THE CITY OF WINNIPEG

BY-LAW NO. 12/2019

A By-law of THE CITY OF WINNIPEG to regulate the construction and maintenance of encroachments.

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

Short title

1 This By-law may be cited as the "Encroachment By-law".

Definitions

2(1) In this By-law

"alter", in respect of an encroachment, does not include

(a) painting the encroachment or part thereof; or

(b) changing parts of the encroachment that are designed and intended to be changed;

"applicant" means the person who submits an application for an encroachment licence;

"approving authority" means

(a) the designated employee in respect of simple encroachments and patios; or

(b) the designated committee in respect of all other encroachments;

"areaway" has the same meaning as in the Winnipeg Building By-law;

"awning" has the same meaning as in the Winnipeg Building By-law;

"benefitting property" means the property from which an encroachment extends into a street;

"billboard" means a sign that is designed or intended for, or that has the effect of, announcing, identifying, directing attention to, or advertising any business, service, or use that is not located on the benefitting property;

"building" means any structure used or intended to be used to support or shelter any use or occupancy;

"building projection" means any structure or object that is attached to and extending from an existing or proposed building into a street, including

(a) areaways that existed on the date this By-law came into force;

(b) marquees, canopies, awnings and sun visors;

(c) fire suppression or prevention apparatuses and fire escapes;

(d) architectural features including eaves and cornices; and

(e) door swings;

"canopy" has the same meaning as in the Winnipeg Building By-law;

"Charter" means *The City of Winnipeg Charter*, SM 2002, c. 39;

"City" means the municipal corporation of The City of Winnipeg, continued under section 8 of the Charter;

"Council" means the municipal council of the City;

"designated committee" means the committee of Council responsible for providing policy advice to Council in respect of planning and land use, which, on the date this By-law is enacted, is the Standing Policy Committee on Property and Development, Heritage and Downtown Development;

"designated employee" means the Director and any employee to whom the Director has given responsibility for enforcing or administering all or part of this By-law;

"Director" means the director of the City department responsible for planning and land use, which, on the date this By-law is enacted, is the Director of the City's Planning, Property and Development Department;

"Director of Public Works" means the director of the City department responsible for public works and streets, which, on the date this By-law is enacted, is the Director of the City's Public Works Department;

"door swing" means the clearance required in order for a door to open completely;

"encroachment" means a building, structure or object, or any portion thereof, that is located on, over, across or below a street or part of a street;

"encroachment licence" means a licence issued in accordance with this By-law that authorizes the installation or maintenance of an encroachment;

"enlarge", in respect of an encroachment, means to increase the total area of the encroachment;

"licence holder" means the person to whom an encroachment licence has been issued under this By-law;

"maintain", in respect of an encroachment, means to permit the continued existence of the encroachment;

"marquee" has the same meaning as in the Winnipeg Building By-law;

"overhead pedestrian walkway" means a pedestrian passageway that is

(a) connected to or extends from one or more buildings; and

(b) suspended above a street.

"owner", in respect of an encroachment, means

(a) where an encroachment licence has been issued in respect of the encroachment in accordance with this By-law, the licence holder;

(b) where the encroachment is a patio, the owner of the restaurant to which the patio is accessory; or

(c) the owner of the benefitting property;

"owner", in respect of a benefitting property, includes

(a) the person who owns a freehold estate in the benefitting property; or

(b) any person who is responsible for the benefitting property, including any person managing the benefitting property, whether on his or her own account or as an agent or trustee of any other person;

"patio" means an outdoor area designed for the consumption of food and drink that is accessory to a restaurant;

"restaurant" has the same meaning as in the Winnipeg Zoning By-law;

"sign" means anything that is designed or intended for, or has the effect of, announcing, identifying, directing attention to, or advertising any building or use by way of

(a) writing, including any letter, word, or numeral;

(b) pictorial representation, including any illustration or decoration;

(c) emblem, including any device, symbol, logo, or trademark; or

(d) flag, including any banner or pennant, but not including the flag of any nation or government;

"simple encroachment" means the following types of encroachments:

(a) bollards;

(b) building projections;

(c) fences;

(d) public streetscaping, including planters, benches and ornamental structures; and

(e) signs, except for billboards;

"street" has the same meaning as in the Charter;

"sun visor" has the same meaning as in the Winnipeg Building By-law;

"temporary encroachment" means an encroachment that will or is intended to exist in a specific location for the shorter of

(a) 2 calendar months; or

(b) an amount of time approved by the designated employee; and

"utility infrastructure" means any object or structure used for traffic control or for the provision of electric power, natural gas, potable water, wastewater services, land drainage services or telecommunications services, but does not include private sewer service pipes or private water service pipes;

2(2) Where reference is made in this By-law to an encroachment extending into a street, the reference includes encroachments located on, above, across and under the street.

2(3) This By-law does not apply to encroachments where the benefitting property is owned by the City.

Encroachments permitted to continue

3(1) Despite anything else in this By-law, any encroachment that lawfully existed prior to the date on which this By-law came into force is authorized to continue unless

(a) the owner of the encroachment fails or has failed to comply with

(i) any condition of the original approval of the encroachment;

(ii) any condition imposed on a licence issued in respect of the encroachment; or

(iii) any provision of any agreement in respect of the encroachment;

(b) the owner of the encroachment enlarges or alters, or permits the enlargement or alteration of, the encroachment; or

(c) the encroachment is damaged or destroyed by any means to the extent of 50% or more of the replacement value of the encroachment.

3(2) For the purposes of clause (1)(b), an encroachment is deemed to not be altered by

(a) the changing of moveable parts designed or intended to be changed; or

(b) re-painting.

3(3) Where an encroachment that lawfully existed prior to the date on which this By-law is enacted fails to meet any of the requirements under subsection (1), the owner of the encroachment must

(a) do all things that a designated employee reasonably determines to be necessary to ensure that the encroachment meets the requirements of this By-law; or

(b) remove the encroachment.

General requirements for encroachments

4(1) The owner of a benefitting property must ensure that any encroachment extending from that property, whether licensed or not, complies with the requirements set out in Schedule “A”.

4(2) The owner of an encroachment must not alter or enlarge the encroachment unless the alteration or enlargement of the encroachment is approved by the approving authority.

Required alterations to encroachments

5(1) The designated employee is authorized to require that the owner of an encroachment, at the owner’s expense, complete repairs, alterations or reconstruction of the encroachment, within a reasonable period of time as determined by the designated employee, if the designated employee determines, acting reasonably, that the encroachment

(a) requires repairs to eliminate or reduce the risk of harm to people, property or the environment; or

(b) requires alterations or reconstruction to accommodate

(i) any use of the street made or proposed to be made by the City; or

(ii) the widening of the street.

5(2) Where the designated employee requires that an owner complete repairs, alterations or reconstruction of an encroachment under subsection (1), the owner must, within the specified timeframe,

(a) complete the required repairs, alterations or reconstruction; or

(b) remove the encroachment.

Removal of encroachments

6 If Council determines, acting reasonably, that an encroachment must be removed for any reason, the owner of the encroachment must, at the owner's expense, remove the encroachment to the satisfaction of the Director within the timeframe specified by Council, subject to the terms of any encroachment agreement in respect of the encroachment.

Encroachment licence required

7(1) The owner of a benefitting property and the owner of an encroachment must not install or permit to be installed, or maintain or permit to be maintained, an encroachment unless and until he or she ensures that a valid encroachment licence has been issued in respect of the encroachment.

7(2) Despite subsection (1), an encroachment licence is not required for the following encroachments:

(a) private accesses constructed or maintained in accordance with the Private Access By-law;

(b) boulevard treatments constructed or maintained in accordance with the Neighbourhood Liveability By-law;

(c) planters, landscaping or other improvements installed and maintained, with approval from the designated employee, by a Business Improvement Zone established or continued by a by-law of the City;

(d) temporary encroachments constructed or maintained in accordance with a valid Use of Street Permit or a valid Crossing Permit issued under the Streets By-law; and

(e) utility infrastructure.

Encroachment licence application

8(1) The designated employee is authorized to determine the form in which an application for an encroachment licence must be submitted.

8(2) An application for an encroachment licence may be submitted by

(a) the owner of the benefitting property; or

(b) any person on behalf of the owner of the benefitting property with the owner's permission.

8(3) An applicant must ensure that an application for an encroachment licence includes

(a) payment of the application fee set by Council or pursuant to powers delegated by Council; and

(b) all information that the designated employee determines is reasonably necessary for the approving authority to assess and make a decision in respect of the application, which may include drawings and specifications and a plan prepared

and certified by a Manitoba Land Surveyor in respect of the proposed encroachment.

8(4) The designated employee is authorized to refuse an application for an encroachment licence if

(a) it is not in the form determined by the designated employee under subsection (1); or

(b) the applicant fails to meet any of the requirements under this section.

Application approval

9(1) Subject to subsection (2), a designated employee must refer an application for an encroachment licence to the designated committee for consideration and approval.

9(2) A designated employee is authorized to approve an application for an encroachment licence without referring the application to the designated committee in respect of

(a) a simple encroachment; or

(b) a patio.

9(3) Despite subsection (2), a designated employee is authorized to decline to make a decision in respect of an application for an encroachment licence in respect of a simple encroachment or a patio and instead refer it to the designated committee for consideration and approval.

9(4) Despite subsections (1) and (2), the approving authority is not obligated to approve any application for an encroachment licence.

9(5) An application for an encroachment licence must not be approved unless the approving authority determines that the encroachment in respect of which the encroachment licence is being sought

(a) complies or will comply with the requirements of this By-law and any other by-law of the City;

(b) will not create an unsafe condition for vehicular or pedestrian traffic on the street; and

(c) will not unduly obstruct or inhibit vehicular or pedestrian traffic on the street or any other lawful activity for which the street is used.

Designated employee may issue encroachment licences

10(1) A designated employee is authorized to issue an encroachment licence where

(a) the approving authority has approved the application for the encroachment licence;

(b) the applicant has paid the applicable fee established by Council or pursuant to powers delegated by Council; and

(c) the owner of the encroachment has entered into an encroachment agreement with the City pursuant to this By-law.

10(2) Clause (1)(c) does not apply in respect of simple encroachments.

Conditions on an encroachment licence

11(1) The approving authority is authorized to impose conditions on an encroachment licence.

11(2) The licence holder must comply with any conditions imposed on an encroachment licence.

11(3) Where the approving authority imposes conditions on an encroachment licence,

(a) the conditions must be related to

(i) the criteria for issuing the encroachment licence;

(ii) the requirements of this By-law; or

(iii) administering or enforcing this By-law; and

(b) the designated employee is authorized to take into account the previous relevant conduct of the applicant.

11(4) It is a condition of every encroachment licence that

(a) the licence holder and the owner of the encroachment must permit entry at any reasonable time, without notice, by the designated employee to the property in respect of which the encroachment licence was issued for the purposes of conducting inspections or otherwise administering or enforcing this By-law;

(b) subject to the terms of any encroachment agreement entered into in respect of the encroachment, an encroachment exists at the pleasure of Council and the owner of the encroachment must remove the encroachment, at the owner's expense, when required by Council and within the timeframe established by Council, acting reasonably;

(c) the licence holder and the owner of the encroachment must ensure that the encroachment complies at all times with this By-law, including the requirements set out in Schedule "A"; and

(d) the licence holder and the owner of the encroachment must indemnify the City against any claims, damages, costs and expenses caused by or related to the existence, maintenance or use of the encroachment.

Encroachment licence fee

12(1) A licence holder must pay an annual encroachment licence fee by no later than June 30 in each year until the encroachment in respect of which the encroachment licence was issued is removed to the satisfaction of the designated employee.

12(2) The amount of the encroachment licence fee is the amount reasonably approved by Council or pursuant to powers delegated by Council for the encroachment in respect of which the encroachment licence is being sought.

12(3) Despite subsection (2), the designated employee is authorized to determine, acting reasonably, the amount of the encroachment licence fee for any encroachment that is a simple encroachment or a patio.

12(4) The designated employee is authorized to prorate the amount of the encroachment licence fee for a patio in the first year that the fee is payable where the term of the encroachment agreement in respect of the patio begins after April 1 in that year.

12(5) A licence holder who fails to pay an encroachment licence fee on or before the date on which it is due and payable commits an offence.

12(6) Where a method of payment used to pay an encroachment licence fee is returned for any reason, the encroachment licence is void from the effective date of the encroachment licence and the encroachment licence is deemed to have never been issued.

Cancelling an encroachment licence

13(1) In this section,

"cancel", in respect of an encroachment licence, means that the encroachment licence is void and the owner of the encroachment in respect of which the encroachment licence was issued must apply for a new encroachment licence in respect of that encroachment.

13(2) A designated employee is authorized to cancel an encroachment licence if

(a) the licence holder fails to comply with

(i) this By-law; or

(ii) subject to the provisions of the encroachment agreement, any provision of an encroachment agreement in respect of the encroachment authorized by the encroachment licence;

(b) the designated employee determines that the applicant provided false or misleading information in the application that affected the decision of the approving authority to approve the encroachment licence;

(c) the designated employee determines, acting reasonably, that the encroachment authorized by the encroachment licence

(i) creates or will create an unsafe condition for vehicular or pedestrian traffic on the street; or

(ii) unduly obstructs or inhibits, or will unduly obstruct or inhibit, vehicular or pedestrian traffic on the street or any other lawful activity for which the street is used; or

(d) unless otherwise specified in the encroachment licence, any fee or charge associated with the encroachment licence is not paid within 30 days following the date on which the fee or charge is due and payable.

13(3) Despite subsection (2), an encroachment licence issued in respect of an overhead pedestrian walkway may only be cancelled in accordance with the termination provisions of the encroachment agreement in respect of that overhead pedestrian walkway.

13(4) Before an encroachment licence is cancelled under this section, the designated employee must

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

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

(c) give the licence holder a reasonable opportunity to be heard.

13(5) If the designated employee determines that an encroachment licence should be cancelled, he or she must identify the date before which or the timeframe within which the licence holder is not permitted to reapply for an encroachment licence in respect of the encroachment.

13(6) For greater certainty, the designated employee must provide a decision concerning the cancellation of an encroachment licence to the licence holder in accordance with the Charter and this decision is subject to appeal to the designated committee.

13(7) The owner of an encroachment commits an offence under subsection 7(1) if the decision of the designated employee to cancel a licence

(a) is not appealed; or

(b) is appealed and the decision of the designated employee is upheld by the designated committee.

Transferring an encroachment licence

14(1) An encroachment licence is issued to a particular licence holder in respect of a specific encroachment in a specific location and is not transferrable to a different licence holder, a different encroachment or a different location, unless

(a) the approving authority consents to the transfer; and

(b) any encroachment agreement in respect of the encroachment is assigned in accordance with this By-law.

14(2) Section 9, with the necessary changes having been made, applies in respect of a decision by the approving authority to consent to the transfer of an encroachment licence.

Encroachment agreements required

15(1) Where an application for an encroachment licence in respect of an encroachment is approved in accordance with this By-law, the owner of the benefitting property, or the owner of the encroachment where the encroachment is a patio, must enter into an encroachment agreement with the City.

15(2) Despite subsection (1), an encroachment agreement is not required in respect of simple encroachments.

15(3) The designated committee is authorized to negotiate and approve the terms and conditions of and approve the entering into of an encroachment agreement by the City.

Encroachment agreements for patios

16(1) Despite subsection 15(3), the Director is authorized to negotiate and approve the terms and conditions of, and approve and enter into on behalf of the City, encroachment agreements in respect of patios.

16(2) For greater certainty, and subject to this By-law, the authority granted under subsection (1) includes the authority to

(a) negotiate and approve the annual encroachment licence fee payable;

(b) consent to the assignment of the encroachment agreement; and

(c) terminate the encroachment agreement in accordance with its terms.

Survey required

17(1) Within 1 year following the date on which an encroachment agreement is fully executed, the owner of the benefitting property affected by the encroachment agreement must provide to the designated employee a plan prepared and certified by a Manitoba Land Surveyor in respect of the encroachment.

17(2) Subsection 1 does not apply in respect of patios or simple encroachments.

Assignment of encroachment agreement

18 The owner of an encroachment who has entered into an encroachment agreement with the City must not assign the encroachment agreement without consent

(a) by the Director, in the case of an encroachment agreement for a patio; or

(b) by the designated committee, in the case of any other encroachment agreement.

General authority of the designated employee

19(1) The designated employee, and any employee of the City to whom the designated employee has given the responsibility to administer or enforce all or part of this By-law, is authorized to administer and enforce this By-law or to remedy a contravention of this By-law in accordance with the Charter and, for these purposes, has the powers of a “designated employee” under the Charter.

19(2) Without restricting the general nature of subsection (1) or any specific authority given to the designated employee in this By-law, the authority of the designated employee includes the authority to

(a) give employees of the City the responsibility to administer or enforce all or part of this By-law;

(b) determine the forms of payment that will be accepted for a price, rate, fee, penalty, deposit or other charge under this By-law; and

(c) recover any unpaid price, rate, fee, penalty, deposit or other charge under this By-law by any legal means.

Compliance orders

20(1) Without restricting the general nature of the authority granted in section 19, the designated employee is authorized to issue an order to remedy any violation of this By-law in accordance with the Charter.

20(2) An order issued by the designated employee under the Charter may be registered by way of caveat against the property involved in the contravention in the Winnipeg Land Titles Office in accordance with the Charter.

Refund of fees

21 Where an applicant withdraws an application for an encroachment licence, the designated employee is authorized to refund all or part of any fee paid by the applicant in respect of the application if the designated employee determines that the imposition of the fee would be unfair in the circumstances.

Penalties

22(1) Subject to subsection (2), a person who contravenes a provision of this By-law is subject to the following minimum and maximum fines under The Provincial Offences Act

(a) for a contravention of subsection 5(2), a fine in an amount of not less than $100.00 per day for each day the contravention continues;

(b) for a contravention of section 6, a fine in an amount of not less than the amount of the costs or expenses incurred by the City to remedy the contravention;

(c) for a contravention under subsection 7(1), a fine in an amount of not less than the amount of the applicable encroachment licence fee for each month or portion thereof during which the contravention continues; and

(d) for a contravention under subsection 12(5), a fine in an amount equal to the amount of interest payable on the unpaid amount, calculated at a rate determined by Council, for every calendar month or part thereof that the fee remains unpaid.

22(2) Subject to the Municipal By-law Enforcement Act (MBEA) Enabling By-law, a person who contravenes a provision of this By-law referred to in Schedule “A” to the Municipal By-law Enforcement Act (MBEA) Enabling By-law must pay the administrative penalty for that contravention set out in that By-law. If an Early Payment Discount amount is set

out for a provision in that schedule, a person who is issued a penalty notice for a contravention of that provision may, within 14 days after the penalty notice has been issued, voluntarily pay to The City of Winnipeg the applicable Early Payment Discount amount and will thereafter not be prosecuted for the contravention.

Insurance and indemnity

23(1) Where the designated employee determines that an encroachment poses or may pose a significant risk of harm to people, property or the environment, he or she is authorized to require that, as a condition of maintaining the encroachment, the owner of the encroachment

(a) obtain and maintain a Commercial General Liability Insurance Policy, and provide to the designated employee a certificate of insurance in respect of that policy, in the amount of up to five million ($5,000,000.00) dollars, with the City added as an additional insured, which includes a cross-liability clause, contractual liability, products and completed operations coverage and a cancellation clause that provides for a minimum of 15 days' prior written notice;

(b) provide a bond of indemnity in an amount reasonably determined by the City's Chief Financial Officer to be sufficient to indemnify the City in the event of damages, costs and expenses suffered or incurred by the City caused by or related to the existence, maintenance or use of the encroachment, in a form satisfactory to the City Solicitor; or

(c) comply with both clauses (a) and (b).

23(2) A licence holder must obtain and maintain, and provide proof of coverage in respect of same to the City's Manager of Risk Management, a third party liability policy of insurance in the amount of not less than $250,000 all inclusive, against damages for bodily injury or property damage or both wholly or partially caused by, arising out of or in any way attributable to the erection, construction, maintenance, repair or lack of repair, existence or use of the authorized encroachment or the City's authorization of the encroachment.

Address for service

24(1) Unless otherwise provided in this By-law, any notice, order, decision or other document required to be given or sent to a person under this By-law may be sent by registered mail to an address determined in accordance with the following

(a) where the person is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property;

(b) where the person is the occupant of real property, the street address for that property;

(c) where the person is an applicant for a permit, licence or approval, the address provided to the designated employee by the applicant for the permit, licence or authorization; or

(d) in all other situations, the last known address for the person.

24(2) Despite subsection (1), where a person to whom a notice, order, decision or other document is required to be given or sent under this By-law has provided his or her email address to the designated employee, the notice, order, decision or other document required to be given or sent under this By-law may be sent to that person at the email address so provided.

24(3) Where a notice, order, decision or other document is sent by way of email under subsection (2), the designated employee must request and retain a copy of a delivery receipt in respect of the email.

24(4) Where a delivery receipt is not obtained under subsection (3), the notice, order, decision or other document must be sent in accordance with subsection (1).

Appeals

25 Any appeal authorized by the Charter from orders or decisions under this By-law may be made, upon payment of the applicable fee, to the designated committee by filing a written appeal with the City Clerk in accordance with the Charter.

Repeal

26 The Encroachment By-law No. 692/74 is repealed.

Consequential Amendments

27(1) The Planning, Development and Building Fees By-law No. 66/2016 is amended by deleting

(a) section 5 in its entirety; and

(b) section 7 of Schedule "A" in its entirety.

27(2) The Outdoor Smoking By-law No. 62/2011 is amended by replacing the definition of "outdoor patio" with the following:

> ***"outdoor patio"*** *means an outdoor area designed for the consumption of food and drink and which*
>
> *(a) is required to obtain an occupancy permit under the Winnipeg Building By-law; and*
>
> *(b) is located*
>
> *(i) on a property where the principal use falls within the "Food and Beverage Service" use category under the Winnipeg Zoning By-law or the "restaurant" or "drinking establishment" uses under the Downtown Winnipeg Zoning By-law; or*
>
> *(ii) in a portion of the street and is approved or capable of being approved as an encroachment under the Encroachment By-law;*

DONE AND PASSED this day of , 2019.

Mayor

City Clerk

Approved as to content:

Director of Planning, Property
and Development

Legally reviewed and certified as to form:

for Director of Legal Services
and City Solicitor

SCHEDULE "A"

Specific Encroachment Requirements

Definitions

1(1) In this Schedule

"encroaching sign" means a sign of any type that encroaches into a street;

"horizontal clearance", respect of an encroachment, means the distance, measured horizontally, between the outside edge of the encroachment and the nearest point in space located directly above the edge of the roadway;

"roadway" has the same meaning as in *The Highway Traffic Act*;

"surface area", in respect of a sign, means the area of a sign that is situated approximately vertically and is used or designed to present writing, pictorial representations, emblems, flags or other symbols intended to impart meaning; and

"vertical clearance", in respect of an encroachment, means the distance, measured vertically, between the lowest point of the encroachment and the nearest surface of the street that is located directly below the encroachment.

1(2) Any word or phrase not defined in this By-law or this Schedule have the same meaning as in the Winnipeg Building By-law, where applicable.

General requirements

2(1) Subject to section 3 of this By-law, the owner of an encroachment must ensure that the encroachment is constructed and maintained in compliance with

(a) all requirements of this By-law, including the requirements of this Schedule, and any by-law of the City relating to building standards; and

(b) any conditions imposed by the approving authority in accordance with this By-law.

2(2) Subject to this By-law and any other by-law of the City relating to building standards, an encroachment must have a vertical clearance of no less than 3.81 metres (12.5 feet).

2(3) Despite subsection (2), the Director of Public Works is authorized to determine the vertical clearance required in respect of a particular encroachment and where the Director of Public Works has made such a determination in respect of an encroachment, the owner of the encroachment must ensure that the encroachment complies with that determination.

2(4) The following types of encroachments must have a horizontal clearance of no less than 0.61 metres (24 inches) and must not encroach more than 3.66 metres (12 feet) into a street:

(a) marquees, canopies, awnings or sun visors;

(b) fire alarm bells;

(c) fire escapes; and

(d) signs.

2(5) An encroachment must not block, obstruct or otherwise interfere with

(a) the flow of vehicular or pedestrian traffic;

(b) sightlines of vehicle drivers or pedestrians; or

(c) traffic control devices.

Areaways

3(1) An areaway must be constructed of reinforced concrete walls and roofs sufficient to support the weight of the street and superimposed live loads to the satisfaction of the Director of Public Works.

3(2) The portion of an areaway that is exposed at the street surface must

(a) be constructed of non-combustible materials;

(b) be faced with a solid, non-slip surface covering; and

(c) must not extend above the street surface.

Marquees, canopies, awnings and sun visors

4(1) A marquee, canopy, awning or sun visor must have a vertical clearance of no less than 2.9 metres (9.5 feet).

4(2) Despite subsection (1), the fringe of a marquee, canopy, awning or sun visor must have a vertical clearance of no less than 2.28 metres (7.5 feet).

4(3) Despite subsections (1) and (2), an awning may have a vertical clearance of 2.08 metres (6 feet, 10 inches) if the awning is located

(a) above stairs which encroach into a street; or

(b) on either side of Osborne Street between River Avenue and Stradbrook Avenue.

4(4) The roof of a marquee must be constructed and maintained so as to direct runoff from rainfall or snowmelt into the building and not into the street.

4(5) An awning or sun visor must be constructed and maintained so that water, snow or ice do not accumulate on the awning or sun visor.

Fire apparatus

5 Exterior hose connection points for fire suppression equipment and for air inlets and outlets must not extend more than 0.3 metres (1 foot) into a street.

Fire escapes

6 When not in use, a fire escape must have a vertical clearance of no less than 3.35 metres (11 feet).

Signs

7(1) Signs that encroach into a street must have a vertical clearance of no less than 2.9 metres (9.5 feet).

7(2) Illuminated signs that encroach into a street must be constructed of non-combustible materials except where otherwise provided in the Winnipeg Building By-law.

7(3) Free-swinging or rotating signs that are not operated by a mechanical device must not be erected on, hung from or attached to a building.

7(4) Temporary signs or fascia signs must not encroach more than 0.3 metres (1 foot) into the street.

7(5) The total surface area of a projecting sign that encroaches into a street must not exceed 16.7 square metres (180 square feet) and the area of any single surface of the sign must not exceed 8.36 square metres (90 square feet).

7(6) Despite subsection (5) but subject to any other by-law of the City, the total surface area of a projecting sign with vertical dimensions that exceed its horizontal dimensions and that encroaches into a street must not exceed 23.2 square metres (250 square feet) and the area of any single surface of the sign must not exceed 11.6 square metres (125 square feet).

7(7) The total surface area of a combination roof sign and projecting sign that encroaches into a street must not exceed 11.6 square metres (123 square feet).

Doors

8(1) A door must not encroach into a street unless

(a) on the date that this By-law was enacted, the door and the building of which the door forms a part

(i) are existing; or

(ii) do not yet exist but are shown on plans that have been approved by the City; and

(b) the door forms part of the original design and construction of the building.

8(2) Any door that encroaches into a street must be

(a) identified as for emergency use only by signs located within the building; and

(b) secured with an alarm that is triggered when the door is opened.

Overhead pedestrian walkways

9(1) Subject to subsection (2), an overhead pedestrian walkway must have a vertical clearance of no less than 5 metres.

9(2) Despite subsection (1), the Director of Public Works is authorized to approve an overhead pedestrian walkway with a vertical clearance of less than 5 metres where he or she determines that the overhead pedestrian walkway

(a) will not create an unsafe condition for vehicular or pedestrian traffic on the street into which the overhead pedestrian walkway encroaches; and

(b) will not unduly obstruct or inhibit vehicular or pedestrian traffic on the street into which the overhead pedestrian walkway encroaches or any other lawful activity for which that street is used.