Minute No. 403
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021

Item No. 17 Residential Infill – Construction Site Practices

COUNCIL DECISION:

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

1. That the Public Service be directed to engage with industry and stakeholders to consider a licensing program for contractors that provide services related to the demolition of residential or commercial buildings in Winnipeg.

2. That building permits for one- and two-family residential infill developments require a Manitoba Land Surveyors confirmation of foundation location, to be submitted to the City once the foundation is completed, and prior to further development, to verify compliance with approved plans.

3. 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 Property and Development, Heritage and Downtown Development – April 19, 2021

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 21, 2021, 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 April 19, 2021, 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: Residential Infill – Construction Site Practices

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

AUTHORIZATION

Author	Department Head	CFO	CAO
A. Crocker	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

Residential infill is occurring with increasing frequency, as housing stock in mature communities ages and there is a significant demand for new home development. As demolition and construction take place, it can cause disruption to neighbouring properties if not carried out in a manner that is professional and in compliance with applicable regulations and by-laws.

Current construction site oversight by Planning, Property and Development includes permit issuance, demolition and construction audit inspections and complaint response, with an escalating enforcement continuum for non-compliance with construction site requirements and conformance with approved plans and permits. A proposed fine schedule under the Municipal By-law Enforcement Act for offenses related to building permits and development is expected to come before Council for consideration in 2021. Subject to Council approval, this will greatly enhance enforcement capacity, and should prove to have a considerable impact on curbing poor construction site practices.

The Public Service is recommending options to improve construction site standards, improve compliance and reduce disruption to neighbouring properties, specifically, industry engagement and stakeholder consultation for consideration of a licensing program for contractors that provide services related to the demolition of buildings, and a requirement for a foundation location verification at the foundation stage of one- and two-family infill development in Winnipeg’s mature communities.

RECOMMENDATIONS

1. That the Public Service be directed to engage with industry and stakeholders to consider a licensing program for contractors that provide services related to the demolition of residential or commercial buildings in Winnipeg.

2. That building permits for one- and two-family residential infill developments require a Manitoba Land Surveyors confirmation of foundation location, to be submitted to the City once the foundation is completed, and prior to further development, to verify compliance with approved plans.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On October 16, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Riel Community Committee and directed the Winnipeg Public Service to report back to its January 2021 meeting on the following:

1. A cross-jurisdictional analyses of best practices from other Canadian cities regarding construction site practices and enforcement mechanisms;

2. A broad set of options for improving our construction site practices, including construction staging and enforcement mechanisms, considering, but not be limited to:

   A. Identifying areas within our construction site practices that should be enhanced.

   B. Consideration of whether the City should require builders to be licensed or COR Certified.

   C. Enforcement mechanisms for ensuring construction site practices are respected (including fines and deposits).

   D. Different considerations for different areas of the City recognizing the unique circumstances of infill development.

IMPLICATIONS OF THE RECOMMENDATIONS

The Public Service will consult with industry and stakeholders in the consideration of a demolition contractor licensing program for companies conducting residential and commercial demolitions.

The Public Service will implement the requirement for the building permit holder to submit confirmation of foundation location, prepared by a Manitoba Land Surveyor, once the foundation is completed, and before any further construction takes place.

HISTORY/DISCUSSION

Current Practices:

Residential infill is occurring with increasing frequency, as housing stock in mature neighbourhoods ages and there is a significant demand for new home development. As demolition and construction take place, it can cause disruption to neighbouring properties if not carried out in a manner that is professional and in compliance with applicable regulations and by-laws.

Demolition permit applications for infill construction must be accompanied by a corresponding building application and deposits (approximately $3,000 for a single-family dwelling is secured on behalf of the Public Works Department). With each demolition permit application, a pre-issuance inspection of the site is conducted to determine if the structure can be safely razed without engineering. Where there is less than 8 feet from the foundation to any other structure on adjacent properties, or where a potential hazard is present, engineered drawings may be required to ensure appropriate shoring of the excavation and to prevent damage to neighbouring properties.

It is the permit applicant's responsibility to:

- contact Manitoba Hydro to arrange disconnection of electricity and natural gas to the structure and removal of their meters;
- contact Water and Waste Department to shut off the water and remove the water meter;
- contact the telephone and cable providers to arrange disconnection of their services;
- arrange to plug the sewer line with a concrete plug if it is being abandoned; and
- arrange for all mandatory inspections

Safety fencing is required at all times during the demolition process and must be compliant with Part 8 of the Manitoba Building Code – strongly constructed, minimum 1.8 m (6 ft.) high and not climbable.

Complaints regarding demolition or construction site conditions or safety can be submitted via 311. Complaints directed to PPD's Development & Inspections Division from 311 are reviewed by the Senior Compliance Inspector and investigated within 1-2 business days, depending on the nature of the complaint. Complaints that involve land drainage, streets, or garbage accumulation are referred to Water & Waste, Public Works or Community Services Departments, respectively, for follow up on issues that fall under their authority. Weekly reports of construction and demolition permit applications and locations are provided to the Province of Manitoba's Workplace Safety and Health Division for inspection and confirmation of compliance with Provincial Workplace Safety and Health Act and Regulations. This includes the requirement for site signage with employer and/or prime contractor contact information (Appendix A).

If construction sites are not compliant with site standards, or don't have a valid permit, By-law Violation Notices (BVN) are issued by PPD Inspections staff, with a short timeframe for compliance (1-7 days). Failing to comply with a BVN results in issuance of an Order, and an administrative penalty of $1,095. Failing to comply with an Order will result in Provincial penalty

notices being issued by a PPD By-law Enforcement Officer, for appearance in court, and consideration of fines. Certain actions, such as installing or repairing site safety fencing can be remediated by City staff, if necessary, with the related costs being attached to real property taxes.

Proposed change to the current building permit process:

To ensure compliance with plans and prevent development beyond the foundation stage of infill development, permits for one- and two-family residential infill construction will have a condition of the permit that requires the permit applicant to submit confirmation of foundation location, prepared by a Manitoba Land Surveyor, once the foundation is completed, and before any further construction takes place. If found to deviate from approved plans, corrective action by the builder will be required, and the building permit may be cancelled.

The Winnipeg Building By-law (Section 9) provides authority for a designated employee to impose the above noted condition and could be implemented without the need for additional resources. This does create an additional step in the building process for the builder, with additional costs associated; however, sites that are surveyed and staked in advance of pouring foundation are likely to be less impacted by this change. The process is not likely to delay the issuance of building permits unless builders fail to comply with approved plans.

Proposed demolition contractor licensing program:

The City currently licenses electrical, plumbing, and mechanical contractors. These licensing programs establish qualifications and standards required to obtain certain permits. They are an effective mechanism for communicating information, expectations, and industry updates to license holders. Licensed contractors are expected to be knowledgeable and in compliance with applicable building codes and by-laws, and familiar with The City's permit, inspection, and penalty systems. Licensees who fail to obtain appropriate permits or repeatedly fail to meet requirements may be subject to fines or penalties, and may have their license suspended or revoked. Contractors are required to be licensed in most of the Canadian municipalities surveyed for this report (Appendix B).

The Public Service would like to consult with industry and stakeholders on the development of a demolition contractor licensing program for companies conducting residential and commercial demolitions, with the intent that once in place, demolition permits would only be issued to licensed contractors. A contractor licensing program could serve to effectively improve site conditions, minimize the number of demolitions by unqualified individuals and companies, and reduce damage to public infrastructure, trees, and neighbouring properties.

Upcoming change to enforcement capacity:

PPD has proposed a fine schedule for several by-law offences related to building permits, development, and occupancy, that is anticipated to be brought forward to EPC for consideration, under the Municipal By-law Enforcement Act, in spring, 2021. If approved, these amendments will greatly increase capacity for timely and effective enforcement measures and should prove to have a considerable impact on curbing poor construction site practices by imposing monetary penalties on non-compliant contractors. Failing to keep a construction or demolition site safe will

carry a fine of $500, with an early payment option of $250, and can be issued for each day that an offence occurs.

Jurisdictional Scan:

A cross-jurisdictional survey (Appendix B) from other Canadian cities regarding construction site practices and enforcement mechanisms was conducted and responses received from six municipalities:

1. Vancouver
2. Edmonton
3. Calgary
4. Regina
5. Hamilton
6. Toronto

There is considerable consistency between jurisdictions (including Winnipeg): all construction sites are regulated by a combination of provincial workplace safety regulations, national and local building codes and municipal property standards and site safety requirements. Enforcement is through a variety of options – from informal notices, to formal actions and fines, however, not all jurisdictions had the ability to write tickets for by-law offences.

Vancouver, Calgary, Edmonton and Toronto had several online public resources specific to infill issues and construction site concerns, and mechanisms for reporting complaints to the City. There was less information available for the smaller cities of Regina and Hamilton, where infill may not be occurring to the same degree. The City of Winnipeg's forthcoming Infill Guidelines will serve to fill some of that gap in public knowledge and understanding, and best practices based on recent public engagement between City staff, the community, and stakeholders.

Most jurisdictions have a licensing program for contractors, and permits can only be taken by a licensed contractor. Toronto and Regina are the exceptions to this, and there was not a requirement in the survey to provide any further details.

Different considerations for different areas of the City recognizing the unique circumstances of infill development

Construction site standards are governed by National and Provincial Building Codes, Workplace Safety and Health legislation, and numerous local by-laws. When aligned with the City's forthcoming *Small-Scale and Low-Rise Residential Development Guidelines for Mature Communities* planning document, we believe we can take a regional approach to infill development through the requirement for a foundation location verification certificate in designated "mature" communities.

FINANCIAL IMPACT

Financial Impact Statement Date: March 10, 2021

Project Name:

Residential Infill – Construction Site Practices

COMMENTS:

There are no direct financial implications associated with the recommendations contained in this report. If it is determined that the City will move forward with the development of a contractor licensing program, the financial implications of doing so will be the subject of a future report.

Mike McGinn Mar. 10, 2020
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Winnipeg Parking Authority
Province of Manitoba Workplace Safety & Health

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg 01-2 Safety and Security
Direction 3: Promote safety in buildings.
Enabling Strategies: Ensure that construction projects meet the intent of standards set in national and local building codes, while recognizing advances in construction and development-related technologies.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

This report supports **Key Direction 4.1** (short term)**:**
Increase Strategic Infill Development that Provides Access to and Capitalizes on Existing and Planned Corridors with Frequent Transit Service (Primary Responsibility: Planning, Property and Development Department).

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Marcia Fifer, Housing Administrator
Date: March 11, 2021
File No: N/A

Attachments:

Appendix A – Signage requirement for construction sites
Appendix B – Jurisdictional Scan – Construction & Enforcement Practices

APPENDIX A – Signage requirement for construction sites

MANITOBA REGULATION 217/2006 - Workplace Safety and Health Regulation

PART 2 GENERAL DUTIES/GENERAL SAFETY DUTIES
Sign at construction project site

2.18 The prime contractor, or if there is no prime contractor, the employer, must ensure that the following information is clearly and prominently identified on a sign located in a conspicuous place at a construction project site:

(a) the name of the prime contractor or the employer, as applicable;

(b) the location of any first aid service;

(c) the name and telephone number of the person who can be contacted about safety and health matters at the site; and

(d) contact information for the committee and the representative, as applicable.

Sample:

