Agenda – Executive Policy Committee – September 17, 2024

Report – Standing Policy Committee on Property and Development – September 13, 2024

Moved by Councillor

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

Item No. 1 Building Bylaw Amendments to address New Building Code Adoption

STANDING COMMITTEE RECOMMENDATION:

On September 13, 2024, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, as amended, and submitted the following to Council:

1. That a by-law be enacted (a draft amending by-law is attached as Appendix A to this report) to amend the Winnipeg Building By-law 4555/87 by:

    A. Adding regulations in respect of private pools;

    B. Removing the requirement for an occupancy permit in respect of a change in tenant; and

    C. Deleting regulations in respect of sump pumps, sump pits, discharge pipe systems and floor drains.

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

Agenda – Executive Policy Committee – September 17, 2024

Report – Standing Policy Committee on Property and Development – September 13, 2024

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On September 13, 2024, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, with the following amendments:

- Delete Recommendation 1 and replace with the following:

    "1. That a by-law be enacted (a draft amending by-law is attached as Appendix A to this report) to amend the Winnipeg Building By-law 4555/87 by:

        A. Adding regulations in respect of private pools;

        B. Removing the requirement for an occupancy permit in respect of a change in tenant; and

        C. Deleting regulations in respect of sump pumps, sump pits, discharge pipe systems and floor drains."

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

ADMINISTRATIVE REPORT

Title: Building Bylaw Amendments to address New Building Code Adoption

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

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Happychuk	H. Borys	T. Graham	S. Armbruster Interim CAO

EXECUTIVE SUMMARY

Critical construction items that affect public safety and the City's liability are being removed from the 2020 Manitoba Building Code (MBC), which came into effect on January 1, 2024.

While some items are being moved to other bylaws, a couple items will need to be added to the Winnipeg Building By-law No. 4555/87 to ensure that Public Safety is properly enforced and preserved.

1. Maintain legislation for enforcement of Public Safety for private pools and hot tubs.

2. Reduce requirements for "occupy only" permit where they are not essential to public safety.

These items have been enforced by the City's Development and Inspections Division for decades, and the Public Service is recommending these continue to be enforced by way of adoption into the Winnipeg Building By-law No. 4555/87 (attached as Appendix A).

RECOMMENDATIONS

1. That the draft by-law (attached as Appendix A) be approved and that the Public Service review existing Code amendments for continued enforcement and inclusion into the Winnipeg Building By-law 4555/87 by doing the following:

   A. Revising amendments to ensure enforcement is consistent with current practice.
   B. Re-format information for bylaw amendment to ensure greater clarity for building officials and public.
   C. Remove administrative requirements where redundant or unnecessary.

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

REASON FOR THE REPORT

Critical construction items that affect public safety and the City's liability are being removed from the 2020 MMBC. Several items will need to be added to the Winnipeg Building By-law No. 4555/87 to ensure that Public Safety is properly enforced and preserved.

IMPLICATIONS OF THE RECOMMENDATIONS

Shifting regulations from the MBC to the Winnipeg Building By-law No. 4555/87 will not have an impact on applicants or owners. Amending the bylaw wording will provide clarity to all stakeholders on responsibilities.

Removing "occupy only" permits will provide a net benefit to industry as these permit types are no longer required.

These items have been enforced by the City's Development and Inspections Division for decades, and the Public Service is recommending these continue to be enforced by way of adoption into the Winnipeg Building By-law No. 4555/87. Therefore, there are no financial implications to the recommendations of this report.

HISTORY/DISCUSSION

On January 1, 2024, The Province adopted the 2020 National Building Code of Canada as the Manitoba Building Code under Regulation 78/2023.

As part of the Canadian Free Trade Agreement's Regulatory Reconciliation and Cooperation Table, the Government of Canada announced a new governance model for the National Model Code development system effective November 22, 2022. It replaces the Canadian Commission on Building and Fire Codes (CCBFC), the committee responsible for code development in Canada since 1991. The new model integrates the provinces and territories into the national process to better respond to code priorities from jurisdictions and harmonize construction codes across Canada.

In alignment with this new code development structure, regional amendments to code have been removed to ensure consistency with the national documents. As a result, some of the amendments that have existed in Manitoba's Provincial Codes for many years are now being removed. Several items will need to be added to the Winnipeg Building By-law to ensure that Public Safety is properly enforced and preserved.

Private Pools

The Province of Manitoba, under the Public Health Act, regulates public and semipublic pool structures. The Act, however, does not have oversight on all such structures (R.M. 132/97);

Swimming Pools and Other Water Recreational Facilities Regulation

Application 2(1) This regulation does not apply to the following:

> (a) a swimming pool or other water recreational facility located on the property of a single-family dwelling, used solely by the occupant of the dwelling or his or her guests;
>
> (b) an artificial lake.

As a result, and to ensure regulatory consistency, the Province introduced safety of these structures under separate amendments in Part 10 of the Manitoba Building Code.

Pools are not specifically defined in the National Building Code of Canada, currently adopted as the 2024 Manitoba Building Code. Buildings are included and defined as *any structure that supports or shelters any occupancy*. For 25 years, the MBC has included structural and safety requirements for construction and erection of pools. The City has enforced these requirements to ensure construction of pools are safe to support its occupants and protect occupants that may be harmed from potential collapse. In addition to the structural concerns, the Code also addresses general life safety concerns that are associated with risk of drowning. Fences, covers and gates all provide protections for those that could be injured as a result of the hazard that these structures present.

Since the adoption of the MBC on January 1, 2024, Part 10 is no longer included. These regulations will need to be added to the Winnipeg Building By-law No. 4555/87 to ensure enforcement.

Reducing Bureaucracy

The Winnipeg Building By-law No. 4555/87 regulates occupancy of buildings under section 15. In particular, it mandates that *no owner, agent or person in charge shall occupy/use a building or part thereof, or permit any occupancy/use of a building or part thereof, or change the occupancy, without first obtaining a Building Occupancy Permit.*

In the past, this necessitated the requirement for an “occupy only” permit for any applicant/owner looking to change tenancy. This could include a name change or ownership change even if no construction work was being proposed. Review of the MBC revealed that the occupancy is reflective of the building use rather that the occupant and ultimately care and control of any building owner was to ensure this use was consistent with the requirements of the MBC.

Effective April 4, 2022, the Planning, Property and Development Department no longer required Building Occupancy Permits for a change in tenant/occupant to align with this interpretation.

Removing this clause and no longer requiring “occupy only” permits does not create an increase in risk for the City; rather, it aligns the requirements establishing occupancy to the criteria within the MBC for permitted use. The use categories in the MBC will still be reviewed under permits when alterations or a change of use is being considered. These categories will remain valid even if a name or tenant change takes place.

FINANCIAL IMPACT

Financial Impact Statement

Date: August 7, 2024

Project Name:

Building Bylaw Amendments to address New Building Code Adoption

COMMENTS:

There are no financial implications associated with this report.

Mike McGinn Aug. 7, 2024

Mike McGinn, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services Department

OURWINNIPEG POLICY ALIGNMENT

Goal: Leadership and Good Governance

- **Objective 3:** Achieve community-responsive service delivery through an aligned, integrated, collaborative and results-oriented organizational culture. Foster an organizational culture of leading by example in the community. As a large employer, demonstrate proactivity and adaptability, strengthening interdepartmental coordination and providing adequate resourcing and communications to improve responsive service delivery.
- **Policy 1.18 Responsive, Representative and Resilient Workforce:** Provide responsive municipal service delivery, through an accountable, informed, qualified, competent, creative, healthy and productive workforce that is representative of the community it serves including the use of equitable, anti-oppression recruitment, training, and retention processes.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to any of the specific goals in the Winnipeg Climate Action Plan, and it was determined that the Plan is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to any of the specific Goals and Objectives in the Poverty Reduction Strategy (PRS), as well as the corresponding 2021-2023 Implementation Plan, and it was determined that the Strategy is not applicable to this specific report.

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Rick Klassen
Date: August 7, 2024

Attachment:
Appendix A – Draft By-law