REPEALED BY THE OSBORNE SOUTH BUSINESS IMPROVEMENT ZONE BY-LAW NO. 8120/2002 SEPTEMBER 25, 2002

CONSOLIDATION UPDATE: MARCH 22, 1995

THE CITY OF WINNIPEG

OSBORNE SOUTH BUSINESS IMPROVEMENT ZONE BY-LAW NO. 6201/93

A By-law of THE CITY OF WINNIPEG to designate a Business Improvement Zone to be known as the "Osborne South Business Improvement Zone" and establish a Management Board for the Zone.

WHEREAS pursuant to section 196 to 203 of *The City of Winnipeg Act*, Council may, by by-law, designate an area as a Business Improvement Zone and prescribe its boundaries and establish a Management Board for the Zone;

AND WHEREAS Council has received a Petition signed by at least ten per cent of the businesses which represent ten per cent of the total Business Assessment in the proposed Zone;

AND WHEREAS no objection to the proposed Zone has been received by Council from one-third of the businesses which represent one-third of the total Business Assessment in the proposed Zone;

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

TITLE

1. This By-law may be cited as the "**Osborne South Business Improvement Zone By-law**".

DEFINITIONS

2. In this By-law:

"Act" means *The City of Winnipeg Act*, S.M. 1989-90, Cap. 10, and amendments thereto;

"Auditor" means the City Auditor of The City of Winnipeg;

"Board" means the Board established under Section 4;

"Business" means a taxable business located in the Zone and listed on the latest revised taxable Business Assessment Roll and any business located in the Zone and licensed for the year as provided in Section 196 of the Act;

"City" means The City of Winnipeg;

"City Assessor" means the City Assessor of the City or his designate;

"City Clerk" means the City Clerk of the City or his designate;

"Community Committee" means the City Centre Community Committee of The City of Winnipeg;

"Council" means the Council of The City of Winnipeg;

"Person" means an owner, officer or designated representative of a business located in the Zone;

"Zone" means the area of the City established as a Business Improvement Zone under Section 3;

"Zone Board member" means a member of the Board appointed under subsection 6(1)(b);

"Zone levy" means an extra charge on Business Assessment of all businesses located in the Zone.

amended 6595/95

BUSINESS IMPROVEMENT ZONE

3. There is hereby established a Business Improvement Zone to be known as the "Osborne South Business Improvement Zone" as designated on the attached Schedule "A" to this By-law.

MANAGEMENT BOARD

4. There is hereby established a Management Board to be known as the "Osborne South Business Improvement Zone Management Board", referred to herein as the "Board".

OBJECTS OF THE BOARD

5. The objects of the Board shall be:

(a) to beautify, improve and maintain lands of the City in the Zone subject to the authorization by Council, and

(b) to promote the Zone as a place for retail and commercial activity.

MEMBERSHIP OF THE BOARD

6. (1) The Board shall consist of eight (8) members who shall be appointed by resolution of Council. The members shall consist of:

(a) one (1) member of Council; and

(b) seven (7) members from the "Osborne South Zone" who each shall be from a business which is located in the Zone and who shall hereafter be referred to as "Zone Board members" and shall be appointed following the process provided in Sections (8) to (11) inclusive.

(2) Except as provided in Section 7, the member of Council shall serve for a one (1) year term, commencing from the organizational meeting of Council in November to the next succeeding organizational meeting of Council.

INITIAL APPOINTMENT AND TERMS OF OFFICE

7. (a) The initial term of office of the member of Council shall be from the date of appointment by Council to the organizational meeting of Council in November, 1993.

(b) The appointment of the initial Zone Board members shall be at the meeting of Council following receipt of the results of the selection meeting.

(c) The initial term of office of the seven (7) Zone Board members shall be as follows:

(i) three (3) Zone Board members shall hold office from the date of appointment to the first meeting of Council in January, 1995;

(ii) four (4) Zone Board members shall hold office from the date of appointment to the first meeting of Council in January, 1996.

INITIAL SELECTION

8. Zone Board members of the first Board shall be selected from amongst the businesses in the Zone in accordance with this and the following sections:

(1) At least six weeks prior to the date set for voting by the City Clerk, the City Clerk shall:

(a) publish, in a daily newspaper having a general circulation within the City, a Notice advising the businesses in the Zone of the date for the voting for the selection of the Zone Board members to the Management Board and stating that nominations for Zone Board members will be received at the office of the Clerk within a date and time specified in the Notice, which nominations shall be received in the form in accordance with Schedule "B" to this By-law, obtainable from the office of the City Clerk;

(b) send by regular mail, to each business in the Zone, a Notice informing each business of the voting date and advising of the date and time for receipt of nomination papers, in the form in accordance with Schedule "B" to this By-law, obtainable from the office of the City Clerk.

(2) In sending notices to businesses as required under this section or Section 10, the City Clerk shall use such business names and addresses as provided in the most recent list of businesses in the Zone as provided by the City Assessor.

NOMINATION

9. (1) Each person who wishes to be appointed as a Zone Board member must deliver to the City Clerk, on or before the date and time set under Section 8, a nomination paper, in accordance with Schedule "B" to this By-law, signed by at least ten (10) persons who are from ten (10) different businesses in the Zone, with the acceptance of such nomination signed by the nominee.

(2) With the nomination paper submitted to the City Clerk, the nominee may submit a biography not exceeding twenty-five (25) words.

(3) No more than one (1) person from each business may be nominated to the Board.

(4) If the number of persons nominated is seven (7) or less, then those nominated shall be considered to be selected by acclamation and the names of those persons selected by acclamation shall be forwarded to Council for appointment. Council shall appoint persons to the remaining positions on the Board, but in all instances those persons shall come from businesses in the Zone.

SELECTION PROCESS

10. (1) If more than seven (7) persons are nominated, the City Clerk shall prepare a ballot paper containing the names of all nominees.

(2) The City Clerk shall mail a ballot paper to each business in the Zone at least fifteen (15) days prior to the voting day. The ballot paper shall contain the names of the candidates in alphabetical order. A sheet shall accompany the ballot paper with such biographical information as may be provided about the nominee and explaining the method of voting. Each business shall be eligible to cast a vote. The ballot paper shall be marked with the letter "X" in the square opposite the name of the nominees for whom he wishes to vote; no more than seven (7) names shall be so marked. A ballot paper marked otherwise shall not be counted. The business, after marking the ballot paper, may mail or deliver it to the City Clerk at any time, but only those received by the Clerk not later than 4:30 p.m. on the voting day shall be counted.

The City Clerk shall place immediately all marked ballot papers which he receives in a locked container. At 9:30 a.m. on the day next following the voting day the City Clerk shall proceed to count the properly marked ballots which have been cast.

(3) The City Clerk shall then rank the nominees in descending order from the nominee with the largest number of votes to the nominee with the least number of votes.

(4) The seven (7) nominees with the largest number of votes shall be declared the selection of the businesses in the Zone and shall be forwarded on to Council for appointment to the Board.

(5) The four (4) nominees with the highest number of votes shall hold office for the term provided in Section 7(c)(ii). The three (3) nominees with the second highest number of votes shall hold office for the term provided in Section 7(c)(i).

(6) In case of a tie for the last position of either category, the names of the nominees with the tied votes shall be submitted to City Council and City Council shall by vote place the nominees in the category of term, depending on the number of votes cast, those with the highest number of votes being placed in the longest term of office. If the tie vote is for the last position of the seven (7) positions available, the names of the nominees with a tie vote shall be placed before Council for a deciding vote and that nominee or those nominees with the highest number of votes shall be placed on the Board.

(7) The City Clerk shall handle the selection process in accordance with the provisions of this section and use such other procedures as will assist in the effective operation of the selection process. The City Clerk's certification as to the tabulation of ballots and the placement of the nominees in their respective category shall be final and not subject to appeal, except in the case of a tie vote, in which case the provisions of Section 10(6) shall apply.

STANDARD APPOINTMENTS AND TERMS OF OFFICE

11. (1) The standard term of office of a Zone Board member shall be a term of two (2) years. When the initial term of office of those persons appointed to the term provided in Section 7(c)(i) expires, three (3) Zone Board members shall be selected, as provided hereafter, to hold a two (2) year term of office from the first meeting of Council in January, 1995, to the first meeting of Council in January, 1997. When the initial term of office of those persons appointed to the term provided in Section 7(c)(ii) expires, four (4) Zone Board members shall hold office from the first meeting of Council in January, 1996, to the first meeting of Council in January, 1998. Two (2) year terms of the three (3) and four (4) Zone Board members shall alternate thereafter.

(2) The selection of the nominees required annually for submission to Council for appointment to the Board shall be carried out by the Board under the direction of the Chairman of the Board, in accordance with the procedures provided in this section.

(3) Each person who wishes to be appointed as a Zone Board member must be from a business in the Zone and must provide the Secretary of the Board, prior to the General Budget meeting with a Nomination paper, in accordance with Schedule "B" to this By-law, signed by at least ten (10) persons who are from ten (10) different businesses in the Zone.

(4) The Secretary shall prepare a ballot paper, containing the names of all nominees.

(5) The ballot paper shall be distributed to one (1) person from each of the businesses represented at the General Budget meeting. Each voter shall indicate his or her preference by marking the ballot in favour of the appropriate number of nominees for that selection and no more. Any ballots marked with more than the number of nominees required shall be considered null and void.

(6) The Secretary shall then collect the ballots and tabulate them.

(7) The nominees with the largest number of votes shall be declared the selection of the meeting and shall be forwarded on to Council through the usual procedures of the City for appointment to the Board at the next meeting of Council.

(8) In case of a tie for the last position of any category, the names of the nominees with the tied votes shall be submitted back to the meeting for a further ballot and the person or persons whose name is or are submitted back for selection with the largest number of votes shall be considered the selection of the meeting.

(9) The chairman of the Board, or his designate, shall handle the selection process in accordance with the provisions of this Section and use such other procedures as will assist in the effective operation of the selection process. The certification of the chairman of the Board, or his designate, as to the tabulation of the ballots and the placement of the nominees in their respective categories shall be final and not subject to appeal.

(10) If at a general budget meeting not sufficient persons are selected for the number of positions available for the Board, the Council shall be so advised and Council shall appoint persons to the Board from a list furnished to it by the Board, in which case the person or persons so appointed shall be from businesses in the Zone. In the absence of such a list, Council may appoint persons to the Board whomsoever it wishes, provided however, that such persons shall be from businesses in the Zone.

(11) No person shall be eligible for appointment to more than three (3) consecutive terms.

MEETINGS

12. (1) The Board shall hold at least eight (8) regular meetings per year at a time and place so designated by the Board.

(2) The first meeting of the Board shall be held within one month following the appointment of the Board members for the purpose of the election of officers of the Board from amongst the membership thereof and to conduct such other business as deemed necessary.

(3) Special meetings may be called by the chairman, with the approval of two members of the Board.

(4) If the chairman is absent or refuses to call a special meeting when requested by any member of the Board, the secretary to the Board shall call a special meeting when requested to do so in writing by any three (3) members of the Board.

(5) No special meeting shall be called unless twenty-four (24) hours' notice is received, in writing, to all members of the Board, or by unanimous consent provided all members of the Board are present.

(6) The members of the Board may consider or transact any business at any meeting provided it is within the powers established for the Board.

(7) A simple majority of the members of the Board shall form a quorum.

(8) The Board shall establish such rules as are necessary to govern the conduct of the Board meetings, and meetings of committees appointed by the Board, provided such rules are not inconsistent with powers herein conferred.

(9) Minutes shall be kept of all Board meetings (regular and special) and Board committee meetings.

OFFICERS AND MEMBERS OF THE BOARD

13. (1) The officers of the Board shall consist of a Chairman, Vice-Chairman, Secretary and Treasurer, and such other officers as may be deemed necessary by the Board. These officers shall be elected by the Board from amongst the members of the Board.

(2) The Board may appoint ad hoc committees, consisting of any one or more of the members of the Board, persons from businesses in the Zone and citizens at large, to deal with any matter coming within its jurisdiction. Such committees shall deal only with the matters or questions referred to it for consideration and where appropriate, upon completion of the assignment, shall be dissolved.

(3) The chairman and all members present may vote on every question before the Board, and in the event of an equal division, the question shall be disposed of in the negative.

(4) Any Zone Board member may resign from the Board, at any time, upon sending written notice to the Board to that effect, which notice will be forwarded to Council, and any Zone Board member may be removed from the Board by Council, at any time, by resolution.

(5) Where a member ceases to be a member of the Board before expiration of the designated term, Council may appoint another eligible person for the unexpired portion of the term following receipt of a nomination from the Board.

(6) A member ceases to be a member of the Board who:

(a) fails to attend three consecutive regular meetings of the Board unless absence is caused through illness or is authorized by resolution of the Board;

(b) is hired in a full time capacity with the City;

(c) ceases to be a person from a business within the Zone.

(7) No Board member shall receive any remuneration as a Board member, but nothing herein shall preclude reimbursement for reasonable expenses authorized by the Board.

POWER OF THE BOARD

14. The Board may:

(a) conduct or commission any studies and prepare any designs which may be necessary to attain its objects;

(b) recommend the establishment of parking facilities within the Zone;

(c) establish the internal management procedures of the Board; and

(d) do all other things necessary or incidental to the carrying out of its objects.

BUDGET

15. The Board shall, on or before October 31st in each year, prepare for submission to Council the proposed program, zone levy and budget estimates.

GENERAL BUDGET MEETING

16. (1) The Board shall conduct at least one general budget meeting each year.

(2) Prior to the submission for approval to the Council of its proposed program, zone levy and budget estimates, the Board shall hold a general budget meeting, open to all persons from businesses in the Zone:

(a) to consider its proposed program, zone levy and budget estimates, and to receive submissions and representations thereon;

(b) to submit its proposed program, zone levy and budget estimates to the persons attending the meeting from businesses in the Zone for their approval; and

(c) to select the appropriate number of nominees as established in Section 11(1) for appointment to the Management Board, in accordance with the procedure provided in Section 11.

(3) Approval of the proposed program, zone levy and budget estimates shall be signified by a recorded vote showing that a majority of persons at the meeting are in favour of the proposed program, zone levy and budget estimates. In respect to the recorded vote, where more than one person from a business attends the meeting, only one vote per business shall be recorded.

(4) At least two (2) weeks prior to the meeting to be held under subsection (1), the Board shall:

(a) mail notices to every business located in the Zone of the date, time and location of that meeting, the business to be conducted thereat, and of the election procedures to be followed;

(b) publish in a daily newspaper having a general circulation in the City a notice stating the time, date, agenda and place of the meeting;

(c) file with Council proof of compliance with the procedures prescribed under this Section.

(5) In sending notices to businesses as required under subsection 4, the Board shall use such business names and addresses as are provided in the most recent list of businesses in the Zone, as provided by the City Assessor.

APPROVAL AND NOTICE

17. (1) The Board may not submit to Council its proposed program, zone levy and budget estimates, if they have not been approved by the majority of persons from businesses from the Zone that are represented at the budget meeting.

(2) Upon receipt of the Board's proposals, the Council shall request the Community Committee to conduct a public meeting to discuss the Board's proposed program, zone levy and budget estimates and to provide recommendations to Council within sixty (60) days from the receipt of Council's request.
amended 6597/95

(3) The recommendation to Council by the Community Committee, as required under subsection 2, shall be reviewed with recommendations by the appropriate Committees of Council through the normal procedures of the City prior to receipt by Council.

(4) At least fifteen days (15) prior to the meeting referred to in subsection 2, the Community Committee shall publish in a daily newspaper, having a general circulation in the City, a notice of:

(a) the time, date and place of the Community Committee meeting and the location where the Board's proposed program, zone levy and budget estimates referred to in subsection 2 may be viewed; and

(b) the final date for filing with the Community Committee of written objections with reasons from any person who wishes to make representations in respect of the Board's proposals.

(5) Council shall not approve the Board's proposed program, zone levy and budget estimates, if written notice of objection, as referred to in subsection 4(b), is received from one-third of the businesses in the Zone that represent one-third of the total Business Assessment in the Zone.

(6) The City Treasurer shall certify to Council whether the objectors under subsection (5) constitute one-third of the businesses that represent one-third of the total Business Assessment in the Zone as at the date established in subsection 4(b).

(7) Subject to subsection (5), Council may pass a by-law approving all or part of the Board's proposed program, zone levy and budget estimates and, upon that approval, may direct the payment to the Board or on behalf of the Board of an amount not exceeding the amount approved, such payment to be made in accordance with the following schedule, except as provided in subsection (10):

(a) 75% of the approved budget on June 30th;

(b) 15% of the approved budget on August 31st;

(c) 10% of the approved budget on October 31st.

(8) Notwithstanding the provisions of subsection (7), the City Treasurer may advance funds to the Board for preliminary administrative purposes in an amount not to exceed 5% of the budget approved by Council, the amount of such advance to be deducted from the City's first payment scheduled in subsections (7) or (10), as the case may be.

(9) Any costs incurred by the City on the account of the Business Improvement Zone, including uncollected Business Improvement Zone levies, shall be recovered through a charge against the Business Improvement Zone budget in the current or subsequent year.

(10) In the case where Council passes a by-law approving the initial budget of the Board, and Council establishes a date when Zone levies are to be due and payable, which is not the same date as that upon which business taxes become due and payable, then, in that case, Council may direct payment to the Board, or on behalf of the Board, of an amount not exceeding the amount approved, such payment to be made in accordance with the following schedule:

(a) 75% of the approved budget on the last day of the month following the date when Zone levies are due and payable;

(b) 15% of the approved budget on the last day of the second month following the date when Zone levies are due and payable;

(c) 10% of the approved budget on the last day of the third month following the date when Zone levies are due and payable.

FISCAL YEAR

18. The fiscal year of the Board shall be from January 1st to December 31st, but in the case of an initial fiscal year, same may be more or less than a full year but shall, in any event, end on December 31st.

EXPENDITURE OF MONIES

19. No Board shall expend any amount of money that is in excess of the amount approved by Council.

NO INDEBTEDNESS

20. The Board shall not incur any indebtedness or any other obligation that extends beyond the current fiscal year of the Board.

UNEXPENDED FUNDS

21. The Board may carry over any unexpended funds to its next fiscal year.

BUSINESS IMPROVEMENT ZONE LEVY

22. (1) Council shall levy on each business that is located in the Zone, a zone levy at a uniform rate in accordance with the by-law passed under subsection 17(7).

(2) A levy imposed under subsection (1) shall be deemed to be and may be collected in the same manner as a business tax.

ANNUAL REPORT

23. (1) The Board shall, on or before March 31st of the year following each fiscal year, prepare for submission to Council and all businesses in the Zone, an annual report which shall include:

(a) a complete audited statement of the Board's affairs;

(b) an audited balance sheet;

(c) an audited revenue and expenditure statement.

(2) All books, documents, records of transactions, minutes and accounts of a Board shall at all times be open to inspection by the Auditor.

24. If this By-law is repealed, the Board shall cease to exist and its undertakings, assets and liabilities shall be assumed and taken over by the City.

DONE AND PASSED in Council assembled, this 21st day of July, 1993.

SCHEDULE A to By-Law No. 6201/93

THE OSBORNE SOUTH BUSINESS IMPROVEMENT ZONE shall be that area of the City described as follows:

Commencing at the Eastern extremity of Arnold Avenue; then Westerly along Arnold Avenue to the back lane immediately East of Osborne Street; thence South along this back lane to the intersection of Clare Avenue; thence West on Clare Avenue to the intersection of Osborne Street; thence Northerly along Osborne Street to the intersection of Jubilee Avenue; thence West on Jubilee Avenue to the back lane immediately west of Osborne Street; thence Northerly along this back lane to the intersection of Walker Avenue; thence Westerly on Walker Avenue to the back lane immediately West of the Safeway Shopping Complex; thence Northerly along this back lane to Kylemore Avenue; thence Westerly on Kylemore Avenue to the C.N. Railway track; thence Northerly along the said railway track to the intersection of Morley Avenue; thence Easterly along Morley Avenue to the back lane immediately West of Osborne Street; thence Northerly along this back lane to its intersection with Glasgow Avenue; thence along Glasgow Avenue to its intersection with Osborne Street; thence Northerly along Osborne Street to its intersection with Mulvey Avenue; thence Easterly on Mulvey Avenue to its intersection with the Red River; thence proceeding South along the West bank of the Red River to its intersection with the straight production of Arnold Avenue being the point of commencement.

SCHEDULE B to By-law No. 6201/93

NOMINATION PAPER

Osborne South Business Improvement Zone

WE, the undersigned, all persons from businesses in the above Business Improvement Zone,

DO HEREBY NOMINATE

_____
(name of Nominee)

as Nominee for the Osborne South Business Improvement Zone.

DATED: _____ _____
(address) Winnipeg, Manitoba.

SIGNATURE (with name printed below)	BUSINESS NAME	BUSINESS ADDRESS
1) _____	_____	_____
2) _____	_____	_____
3) _____	_____	_____
4) _____	_____	_____
5) _____	_____	_____
6) _____	_____	_____
7) _____	_____	_____
8) _____	_____	_____
9) _____	_____	_____
10)_____	_____	_____

ACCEPTANCE OF NOMINEE

I, the undersigned Nominee, DO HEREBY ACCEPT the nomination.

DATED _____ Winnipeg, Manitoba.

_____
(Signature of Nominee)