 of the *NLB* and include standards related to life safety (i.e., means of egress in the case of fire), lighting, ventilation, ceiling heights, stair dimensions, and plumbing. Because fuel fired heating appliance standards are covered in section 51 (Basement occupancies) and in section 44 (Gas and Open Flame appliances in bedrooms within a dwelling), amendments to section 44 are proposed as well.

Life Safety

Currently, the *NLB* requires two means of egress for all habitable rooms in a basement. One means of egress may be a window whose dimensions are set out in the By-law. The *NLB* also imposes the requirement that walls and doors must separate a fuel-fired furnace from any habitable room and that access to each habitable room must be possible without passing through a furnace, boiler or service room.

These requirements actually exceed those established in the *MBC* in that the *Code* imposes second means of egress requirements only for bedrooms, rather than all habitable rooms, and its minimum window dimensions are smaller than those in the *NLB*. In addition, the *Code* does not require walls and doors around furnaces.

The fact that the *NLB* requirements are more stringent than the *MBC* is problematic because retrofitting older homes to meet these high standards is unrealistic and uneconomical for the vast majority of older homes. Furthermore, it creates the likelihood that a newly constructed and fully *Code*-compliant house would nonetheless be in contravention of the *NLB*.

After review with Planning, Property, and Development Department's Building Code experts and the Winnipeg Fire Paramedic Service; and, after reviewing the approaches taken by other Canadian cities, the Public Service is of the view that the *NLB* standards for life safety should be significantly revised. The new standards will better align with the *Manitoba Building Code*. The proposed new standards are as follows:

- Replace the current *NLB* requirements with respect to a second means of egress for all habitable rooms with a simple requirement that every basement bedroom must be equipped with a door or a window that offers a direct means of egress to the exterior. The size of such a window would mirror the current *Code* requirements. Obstacles preventing escape through the window in case of a fire would be prohibited. This requirement would be subject to the exceptions noted below.

- Repeal the *NLB* requirements that fuel-fired heating appliances be separated by walls and doors, and that access to each habitable room must be possible without passing through a furnace, boiler or service room. These requirements are primarily aesthetic oriented and offer little in the way of life safety protection.

As noted above, this report proposes an exception from the second means of egress requirements for buildings that have been recently constructed to meet *Code* requirements, have been approved as a converted residential dwelling under the Residential Buildings Fire Safety By-law No. 4304/86, or that have installed sprinkler systems. Consultation with *Code* experts has persuaded the Public Service that compliance with standards established in the *Manitoba Building Code* since 1988, that have sprinkler systems, or that have been issued a final report under By-law No. 4304/86 will provide adequate life safety conditions. Accordingly, this report proposes that an exception should be made when the owner can demonstrate that:

- The bedroom is part of a converted residential dwelling that has been approved as a rooming house or for multi-family use under the *Residential Buildings Fire Safety By-law No. 4304/86* and that the bedroom was approved under and continues to meet the standards in that By-law;

- The bedroom is part of a residential building that met the fourth (or subsequent) edition of the *Manitoba Building Code* and that the bedroom was permitted and inspected for compliance with one of those codes and continues to meet those standards; or

- The bedroom is equipped with a sprinkler system installed as per NFPA 13, 13D or 13R (all referenced in the Manitoba Building Code).

Ventilation and Lighting

After review, the Public Service has concluded that it is not necessary to address ventilation and lighting standards in the context of basement occupancy standards since adequate lighting and ventilation standards can be found in Part 2 of the *NLB*, which deals more generally with all residential properties. Accordingly, this report recommends that these provisions be repealed.

Ceiling Heights

Again, some of the standards currently set out in the *NLB* for ceiling heights in basement occupancies are actually more stringent than those required by the *Manitoba Building Code*. In order to be consistent with the *MBC*, the Public Service is proposing that the minimum ceiling height be reduced from 210 cm to 195 cm and that ceiling heights under beams, ducting, obstructions, etc., be changed from a minimum 192.50 cm to a minimum of 185 cm.

The Public Service is also recommending that the minimum headroom clearance of stairs be changed from 195 cm to the *MBC* requirement of a minimum 185 cm.

Stairs

The *NLB* standards for the dimensions of stairs are less stringent than those set out in the *MBC*. Nevertheless, after having confirmed that they are adequate for fire fighter access and the vast majority of other purposes, the Public Service is recommending that these standards be retained.

Plumbing

Subsection 51(8) of the *NLB* requires catch basins in basements. Catch basins found in homes are typically near laundry facilities. They are designed to allow water that has seeped through the foundation or escaped from a furnace or washing machine to be drained. The *MBC* does not require catch basins in new houses being constructed. After review, the Public Service has determined that the absence of a catch basin does not pose significant risks to human health or safety. Accordingly, this Report is proposing that subsection 51(8) be repealed.

The *NLB* currently requires the installation of a backwater valve in accordance with *Code* whenever a separate dwelling unit exists in a basement. Backwater valves are designed to prevent sewer back-up. This Report proposes to retain this requirement on the basis that a separate dwelling unit should have this protection. It is worth noting that, currently, the City's Basement Flooding Protection Subsidy Program will reimburse a property owner 60% of the costs of installing a backwater valve, to a maximum of $1,000.

Gas and Open Flame Appliances in Bedrooms

Since this report recommends that the requirement of walls and doors around fuel-fired heating appliances should be removed, it makes little sense to maintain the current *NLB* prohibition on gas-fired fireplaces, stoves and heating appliances in bedrooms other than in a basement. The *Code* does not contain this prohibition; in fact, gas fireplaces are a common feature of newly-built master bedroom suites. This is not seen as an important fire safety measure. Accordingly, this report proposes to eliminate this requirement.

HISTORY

On June 15, 1988, Council adopted the *Maintenance and Occupancy By-law No. 4903/88*. This by-law was based on minimum standards of maintenance and occupancy for residential properties and included basement occupancy standards.

On January 23, 2008, Council adopted the *Neighbourhood Liveability By-law No.1/2008* to take effect November 1, 2008. The *Neighbourhood Liveability By-law No.1/2008* is a consolidation of 17 by-laws (in whole or part) including the *Maintenance and Occupancy By-law No. 4903/88* in its entirety.

On January 23, 2008, Council repealed the *Maintenance and Occupancy By-law No. 4903/88* to take effect November 1, 2008.

FINANCIAL IMPACT

Financial Impact Statement **Date:** February 11, 2015

Project Name: **First Year of Program**

Neighbourhood Liveability By-Law No. 1/2008 Review - Basement Occupancy Standards

	0	1	2	3	4
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: There is no financial impact associated with this report.

Original signed by
Cindy Fernandes, CMA
Manager, Finance and Administrative Services

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department
Winnipeg Fire Paramedic Service
Planning, Property, and Development Department
Water and Waste Department

SUBMITTED BY

Department: Community Services
Division: Community By-Law Enforcement Services
Prepared by: Peter de Graaf, Manager
Date: February 11, 2015
File No.

Appendix A – Draft Amending By-law

Basement Occupancy By-law - f