THE CITY OF WINNIPEG

BY-LAW NO. 59/2005

A By-law of the City of Winnipeg to amend the Secondary Dyke By-law No. 7600/2000 to require owners and occupants of properties on which a secondary dyke is located to prepare for and construct temporary dykes when necessary to prevent flooding.

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

1. The Secondary Dyke By-law No. 7600/2000 is amended by this By-law.

2. Section 2 of the By-law is amended by adding the following definition in alphabetical order:

"Director" *means the Director or Acting Director of Water and Waste for the City of Winnipeg.*

3. Sections 8 to 17 of the Secondary Dyke By-law are repealed and the following is substituted:

DUTY TO PREVENT FLOODING

8(1) Every owner and occupant of property on which a secondary dyke corridor or secondary dyke is located must take reasonable actions at his or her cost to prevent flooding on his or her property and to ensure that the secondary dyke or secondary dyke corridor on the property is effective as a flood control work in preventing flooding in the City of Winnipeg.

OBLIGATION TO CONSTRUCT TEMPORARY DYKES

8(2) Without restricting the generality of subsection (1), where the Director or designate publishes a notice pursuant to section 9, every owner and occupant of property on which a secondary dyke corridor or secondary dyke is located must comply with the instructions and directions set out in the notice within period of time specified in the notice or, if none is specified, within a reasonable period of time following publication of the notice.

DIRECTOR MAY PUBLISH NOTICE

9(1) Where the Director or designate has reason to believe that there is a significant risk of flooding in the area protected by secondary dykes, he or she may issue a notice in a newspaper having general circulation in the City requiring owners and occupants of property on which a secondary dyke corridor or secondary dyke is located to take specific action at his or her cost to comply with section 8, including any or all of the following measures:

(a) to remove snow and ice from the secondary dyke or secondary dyke corridor on his or her property;

(b) to remove any or all buildings, structures, trees and other obstacles, whether or not they have been authorized by section 4 or 6 of this By-law, from the secondary dyke or secondary dyke corridor on his or her property;

(c) to comply with the directions of a designated employee concerning the removal or retention of specific obstacles on the secondary dyke or secondary dyke corridor on his or her property;

(d) to construct a temporary dyke on the secondary dyke or secondary dyke corridor on his or her property linked to dykes constructed on adjacent properties in accordance with directions from a designated employee; and

(e) to comply with the directions of a designated employee concerning the construction of a temporary dyke and the maintenance, repairs or improvements to a temporary dyke once constructed;

(f) to take other measures necessary to prepare the secondary dyke or secondary dyke corridor to serve as a barrier to flooding and to permit accessibility to the remainder of the secondary dyke or the secondary dyke corridor;

(g) to take other reasonable measures to construct and maintain the temporary dyke as a barrier to flooding.

CONTENTS OF NOTICE

9(2) A notice issued pursuant to subsection (2) may set out directions and instructions concerning the matters set out in subsection 9(1) or other matters necessary to ensure that owners and occupants comply with section 8, including matters such as the materials which may or must be used in the construction of secondary dykes, the style of construction that must be used and the height to which the dykes must be constructed.

END OF OBLIGATION UNDER SUBSECTION 8(2)

9(3) Where the Director or designate concludes that there is no longer a substantial risk of flooding in the areas protected by secondary dykes, he or she may issue a notice in a newspaper having general circulation in the City advising that a substantial risk of flooding no longer exists and the obligation of owners and occupants of property on which a secondary dyke corridor or secondary dyke is located to comply with subsection 8(2) ceases upon publication of such a notice.

OBLIGATION TO REMOVE TEMPORARY DYKES

9(4) Where the Director or designate publishes a notice pursuant to subsection (3), every owner and occupant of property on which a secondary dyke corridor or secondary dyke is located must, within a period of time specified in the notice or, if no period of time is specified, within a reasonable period of time following publication of the notice, remove sandbags and other elements of a temporary dyke that has been constructed on the secondary dyke or secondary dyke on his or her property.

POWERS OF DESIGNATED EMPLOYEE

10(1) A designated employee may conduct inspections and take steps to administer and enforce this by-law or remedy a contravention of this by-law in accordance with The City of Winnipeg Charter and, for those purposes, has the powers of a designated employee under The City of Winnipeg Charter.

INSPECTION PROGRAMS CONDUCTED BY PUBLIC NOTICE

10(2) In order to determine whether this By-law is being complied with, the Director or designate may conduct an inspection program by public notice in accordance with The City of Winnipeg Charter.

EMPLOYEES DESIGNATED TO CONDUCT INSPECTION PROGRAM BY PUBLIC NOTICE

10(3) Employees of the City of Winnipeg who hold the following positions within the Water and Waste Department and the Public Works Department during the period of one year after the coming into force of this By-law are hereby appointed as designated employees for the purpose of entering on and inspecting land on which is located secondary dykes or secondary dyke corridors between the first day of February and the thirty-first day of May in accordance with a public notice of an inspection to determine whether this By-law is being complied with:

- *(a) the Director;*
- *(b) the Manager of Engineering;*
- *(c) the Land Drainage and Flood Protection Planning Engineer;*
- *(d) the Design and Construction Engineer;*
- *(e) the Construction Services Coordinator;*
- *(f) the Customer Technical Services Coordinator;*
- *(g) all Professional Engineers;*
- *(h) all Engineering Technicians and Technologists.*

DESIGNATED EMPLOYEE MAY ISSUE ORDERS

11. Without restricting the generality of section 10, a designated employee who finds that any provision of this By-law is being contravened may, by written order, require the person responsible for the contravention to remedy it.

ORDERS

12. Any order to remedy a contravention of this By-law must be issued in accordance with The City of Winnipeg Charter.[1]

ADDRESS FOR SERVICE

13. Where an address for service must be determined, it shall be done as follows:

(a) if the person to be served is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property; and

(b) if the person to be served is the occupant of real property, the street address for that property;

(c) if the document to be served relates to a permit for which the person to be served has applied, the address provided by the person in the application.

APPEALS PURSUANT TO SECTIONS 3 TO 7

14. An appeal from an order or decision of a designated employee in respect of sections 3 to 7 of this By-law may be made in accordance with The City of Winnipeg Charter to the Standing Policy Committee on Public Works.

APPEALS PURSUANT TO SECTIONS 8 TO 11

15(1) An appeal from an order or decision of a designated employee in respect of sections 8 to 11 of this By-law may be made in accordance with The City of Winnipeg Charter to a hearing body consisting of the following individuals or their delegates:

(a) the Chief Administrative Officer of the City;
(b) the Chief Financial Officer of the City;
(c) the Chief Information Officer of the City;
(d) the Chief of Human Resources and Corporate Services of the City;
(e) the Director of Planning, Property and Development;
(f) the Director of Community Services;
(g) the Director of Public Works.

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[1] See sections 184 to 188 of *The City of Winnipeg Charter*, reproduced in Attachment "B".

CHAIR AND VICE-CHAIR OF HEARING BODY

15(2) The Chief Administrative Officer of the City or his/her designate shall serve as the chairperson of the hearing body referred to in subsection (1) and the Chief Financial Officer of the City or his/her designate shall be the vice-chairperson.

PANELS AUTHORIZED

15(3) The hearing body referred to in subsection (1) may sit in panels of three or more members selected by the chairperson.

RULES OF PRACTICE AND PROCEDURE

15(4) Sections 54.10 and 54.11 of the Procedure By-law apply to hearings conducted under this section and the hearing body referred to in subsection (1) may adopt other rules of practice and procedure.

DONE AND PASSED, in Council assembled, this day of , 2005.

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Mayor

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City Clerk

Approved as to content:

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Director of Water and Waste

Certified as to form:

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for City Solicitor/Manager of
Legal Services