THE CITY OF WINNIPEG

BY-LAW NO. 82 /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);

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"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;

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"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

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(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

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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,

(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

(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:

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(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 unit in the building.

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

(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.

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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;

(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:

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(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

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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

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

(b) 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:

(a) 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

(b) 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

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

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

(c) 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.

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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*:

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

(b) 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:

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

(b) 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.

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Mayor

City Clerk

Approved as to content:

Acting Director of Water and Waste

Legally reviewed and certified as to form:

for Director of Legal Services
and City Solicitor