Schedule A – Draft Amending By-law

THE CITY OF WINNIPEG

BY-LAW NO. /2020

A By-law of THE CITY OF WINNIPEG to amend the Encroachment By-law to provide an exemption for conforming private utility infrastructure, account for community gardens and waive encroachment licence fees in respect of accessibility encroachments.

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

Encroachment By-law amended

1 The Encroachment By-law No. 12/2019 is amended by this By-law.

Subsection 2(1) amended

2 Subsection 2(1) is amended

(a) by replacing the definition of "approving authority" with the following:

"approving authority" *means the designated employee in respect of all encroachments, unless an application is referred to the designated committee, in which case the designated committee is the approving authority.*

(b) by replacing the definition of "utility infrastructure" with the following:

"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, and includes a conforming water service pipe and a conforming private sewer service pipe, as defined by the Water By-law No. 107/2015 and the Sewer By-law No. 106/2018, respectively, but does not include a non-conforming water service pipe or a non-conforming private sewer service pipe.*

(c) in the definition of "simple encroachment", by replacing clauses (d) and (e) with the following:

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

(e) signs, except for bollards;

(f) non-conforming private sewer service pipes; and

(g) non-conforming water service pipes.

(d) by adding the following definition in alphabetical order:

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"accessibility encroachment" *means an encroachment designed or intended to provide barrier-free access for a person with a disability;*

"community garden" *means a single plot of land used for growing either produce or decorative vegetation that is tended collectively by more than one individual;*

"non-conforming private sewer service pipe" *has the same meaning as in the Sewer By-law No. 106/2018;*

"non-conforming water service pipe" *has the same meaning as in the Water By-law No. 107/2015;*

Subsection 7(2) amended

3 Subsection 7(2) is amended by adding the following after clause (b):

(b.1) encroachments maintained in accordance with a valid Use of Street Permit issued under the Streets By-law;

Subsection 9 replaced

4 Subsection 9 is replaced with the following:

9(1) *A designated employee is authorized to approve an application for an encroachment licence without referring the application to the designated committee.*

9(2) *Despite subsection (1), a designated employee is authorized to decline to make a decision in respect of an application for an encroachment licence and instead refer it to the designated committee for consideration and approval where the designated employee has received opposition to the application in writing from*

(a) the director of any department of the City except for the Director of the City's Planning, Property and Development department;

(b) a member of the public other than the applicant; or

(c) the Ward Councillor.

9(3) *Despite subsection (1), the approving authority is not obligated to approve any application for an encroachment licence.*

9(4) *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

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(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.

Subsection 12(3) replaced

4 Subsection 12(3) is replaced with the following:

12(3) *Despite subsection (2),*

(a) the designated employee is authorized to determine, acting reasonably, the amount of the encroachment licence fee for any encroachment; and

(b) no encroachment licence fee is payable in respect of a community garden or an accessibility encroachment;

Applies retroactively

5 This By-law is intended to take effect retroactively and is deemed to have come into force on April 25, 2019.

DONE AND PASSED this day of , 2020.

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Mayor

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City Clerk

Approved as to content:

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Director of Water and Waste

Legally reviewed and certified as to form:

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for Director of Legal Services
and City Solicitor

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