Minute No. 668
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – October 10, 2017

Item No. 4 Establishment of Prime Mechanical Contractor's License

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development Committee and adopted the following:

1. That amendments to the Winnipeg Building By-law 4555/87 to establish a new Prime Mechanical Contractor's License (see draft amending by-law, attached as Schedule "A" to this report), be enacted.

2. That the following fees for the new Prime Mechanical Contractor's License effective on the first day of the month following Council approval, be approved:

(a)	one year license	$249.00
(b)	three year license	$700.00

3. That the fees listed in recommendation 2 increase by 1.2%, the rate of inflation, effective January 1, 2018, to match the increase being applied to the equivalent licensing categories.

4. That the Proper Officers of the City do all things necessary to carry-out the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – October 10, 2017

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 18, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 10, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Establishment of Prime Mechanical Contractor's License

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Dueck	J. Kiernan	M. Ruta	M. Jack A/CAO

EXECUTIVE SUMMARY

This report proposes amendments to the Winnipeg Building By-law No. 4555/87 to establish regulations for a Prime Mechanical Contractor's License – M-Prime. These changes align the City of Winnipeg's licensing and permit process with industry practice and are in response to a request from the Mechanical Contractors Association of Manitoba (MCAM). The changes represent a method mutually established between the Winnipeg Public Service and MCAM, which serves to clarify responsibility and improve accountability within the mechanical licensing and permitting process.

The new category will allow prime mechanical contractors who do not directly employ licensed M1 or M2 journeyperson contractors to apply for these permits. The new process will still require work requiring a journeyperson to be performed by a journeyperson by requiring these licensed contractors to also be identified on the permits.

Although this creates a new licensing sub-category of mechanical contractors, the license fee is equivalent to other mechanical licensing categories.

RECOMMENDATIONS

1. That Council enact amendments to the Winnipeg Building By-law 4555/87 to establish a new Prime Mechanical Contractor's License (see draft amending by-law, attached as Schedule "A" to this report).
2. That Council approve the following fees for the new Prime Mechanical Contractor's License effective on the first day of the month following Council approval:
   (a) one year license $249.00
   (b) three year license $700.00

3. That the fees listed in recommendation 2 increase by 1.2%, the rate of inflation, effective January 1, 2018, to match the increase being applied to the equivalent licensing categories.
4. That the proper officers of the City do all things necessary to carry-out the intent of the foregoing.

REASON FOR THE REPORT

A request was received by the Winnipeg Public Service from the Heating / Ventilation / Air Conditioning (HVAC), mechanical hazardous and fire protection systems industry to further clarify who can apply for mechanical permits.

By-law amendments and additional fees must be approved by Council.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of this report are concurred in, the Winnipeg Building By-law No. 4555/87 will be amended to include the new Prime Mechanical Contractor's License, and fees for a one-year and three-year license will be established.

HISTORY/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 (the "MBC") is to be undertaken. Part 3 and Part 6 of the MBC regulate mechanical systems for buildings. The current Winnipeg Building By-Law No. 4555/87 requires a permit for any regulated mechanical work. When the project involves and requires a building permit, the mechanical review typically occurs in conjunction with the building permit review, as the By-Law requires the architectural, structural, and electrical and mechanical drawings to be approved before a building permit can be issued. Some stand-alone mechanical work is approved under only a Mechanical Trade Permit.

Since 2008, all mechanical contractors are required to be licensed by The City of Winnipeg (the "City"). Currently, there are three main categories of mechanical permits / contractor licenses, summarized as follows:

- M 1: Heating / Ventilation / Air Conditioning (HVAC) systems and Mechanical Hazardous Process Systems
- M 2: Fire Protection Systems (sprinkler)
- M 3: Specialized mechanical equipment (cooking systems, chemical fire protection systems, spray booths, etc.)

The City's mechanical licensing structure related to the M1 category has long been a point of contention for the mechanical contractor community. The current licensing requirement is that contractors hold a journeyperson certification and in this case the relevant field would be sheet metal installers. However, the mechanical systems involved in much M1 work often extends far beyond simply the sheet metal elements of the work, and includes installation of the mechanical system itself, which typically incorporates air balancing, fire dampers, associated controls, etc.

A Prime Mechanical Contractor is often not licensed because they have no certified sheet-metal journeyperson employed, and as such they are not authorized under the current City licensing structure to apply for the permit related to the whole contract. They sub-contract the sheet-metal portion of the M1 mechanical work to an individual or company that employs a certified journeyperson sheet-metal installer, who is currently authorized under the current City licensing structure to apply for the permit, and who is then legally obligated / responsible, in accordance with the By-law, for work for which they have not been contracted to perform.

Similar situations arise with M2 work related to the installation of fire protection (sprinkler) systems.

The City, on the other hand, is hesitant to create a licensing system where journeypersons may not be involved in the portion of the work relating to their discipline.

Meetings with the Mechanical Contractors Association of Manitoba (MCAM) have led to a mutually agreeable solution to this challenge.

The proposal is to establish a Prime Mechanical Contractor's License ("M-Prime license") category, which would permit a Prime Mechanical Contractor, a term newly defined in the By-law, to apply for, and be issued, permits for M1 and M2 work. No specific journeyperson or other external certification would be required as a pre-requisite for becoming licensed. The City may require applicants to sign a certificate of acknowledgement of contractor responsibilities and understanding of the permit process.

For M1 and M2 permits, where an M1 or M2 licensed contractor is the applicant, the current system would not change. However, if an M-Prime contractor applied for the permit, the applicant would be required to list an M1 or M2 licensed contractor at the time of the application. In this way, the M-Prime would take overall legal responsibility for the permit under the bylaw, but the M1 or M2 licensed contractor would still be responsible for the portion of the work they've been subcontracted to perform.

The overall costs associated with M1 and M2 permit fees would not change. M1 and M2 contractors would continue to be directly responsible for the work with which they are directly involved, and would risk a license suspension or revocation for compromised work. However, the M-Prime contractor would also be responsible for all of the work, including that in which the M1 or M2 licensed contractor was not involved.

FINANCIAL IMPACT

Financial Impact Statement Date: September 6, 2017

Project Name:

Establishment of Prime Mechanical Contractor's License

COMMENTS:

Given the relatively low volume of licenses to be issued, the introduction of the one and three year license fees will not materially affect revenues. As such, there are no financial implications associated with the recommendations contained in this report.

"Original Signed By"
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)
- Mechanical Contractors Association of Manitoba (MCAM)

OURWINNIPEG POLICY ALIGNMENT

- 01-3 Prosperity – Provide efficient and focused civic administration and governance.

SUBMITTED BY

Department: Planning, Property and Development
Division: Development & Inspections
Prepared by: Shawn Krenz
Date: September 12, 2017
File No:

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Attachments:

1. Schedule "A" – Draft Amending By-law

THE CITY OF WINNIPEG

BY-LAW NO. /2017

A By-law of THE CITY OF WINNIPEG to amend the Winnipeg Building By-law No. 4555/87 to establish the Prime Mechanical Contractor's Licence.

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

Winnipeg Building By-law amended

The Winnipeg Building By-law No. 4555/87 is amended by this by-law.

Section 3.1 amended

Section 3.1 is amended by adding the following, in alphabetical order:

"Prime Mechanical Contractor" *means an individual, partnership, firm, corporation or government department contracted to undertake mechanical work that may or may not hold a valid Mechanical Contractor's Licence "M1" or Mechanical Contractor's Licence "M2" issued in accordance with this By-law.*

Section 14.8.2 amended

Section 14.8.2 is amended by:

(a) replacing subsection (1) with the following:

14.8.2(1) An application for a mechanical permit may only be made by, and a mechanical permit may only be issued to:

(a) a licensed mechanical contractor; or

(b) a person who is authorized by a licensed mechanical contractor, in writing in a form acceptable to the Designated Employee, to apply for a mechanical permit on the licensed mechanical contractor's behalf.

(b) adding the following after subsection (1):

14.8.2(1.1) A mechanical permit is not transferable.

(c) replacing subsection 14.8.2(2) with the following:

14.8.2(2) An application for a mechanical permit must be accompanied by:

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

(b) the name and contact information of the licensed mechanical contractor who will be performing the proposed work; and

(c) where requested by the 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.

Section 17.10.1 amended

Section 17.10.1 is amended:

(d) in clause (c), by replacing "*Mechanical Contractor's Licence "M3".*" with "*Mechanical Contractor's Licence "M3"; or*";

(e) by adding the following after clause (c):

(d) act as Prime Mechanical Contractor in respect of work described in clauses (a) or (b) without a valid Mechanical Contractor's Licence "M-Prime", unless they hold a valid Mechanical Contractor's Licence "M1" or Mechanical Contractor's Licence "M2", as the case may be.

Section 17.10.2 replaced

Section 17.10.2 is replaced with the following:

17.10.2(1) 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:

(a) holds a journeyperson certification; or

(b) is a factory-trained and factory-certified installerin the field in respect of which the Mechanical Contractor's Licence is being sought.

17.10.2(2) Notwithstanding subsection (1), a Mechanical Contractor's Licence "M-Prime" may be issued to an individual, or to the partner, employee or official applying on behalf of the partnership, firm, corporation or government department, who does not meet the requirements of subsection (1) if the individual, partnership, firm, corporation or government department acts as Prime Mechanical Contractor in respect of work described in clauses 17.10.1(a) or 17.10.1(b).

Subsection 17.10.3(2) amended

Subsection 17.10.3(2) is amended by deleting "*for the year or portion of the year for which the licence is sought*".

Section 17.10.4 amended

Section 17.10.4 is amended:

(f) in subsection (1), by replacing "*on behalf of partnership, firm, corporation or government department is not longer*" with "*on behalf of a partnership, firm, corporation or government is no longer*"; and

(g) in subsection (2), but replacing "*expires on December 31 of the year in which is was issued*" with "*may be issued for one- or three-year terms, and shall expire on the date indicated on the licence.*".

Clause 17.10.6(1)(c) amended

Clause 17.10.6(1)(c) is amended by replacing "*Mechanical Contractor's Association of Manitoba*" with "*Mechanical Contractors Association of Manitoba*".

DONE AND PASSED this day of , 2017.

Mayor

City Clerk

Approved as to content:

Director of Planning, Property
and Development

Schedule “A”
Approved as to form:

_____
for Director of Legal Services
and City Solicitor