**Agenda – Council – October 28, 2021**

**Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – October 8, 2021**

**Item No. 1 Ten-Year Financial Plan for the Solid Waste Utility**

STANDING COMMITTEE RECOMMENDATION:

On October 20, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the following to Council:

1. That the implementation of a mandatory Multi-Family Waste Diversion fee, effective January 1, 2023 of $0.1205 per dwelling unit per day ($44.00 annually) to fund diversion programs, be referred to the 2022 Budget Review Process.

2. That a Small Commercial 4R Depot fee be implemented effective January 1, 2022 of $1,200.00 annually for small commercial customers to utilize the 4R Winnipeg Depots specifically for the household hazardous waste facility and blue cart recyclables program.

3. That in order to remain competitive with other landfills, authority be delegated to the Director of the Water and Waste Department effective January 1, 2022 to negotiate and approve agreements with commercial waste haulers to secure large volumes of garbage at a reduced tipping fee to be determined by the Director.

4. That the Solid Waste By-law 110/2012 be replaced with a new Solid Waste By-law as per attached to align with this report's recommendations.

5. 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 Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 20, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 8, 2021, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Delete Recommendation 1 in its entirety and replace with the following:

    "1. That the implementation of a mandatory Multi-Family Waste Diversion fee, effective January 1, 2023 of $0.1205 per dwelling unit per day ($44.00 annually) to fund diversion programs, be referred to the 2022 Budget Review Process."

and submitted the matter to the Executive Policy Committee and Council.

COUNCIL DECISION:

On June 24, 2021, Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That a further extension of time to the September, 2021 meeting of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

**Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 2, 2021, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment submitted the following to the Executive Policy Committee and Council:

1. That a further extension of time to the September, 2021 meeting of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

COUNCIL DECISION:

On April 29, 2021, Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That a further extension of time of 60 days be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

**Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 21, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 14, 2021, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment submitted the following to the Executive Policy Committee and Council:

1. That a further extension of time of 60 days be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

COUNCIL DECISION:

On February 25, 2021, Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That a further extension of time of 60 days be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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 Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 17, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 9, 2021, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment recommended to the Executive Policy Committee and Council:

1. That a further extension of time of 60 days be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

COUNCIL DECISION:

On September 30, 2020, Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That an extension of time to February, 2021 be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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 Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2020, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 14, 2020, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment submitted the following to the Executive Policy Committee and Council:

1. That an extension of time to February, 2021 be granted for the Winnipeg Public Service to report back with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

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

Councillor Lukes, Waverley West Ward, submitted a communication with respect to the matter.

COUNCIL DECISION:

On June 20, 2019, Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That the Public Service report back to Council annually on the amount of residential waste created (generation) per capita, sent to a landfill (disposal) per capita, and recycled/composted/etc. (diverted) per capita as measures of performance.

2. That the Public Service develop a source separated organics pilot program and report back to Council with recommendations for the pilot project.

3. That the Public Service report back to Council by the third quarter of 2020 with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

**Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – October 8, 2021**

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

4. That the development of the multi-family waste diversion fee be included with the ten-year financial plan (Recommendation 3).

5. That the 50% waste diversion target, as approved by Council on October 19, 2011, be deferred so that Public Service can recommend a revised waste diversion target after completion of the recommended source separated organics pilot program (Recommendation 2) and ten-year financial plan (Recommendation 3).

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

# ADMINISTRATIVE REPORT

**Title:** **SOLID WASTE PROGRAM MANAGEMENT FINANCIAL PLAN AND UTILITY RATE MODEL**

**Critical Path:** **Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – Executive Policy Committee – Council**

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| Lucy Szkwarek, CPA, CGA, Manager Finance and Administration | M. L. Geer, CPA, CA, Director, Water and Waste Department | C. Kloepfer | M. Jack |

## EXECUTIVE SUMMARY

The Public Service developed a ten-year solid waste rate model, which takes into consideration financial stability and customer equity. The recommended financial plan offers a roadmap to achieve a future state, self-supporting utility model for solid waste collection and disposal, recycling, and waste diversion services and has the flexibility to incorporate future unfunded programs.

The Public Service is recommending a phased-in approach for the introduction of new fees and practices on a priority basis. Introduction of a multi-family waste diversion fee will support customer equity, inclusion of small commercial customers to utilize recycling facilities at the 4R Winnipeg Depots will enhance customer service, and expanding delegated authority for the Director of the Water and Waste Department to negotiate volume-based tipping fees with large commercial customers will support financial sustainability.

The detailed ten-year financial plan will be included for consideration in the City's 2024-2027 multi-year budget process.

## RECOMMENDATIONS

1. That a mandatory Multi-Family Waste Diversion fee be implemented effective January 1, 2023 of $0.1205 per dwelling unit per day ($44.00 annually) to fund diversion programs.

2. That a Small Commercial 4R Depot fee be implemented effective January 1, 2022 of $1,200.00 annually for small commercial customers to utilize the 4R Winnipeg Depots specifically for the household hazardous waste facility and blue cart recyclables program.

3. That in order to remain competitive with other landfills, authority be delegated to the Director of the Water and Waste Department effective January 1, 2022 to negotiate and approve agreements with commercial waste haulers to secure large volumes of garbage at a reduced tipping fee to be determined by the Director.

4. That the Solid Waste By-law 110/2012 be replaced with a new Solid Waste By-law as per attached to align with this report's recommendations.

5. That the proper officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

## REASON FOR THE REPORT

On June 20, 2019, Council approved the Comprehensive Integrated Waste Management Strategy Five-year Review and concurred in the following recommendations:

3. That the Public Service report back to Council by the third quarter of 2020 with a ten-year financial plan for the Solid Waste Utility, including recommendations for waste diversion programs.

4. That the development of the multi-family waste diversion fee be included with the ten-year financial plan.

Subsequent extensions were granted with a report back to Council expected at the September 2021 meeting.

## IMPLICATIONS OF THE RECOMMENDATIONS

The Water and Waste Department's Recycling and Waste Division service is budgeting a deficit for years 2021 to 2023. This is largely due to providing services such as recycling collection and use of the three 4R Winnipeg Depots without the corresponding customer fees.

Failure to approve the recommendations may impact diversion programs that will continue to be underfunded resulting in cross subsidization of service and inequitable rates for customers.

## HISTORY/DISCUSSION

On October 19, 2011, Council approved the Comprehensive Integrated Waste Management Strategy (CIWMS) with the intent to achieve a greater than 50 percent waste diversion rate. A large majority of the 29 recommendations have been implemented including the rollout of 240-litre recycling carts, leaf and yard waste curbside collection, a composting facility at the Brady Road Resource Management Facility (BRRMF) and the development of three 4R Winnipeg Depots with the intent to partner with product stewards to divert materials from the landfill. The Brady 4R Winnipeg Depot opened February, 2016, the Pacific 4R Winnipeg Depot opened February, 2017 and the Panet 4R Winnipeg Depot opened February, 2018.

As part of the October 19, 2011 CWIMS report, Council approved a user fee charge per single-family dwelling unit as defined by the Solid Waste By-law No. 1340/76 of seven or fewer dwellings per property. The residential waste diversion fee was introduced October 1, 2012.

### SOLID WASTE PROGRAM FINANICAL PLAN

On October 1, 2019, in response to RFP 388-2019, the City of Winnipeg (The City) engaged a consultant to complete a Solid Waste Program Management Ten Year Financial Plan and Utility Rate Model of which the scope included review of the integrated waste management capital and operational programs, reserves and funding sources, utility model options based on best practices, and a cost of service analysis recommending a rate structure.

The comprehensive financial plan offers a roadmap to achieve a self-supporting utility model for solid waste collection and disposal, recycling, and waste diversion services, including capital reserves for asset replacement, and has the flexibility to incorporate future unfunded programs and customer equity.

The recommendations in this report are based on a priority basis. Other components of the financial plan can be implemented in the future but require additional time to assess current waste diversion plans. For example, the Public Service would need to gather more support for landfill gas capture and reuse, and organics pilot which are both in progress. Clearer direction is required on how to proceed with such large projects prior to the introduction of any major funding changes.

Using a phased-in approach, a number of primary gaps were identified and considered a priority for implementation.

- The Waste Diversion fee (WDF) is only charged to residential and some small commercial properties. As a result, other customer categories using these same services are subsidized by the WDF.

- The multi-family category may use recycling collection services or waste diversion services, including the Community Recycling Depots and 4R Winnipeg Depots, but currently do not pay a fee.
- Small commercial customers do not have access to the 4R Winnipeg depots and there is capacity to include this customer segment.
- There are three Class 1 landfills in the region. Setting tipping fees without flexibly to respond to competitor pricing puts the City's Brady Road Resource Management Facility (BRRMF) at a disadvantage.

If approved, the recommendations would support customer equity, improved customer service and financial stability.

**Multi-Family Waste Diversion Fee**

The new mandatory Multi-Family Waste Diversion fee (MFWD) is recommended to be implemented effective January 1, 2023 at a rate of $0.1205 per dwelling unit per day or an annual cost of approximately $44.00 per dwelling unit to fund diversion programs for multi-family properties (eight or greater dwelling units). This fee is lower than the single-family residential waste diversion fee ($0.1808 per day or $66.00 per year - 2021 rate) as multifamily customers do not benefit from, nor are charged for, leaf and yard waste collection. In addition, the MFWD fee incorporates a base level of service of 120 litres per week whereas the waste diversion fee for residential customers includes a base level service of 240 litres per week. Customers would be charged the daily rate based on number of billings days on the quarterly water utility bill. The recommended fee reflects the estimated cost of recycling collection, and the use of other diversion programs not specifically allocated to a customer segment including the 4R Winnipeg Depots and community recycling depots.

The 2023 implementation date will allow the administration time to coordinate with the Residential Tenancies Board to provide property owners in rental situations sufficient time to adjust rental rates if needed. This will also allow time to modify the WWD utility billing system to include the new fees.

Base collection service level for recycling and garbage is 120 litres each per week per dwelling unit. Additional collection services will continue to be charged based on the City's approved fees and charges.

Customers with multi-family properties currently do not pay for recycling collection services or the use of waste diversion programs including the Community Recycling Depots and 4R Winnipeg Depots. Leaf and yard waste collection is not a service provided to the multi-family category. Introducing a multi-family waste diversion fee will support equity with the residential customers who to this point have been funding the waste diversion programs.

## Small Commercial 4R Depot Fee

The Public Service is recommending the implementation of a Small Commercial 4R Depot fee that will allow smaller commercial customers to utilize the 4R Winnipeg Depot facilities in order to safely dispose of hazardous waste and recyclable materials. The recommended fee is based upon the expected type and volume and cost of handling those materials and would generate additional revenues to offset the costs of operating the 4R Depots. The 4R depots do not have the infrastructure to bill per visit and an annual subscription, should small commercial customers decide to enroll, is the only feasible way to charge a fee.

Until now, the 4R Winnipeg Depots have only served residential customers. The implementation of the new Small Commercial 4R Depot fee will allow small commercial customers to utilize the 4R Winnipeg Depots specifically for the household hazardous waste facility and blue cart recyclables program, for an annual fee. Blue cart recyclables include newspaper, household paper, cardboard, plastic containers, metal cans, glass bottles and jars. Household hazardous waste includes household chemicals, fluorescent lights, propane tanks, paint, herbicides/pesticides, flammable liquids, and motor oils. It is difficult to estimate how many customers will utilize this service and revenues cannot be reasonably estimated.

The Public Service is in discussions with Manitoba Conservation and Climate, and the Producer Responsibility Organizations responsible for the materials collected at the Household Hazardous Waste facilities, to increase diversion of these materials. Further discussions will continue with product stewards to explore accepting new materials into the waste diversion program.

## Landfill Competitiveness

The Public Service is recommending delegating authority to the Director of Water and Waste Department to allow the flexibility to negotiate and approve waste agreements with variable tipping fees with large waste haulers in order to remain competitive with the other large landfills in the region. This can better enable the Public Service to operate and respond to pricing tactics within this competitive environment.

Two other Class 1 landfills in the region follow suit and adjust their rates based on City posted gate rates at the BRRMF. As privately run landfills, they have the ability to negotiate with large haulers and can offer timely, discounted volume rates during times of increased usage. The City’s commercial tonnage continues to decline largely as a result.

## Financial Stability

The Water and Waste Department's Recycling and Waste Division service is budgeting a deficit for the years 2021 to 2023. This is largely due to providing services such as recycling collection and use of the three 4R Winnipeg Depots without the corresponding customer fees along with a shortfall in funding from the Producer Responsibility Organizations. The introduction of an MFWD fee will support longer-term financial stability and customer equity.

It is anticipated that the MFWD fee will provide revenue of $4.25 million beginning in 2023.

## Solid Waste By-Law

The recommendation pertaining to the mandatory multi-family waste diversion fee expected in January 2023 requires changes to the existing Solid Waste By-law 110/2012. The attached draft found in Appendix A incorporates the required amendments.

Recommendations for the introduction of a small commercial 4R depot fee and delegated authority for the Director to negotiate volume-based tipping fees expected for January 2022 do not require changes to the by-law.

## COMMUNICATION

Following Council approval, the Public Service will develop a comprehensive, multi-media communication strategy to provide information to multi-family customers on any changes to waste management billing.

The Public Service will also consult with Manitoba Residential Tenancies Branch to offer one-year notice and to work collaboratively to implement the new multi-family waste diversion fee.

In Q4 2021, the Public Service will provide notification to the small commercial customers via a variety of platforms regarding access to the 4R Winnipeg Depots.

## FINANCIAL IMPACT

## Financial Impact Statement **Date:** September 3, 2021

## Project Name:

**SOLID WASTE PROGRAM MANAGEMENT FINANCIAL PLAN AND UTILITY RATE MODEL**

**COMMENTS:**

The Water and Waste Department's Recycling and Waste Division service is budgeting a deficit for years 2021 to 2023. This is largely due to providing services such as recycling collection and use of the three 4R Winnipeg Depots without the corresponding customer fees. The introduction of a MFWD fee will support longer-term financial stability and customer equity. Revenue from the MFWD fee is estimated at $4.25 million beginning 2023.

Failure to approve the recommendations may be detrimental as diversion programs will continue to be underfunded resulting in cross subsidization of service and inequitable rates for customers.

L Szkwarek

Lucy Szkwarek, CPA, CGA
Manager of Finance and Administration

## CONSULTATION

This Report has been prepared in consultation with:

N/A

## OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg Reference: 02-2 Environment

## WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

## SUBMITTED BY

Department: Water and Waste
Division: Finance and Administration
Prepared by: Melissa Bunkowsky
Date: September 3, 2021
File No.: G-259

**ATTACHMENTS:**

Appendix A – Draft Solid Waste By-Law

# THE CITY OF WINNIPEG

## BY-LAW NO. /2021

A By-law of THE CITY OF WINNIPEG to regulate the storage, collection and disposal of solid waste

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

### PART 1
### INTRODUCTORY PROVISIONS

**Short title**
**1** This By-law may be cited as the "Solid Waste By-law".

**Definitions**
**2(1)** In this By-law

**"applicable fee"** means a fee established and set by Council or by an individual or Council committee to whom Council has delegated the authority to establish or set the fee;

**"base collection services"** means the collection of solid waste for residential properties and multi-family properties that the Director is required to provide under subsections 3(1) and (2);

**"bulky waste"** means large items of solid waste designated as such by the Director;

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

**"City"** means The City of Winnipeg continued under section 8 of the Charter;

**"city"** means the geographical area within the jurisdiction of The City of Winnipeg;

**"compostable waste"** means solid waste designated as eligible for composting by the Director;

**"commercial property"** means a property that is classified as a commercial property under sections 8 and 9;

**"Council"** means the council of the City;

**"designated employee"** means the Director or any employee or agent of the City to whom the Director has delegated authority to administer or enforce this By-law or to

exercise any of the powers given to the Director under this By-law at subsection 14(1);

**"Director"** means the Director (or acting Director) of the department of the City with responsibility for the provision of solid waste services;

**"eligible container"** means a container designated by the Director as eligible for having specific types of solid waste contained within it collected as part of the City's solid waste services;

**"garbage"** means solid waste that is not:

(a) compostable waste;
(b) recyclable waste;
(c) special waste;
(d) bulky waste; or
(e) non-collectible waste;

**"hazardous waste"** means:

(a) "household hazardous material and prescribed material" as defined in the Household Hazardous Material and Prescribed Material Stewardship Regulation MR 16/2010;

(b) "hazardous waste" as defined in The Dangerous Goods Handling and Transportation Act, C.C.S.M. c. D12;

(c) other solid waste designated as hazardous waste;

**"mobile home"** has the same meaning as it has in the Winnipeg Zoning By-law;

**"multi-family property"** means a property that is classified as a multi-family property under sections 8 and 9;

**"non-collectible waste"** means solid waste designated by the Director as not eligible for collection as part of the City's solid waste services;

**"recyclable waste"** means solid waste designated by the Director as eligible for recycling as part of the City's solid waste services;

**"residential property"** means a property that is classified as a residential property under sections 8 and 9;

**"solid waste"** means all discarded waste materials except liquid or semi-liquid wastes and includes:

(a) bulky waste;
(b) compostable waste;
(c) garbage;
(d) non-collectible waste;
(e) recyclable waste; and
(f) special waste;

**"solid waste disposal site"** means a site designated by the Director for the disposal of one or more forms of solid waste and may include an incinerator, a recycling facility, a recycling depot or a composting facility;

**"solid waste services"** means programs, systems and facilities provided, implemented or managed under this By-law for the collection, storage, handling, processing and disposal of solid waste;

**"special handling"** means extraordinary measures necessary for the collection of solid waste due to its location, including manual collection or the use of specialized equipment not otherwise employed by the City for solid waste collection;

**"special waste"** means solid waste designated by the Director as requiring specialized handling in its collection, processing, storage or disposal due to the nature of the solid waste, and may include, but is not limited to, hazardous waste, electronic waste, pharmaceutical waste and biomedical waste;

**"street"** means any place or way, including any structure forming part thereof, which or any part of which the public is ordinarily entitled to use for the passage of vehicles or pedestrians, with or without fee or charge therefor, and includes all the space between the boundary lines thereof and includes:
(a) roadways;
(b) sidewalks;
(c) medians;
(d) boulevards;
(e) traffic islands;
(f) private accesses; and
(g) back lanes.

**Base collection services for residential and multi-family properties**

**3(1)** Subject to section 4, the Director must provide each residential property with containers and collection services of 240 litres for each of garbage and recyclable waste collection for each dwelling unit.

**3(2)** Subject to subsection (3), the Director must provide each multi-family property with collection services of 120 litres for each of garbage and recyclable waste for each dwelling unit.

**3(3)** Despite subsection (2), the Director may decline to provide base collection services to a multi-family property if doing so would require special handling of the garbage or recyclable waste.

**3(4)** The Director is authorized to determine the type, size and number of containers required in order to provide the collection services required by this section.

**Reduction in level of base collection services for residential properties**

**4(1)** Upon application and payment of the applicable fee, the owner of a residential property may seek a reduction in the base collection services provided to the property.

**4(2)** Subject to subsection (5), if the owner can demonstrate to the satisfaction of the Director that one or more dwelling units in the residential property are not available to be occupied and will be in that state for a period of six months or more, and if the Director is satisfied that

(a) the reduction of solid waste collection services sought by the property owner will nonetheless result in the occupants of the property continuing to receive solid waste collection services sufficient for their needs; and

(b) the reduction will not result in garbage or other solid waste accumulating on the property in contravention of *The Neighbourhood Liveability By-law* or of *The Public Health Act*.

(c) the Director may approve a reduction of the base collection services provided to the property under subsection (1) commensurate with the number of dwelling units that are not available to be occupied.

**4(3)** As a condition of the approval under subsection (1), the owner of the property must:

(a) notify the Director if and when the unoccupied dwelling units in the property are occupied or available to be occupied; a failure to do so constitutes an offence; and

(b) return the eligible container or eligible containers in working condition to a designated employee.

**4(4)** The Director may reverse a reduction of solid waste collection services approved under subsection (1) or increase a reduced level of solid waste collection services approved under subsection (1) if he or she concludes that:

(a) the unoccupied dwelling units in the property are now occupied or available to be occupied; or

(b) under the reduced level of collection service,

(i) the occupants of the dwelling units are not receiving solid waste collection services sufficient for their needs; or

(ii) garbage or other solid waste has accumulated or is accumulating on the property in contravention of *The Neighbourhood Liveability By-law* or of *The Public Health Act*.

**4(5)** The Director's authority under this section does not allow the suspension of solid waste collection services to a vacant residential property unless the owner applies for this in writing and provides the Director with a copy of a Vacant Residential Boarded Building Permit or a

Boarded Building Exemption Certificate. The Director may then suspend solid waste collection to the property for the length of time that a Vacant Residential Boarded Building Permit or a Boarded Building Exemption Certificate is in effect.

**4(6)** During a suspension period under subsection (5), the obligations on the owner with respect to the care and maintenance of the eligible container or eligible containers under section 13 continues unchanged.

**Additional collection services for residential and multi-family properties upon request**
**5(1)** At the request of the owner of a residential property and upon payment of the applicable fee, the Director may provide the residential property with additional collection services to a maximum of 600 litres of each of garbage and recyclable waste per dwelling unit.

**5(2)** At the request of the owner of a multi-family property and upon payment of the applicable fee, the Director may provide the multi-family property with additional collection services to a maximum of 240 litres of each of garbage and recyclable waste per dwelling unit.

**Collection services for commercial properties**
**6(1)** At the request of the owner or occupant of a commercial property and upon payment of the applicable fees, the Director is authorized, at his or her discretion, to agree on behalf of the City to provide solid waste collection services to the property upon terms and conditions the Director considers appropriate to protect the interests of the City.

**6(2)** Unless the contract or agreement with the owner or occupant of a commercial property provides otherwise, the Director must provide at least 30 days' notice to the owner or occupant of a commercial property before terminating the provision of solid waste collection services to the property.

**6(3)** The Director is hereby authorized to approve and to enter into contracts and agreements consistent with this section in respect of the provision of solid waste collection services by the City to commercial properties.

**6(4)** The exercise of discretion by the Director under this section is not subject to appeal.

**Mandatory fees for residential and multi-family properties**
**7(1)** Subject to subsection (2), a fee is hereby imposed in an amount set by Council from time to time for each dwelling unit on or in a residential property.

**7(2)** Where a reduction in the level of base collection services has been approved under section 4, the total fee imposed by subsection (1) is reduced by an amount commensurate with the reduction.

**7(3)** Subject to subsection (4), a fee is hereby imposed in an amount set by Council from time to time for each dwelling unit on or in a multi-family property.

**7(4)** The fee imposed by subsection (3) is not payable in respect of a multi-family property to which the Director declines to provide base collection services under subsection 3(3) (*collection services would require special handling*).

**Classification of residential, multi-family and commercial properties**
**8(1)** Except as otherwise set out in this section,

(a) a building with one or more rooms that are designed or used for residential occupancy is classed as either a residential property or multi-family property; and

(b) a building that is designed or used in whole or in part for uses other than for residential occupancy is classed as a commercial property.

**8(2)** Except as otherwise set out in this section,

(c) (a) a building that is designed or used in whole or in part for residential occupancy that has seven or fewer dwelling units in it is classed as a residential property; and

(d) (b) a building that is designed or used in whole or in part for residential occupancy with eight or more dwelling units in it is classed as a multi-family property.

**8(3)** If part of a building is designed or used for residential occupancy and another part is designed or used for other uses, then the part of the building that is designed or used for residential occupancy is classed as either a residential property or multi-family property and the part that is designed or used for other uses is classed as a commercial property.

**8(4)** A mobile home constitutes one dwelling unit and is classed as a residential property.

**8(5)** Despite the fact that they may have one or more rooms designed or used for residential occupancy, buildings classified under the following parcel use codes for the purposes of assessment and taxation by the City are commercial properties:

(a) hotel;

(b) motel;

(c) hospital;

(d) police/fire;

(e) school;

(f) university/college.

**8(6)** For greater certainty, the ownership of a building or of dwelling units within a building does not affect the number of dwelling units in the building. In particular, the fact that dwelling units are owned pursuant to *The Condominium Act* does not change their status as dwelling units within a building for the purposes of this By-law.

**Determination of classification and number of dwelling units in building**

**9(1)** Where the classification of a building and the number of dwelling units has not been set out in this by-law, the Director must determine the classification of the building and the number of dwelling units in a residential or multi-family property.

**9(2)** In determining the classification of the building and the number of dwelling units in a residential or multi-family building, the Director may consider any information he or she considers relevant, including one or more of the following:

(a) inspections and observations by City employees;

(b) the classification and number of dwelling units attributed to a building by the City for the purposes of assessment and taxation;

(c) the information provided by an occupancy permit issued under the *Winnipeg Building By-law*;

(d) the permitted uses for a property under the zoning by-law applicable to it.

**9(3)** The Director must redetermine the classification of the building or the number of dwelling units in it where there is a change in the building or the usage of the building sufficient to justify this change.

**Billing and payment of fees**

**10(1)** For the purposes of this section, a property owner is the owner of the land on which dwelling units are located or, in respect of dwelling units owned pursuant to *The Condominium Act*, the property owner is the owner of each condominium unit.

**10(2)** Subject to this section, the property owner must pay the fee imposed by section 7 for each dwelling unit on the property within 30 days after the fees have been imposed.

**10(3)** For the purposes of billing and payment, the Director may add the fees imposed by section 7 to a utility bill issued in respect of the water and wastewater services provided to the building in which the dwelling units are located.

**10(4)** For greater certainty, where a utility bill in respect of water and wastewater services is issued to the condominium corporation that is responsible for the control, management and administration of the common elements of the building in which the condominium unit is located (pursuant to the *Water By-law* and/or the *Sewer By-law*), the Director is authorized to add to the utility bill the fees payable under this By-law by each owner of an individual condominium unit. If the condominium corporation fails to pay the fees, the Director is authorized to enforce collection of the fees with respect to each owner of a condominium in the building.

**Administrative powers of Director**

**11(1)** The Director is authorized to provide, implement and manage solid waste services in the city in a manner consistent with this By-law and with resolutions of Council.

**11(2)** The authority in subsection (1) includes the power to make regulations. In order to be effective, these regulations must be

(a) dated and signed by the Director;

(b) communicated in writing to the City Clerk; and

(c) posted on the City's website.

**11(3)** Without restricting the general authority of the Director under subsections (1) and (2), regulations made under subsection (2) may do the following:

(a) designate types or items of solid waste as bulky waste, compostable waste, garbage, hazardous waste, non-collectible waste, recyclable waste, and special waste;

(b) subject to subsection (4), establish and adjust schedules for the collection of solid waste from properties as he or she determines to be appropriate;

(c) set out the types of solid waste that will be collected or accepted for disposal and waste that will not be collected or accepted for disposal;

(d) establish rules for the collection and disposal of solid waste, which may, among other things:

(i) (i) include different rules for different types or volumes of solid waste or for different types of properties which produce the solid waste, and

(ii) (ii) require that, in order to be eligible for collection, all or certain categories of solid waste must be contained in specified eligible containers and set out in particular locations at particular times;

(e) designate containers as eligible containers;

(f) establish rules for the storage of solid waste on property or on streets, including rules for enclosures holding solid waste and for the storage of solid waste set out for collection;

(g) designate solid waste disposal sites, including sites for the disposal of special waste, and establish rules for their operation, including rules about the types of solid waste that are allowed to be deposited at the sites, rules for who can deliver different types of solid waste to the sites, and rules about processing or removing material deposited at the sites;

(h) designate sites within the city for disposal of specific items or forms of solid waste;

(i) determine how persons responsible for paying fees and charges under this By-law will be notified about the amount of the fees and charges, and when and how to make payments.

**11(4)** In addition to meeting the requirements of subsection (2), where the Director makes a regulation under clause 11(3)(b) to adjust, either temporarily or permanently, a schedule for the collection of solid waste from private properties, the Director must release a communication to the media that provides information about the adjustment or change.

**11(5)** The authority in subsection (1) includes the authority to collect or arrange for the collection of solid waste located within a street, whether or not it is within an eligible container.

**11(6)** With the exception of the authority to make regulations under subsection (3), the Director may delegate any of his or her authority to administer or enforce this By-law or to exercise any of the powers given to the Director under this By-law to one or more employees of the City.

**Prohibitions**

**12(1)** A person must not contravene a regulation, rule, designation, determination, or requirement made, or other authority exercised, by the Director under this By-law.

**12(2)** The owner and occupant of a property are each responsible to ensure that solid waste on the property is stored and set out for collection in compliance with regulations made by the Director under section 11.

**12(3)** A person must not:

(a) remove solid waste from one property and deposit it on another property, unless this complies with a regulation made by the Director;

(b) place solid waste from one property into any container that belongs to the owner or occupant of another property or has been issued for the use of the occupants of another property;

(c) set out solid waste for collection from a property unless the solid waste originates from that property;

(e)

(d) place any solid waste that has not been designated as recyclable waste into a container designated as eligible exclusively for recyclable waste, or place waste that has not been designated as compostable waste into a container designated as eligible exclusively for compostable waste;

(e) place any solid waste designated as special waste or non-collectible waste into a container designated as eligible exclusively for garbage;

(f) scavenge, pick through or remove solid waste that is located at a solid waste disposal site without the authorization of the Director;

(g) scavenge, pick through or remove solid waste that is placed in the street in an eligible container for collection unless he or she is the owner or occupant of the property with respect to which the container has been issued, or who has the permission of the owner or occupant of the property on which the solid waste is located;

(h) place solid waste in a street for collection in a manner or in a location that poses a hazard.

**12(4)** The owner of a vehicle and the person driving the vehicle must each ensure that the vehicle is not used to transport solid waste that has been scavenged in violation of clause (3)(f) or (g).

**12(5)** Any person who produces special waste must ensure that it is taken for disposal to a waste disposal facility designated by the Director for the disposal of special waste.

**12(6)** The owner and occupant of a property must ensure that:

(a) snow and other obstacles do not block access to an eligible container for collection purposes; and

(b) no obstacle, including a vehicle, is located on a street or back alley next to the property in a way that obstructs the passage or operation of a vehicle used to collect solid waste as part of the City's solid waste services.

**12(7)** The owner of a vehicle must ensure that it is not stopped, parked or permitted to remain stationary on a street or back alley so that it obstructs the passage of a vehicle engaged in the provision of the City's solid waste collection service. Where a vehicle is in contravention of this provision, a special constable or other peace officer with authority to enforce this By-law is authorized to act under section 243 of *The Highway Traffic Act*, C.C.S.M. c. H-60 to have the vehicle moved or stored in a suitable place.

**Property owner's responsibilities for eligible containers**

13(1) Where the Director issues one or more eligible containers under clause 11(3)(d)(ii) and 11(3)(e), the owner of the property must pay the applicable fees with respect to the eligible container or containers issued and must ensure that the eligible containers:

(a) are not defaced or damaged;

(b) are clean and odour-free;

(c) are stored on private property other than when placed on a street for collection; and

(d) are available for storage of solid waste at all times.

13(2) Where an eligible container is damaged to the point where it cannot be used for the storage of solid waste, or is not available on the property to which it was issued for storage of solid waste, or is not returned to the City as required under section 4(3)(b), the owner of the property must pay the costs of repair or a fee established by Council to have a replacement container issued for the use of the occupants of that property.

13(3) Despite clause (1)(a) and subsection (2), the owner of a property is not responsible for damage to a container, and no fee is applicable for the repair or replacement of a damaged eligible container, if the designated employee determines that

(a) the eligible container has been damaged by someone other than the property owner through no fault of the property owner;

(b) the eligible container was not damaged as a result of the property owner or resident at the property failing to comply with clause 13(1)(c) or with rules regarding the collection of solid waste established by the Director pursuant to clause 11(3)(d);

(c) the eligible container is no longer functional for garbage or recycling collection;

(d) the damaged eligible container has been returned to the City; and

(e) the damage to the eligible container took place after January 28, 2015.

13(4) Upon request by a designated employee, the owner of a property must surrender an eligible container that has been issued by the Director.

**Enforcement powers**

14(1) The Director has, and any employee of the City to whom he or she delegates the authority to enforce or administer all or part of this By-law has to the extent of that delegation, the authority to conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law and to provide services or do work in accordance with the Charter and, for these purposes, has the powers of a "designated employee" under the Charter.

14(2) Without restricting the general authority given to the Director and his or her delegates under subsection (1), they have the specific authority to

(f) inspect material being brought to a solid waste disposal site for disposal in order to administer and enforce this By-law; and

(g) use the authority of the City under *The Petty Trespasses Act* to prohibit individuals who have repeatedly contravened subsection 12(1) or clause 12(3)(f) with respect to a solid waste disposal site from entering a solid waste disposal site.

**Refusal to provide service**

15(1) Notwithstanding subsection 3(1) and in addition to his or her powers of enforcement as a Director, the Director may refuse to provide solid waste collection services:

(h) to a property whose owner or occupant fails to pay the applicable fees respecting solid waste within 90 days of being billed for those fees; or

(i) with respect to any property that is not in compliance with this or another by-law of the City respecting solid waste or with a regulation, rule, designation, determination or other exercise of authority by the Director under section 11.

15(2) Where a property owner or occupant repeatedly fails to comply with this or another by-law of the City respecting solid waste, or with a regulation, rule, designation, determination or other exercise of authority by the Director under section 11, the Director may suspend the provision of solid waste collection services to any property owned or occupied by that individual for a period of time set out by the Director in imposing the suspension, which may not exceed one year.

15(3) Before suspending the provision of solid waste collection services under subsection (2), the Director must

(j) notify the property owner or occupant in writing that suspending or terminating the provision of solid waste collection services is being considered;

(k) provide in writing the reasons why suspending or terminating the provision of solid waste collection services is being considered; and

(l) give the property owner or occupant a reasonable opportunity to be heard concerning the proposed suspension.

15(4) Where solid waste collection services have been refused or suspended under this section, the property owner is nonetheless liable for the payment of the fees imposed under section 7 and all other applicable fees with respect to solid waste collection services for that property.

**Appeal**

16(1) Where an appeal from an order or decision under this By-law is authorized by *The City of Winnipeg Charter*, the appeal may be made to the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment.

16(2) An appeal under subsection (1) must not be accepted by the City Clerk until an administrative fee in an amount set by Council has been paid to the City Clerk. The appeal body hearing the appeal may order the administrative fee to be refunded to the appellant if the appeal has been made in good faith and has some merit.

**Penalties**

17(1) Subject to this section, a person who contravenes a provision of this by-law is subject, upon conviction, to a fine of the following amount plus mandatory court costs and surcharges as provided for by *The Provincial Offences Act*:

(m) In the case of an individual, $300.00; and

(n) In this case of a corporation, $600.00.

17(2) Notwithstanding subsection (1), a person who contravenes a provision of this By-law may pay a discounted fine in the following amount plus mandatory court costs and surcharges as provided by *The Provincial Offences Act* within 15 days following the date the offence notice alleging the contravention was issued and thereafter will not be prosecuted for the contravention:

(o) in the case of an individual, $150.00; and

(p) in the case of a corporation, $300.00.

17(3) A monetary penalty pursuant to sub-clause 175(d)(i) of the Charter is hereby imposed for a contravention of this By-law. The monetary penalty is in the amount of the costs of any collection, clean-up and disposal of solid waste that is associated with the conduct that is in contravention of this By-law.

**Related amendments to other by-laws**

18(1) The *Execution of Documents By-law* No. 78/2015 is amended by adding the following after section 20:

***Execution of agreements to provide solid waste collection for commercial properties***

*20.1(1) The Director of Water and Waste is hereby authorized to execute on behalf of the City of Winnipeg contracts and agreements for the provision of solid waste collection services to commercial properties consistent with the Solid Waste By-law.*

*20.1(2) Notwithstanding clause 5(1)(b), the authorization in subsection (1) is not subject to the requirement for written certification as to legal form by the City Solicitor or delegate.*

*20.1(2) The authorization in subsection (1) may be sub-delegated to another City employee.*

**Solid Waste By-law No. 110/2021 repealed.**
**19** The *Solid Waste By-law* No. 110/2012 is repealed.

**Coming into force**
**20(1)** Subject to subsection (2), this By-law comes into force on January 1, 2022.

**20(2)** Subsections 7(3) and 7(4) of this By-law come into force on January 1, 2023.

**DONE AND PASSED** this day of , 2021.

Mayor

City Clerk

Approved as to content:

Director of Water and Waste

Legally reviewed and certified as to form:

for Director of Legal Services
and City Solicitor