Amendments to the Development Fees By-law No. 6965/97, The City Organization By-law No. 7100/97 and the Execution of Documents By-law No. 7367/99 to Reflect Current Organizational Structure and Update Delegations of Authority

File GL-5.6 (Vol. 9)

1. The Executive Policy Committee has been advised that The Planning, Property and Development Department recently conducted a comprehensive review of the Department's delegated authorities, in consultation with the Legal Services Division and the City Clerk's Department. As a result of the Departments' findings, amendments were recommended to various by-laws, which require Council approval.

As a result of a comprehensive review conducted by the Planning, Property and Development Department of its delegated authorities, the department identified numerous inconsistencies and opportunities to update and amend delegated authorities to reflect our current organizational structure and improve the effectiveness of service delivery.

The following is a series of recommended by-law amendments that will improve consistency in application of delegated authorities within the Planning, Property and Development Department and will more accurately reflect the Department's current structure and mandated responsibilities.

The Development Fees By-law No. 6965/97

The Director of Planning, Property and Development Department has specific authorities under Section 18 of the Development Fees By-law to refund or waive permit fees and development application fees within defined parameters.

To establish consistency in the application of said Section 18 of By-law No. 6965/97, it is recommended that Section 18.1(1) be updated and amended by deleting the words "Committee on Planning and Community Services" and "Commissioner of Planning and Community Services" and replacing them with the words "Standing Policy Committee on Property and Development" and "Director of Planning, Property and Development" respectively. Further amendment is recommended to reflect the current organizational structure by deleting the words "Director of Property and Development Services" and replacing them with the words "Director of Planning, Property and Development". The amendment, if approved, would read as follows:

"18.1 REFUND OR WAIVER OF DEVELOPMENT APPLICATION FEES

(1) The Standing Policy Committee on Property and Development may if it deems advisable in regard to a development application direct the Director of Planning, Property and Development to:

(a) refund all or part of a filing fee for any development application that is withdrawn prior to the required public meeting or approval process, as the case may be.
(b) waive all or part of a filing fee and advertising fee for any development application.

(2) Notwithstanding subsection 18.1(1), the area Community Committee direct the Director of Planning, Property and Development to refund or waive all or part of a development application fee, excluding the costs of advertising, where:

(a) the applicant is a not-for-profit and/or charitable organization; and
(b) the proposed development is intended to benefit the community or to provide a public service on a non-profit or charitable basis. (added 7552/2000)"

At present, Section 26 of the City Organization By-law No. 7100/97 provides for direction to be given to the Chief Administrative Officer where direction is provided by the Standing Policy Committee on Property and Development. However, Section 18(2) of By-law No. 6965/97 provides for direction to be given to the Director where direction is provided by the Community Committee. This amendment allows both the Standing Policy Committee and the Community Committee to provide direction to the Director.

The City Organization By-law No. 7100/97

In 1997, City Council enacted the City Organization By-law No. 7100/97 to establish governance and administrative structure of the City and to delegate certain powers and responsibilities from City Council to Executive Policy Committee, the Standing Committees and the Chief Administrative Officer.

The Transition Provision documented in Sections 36 (1) and (2) of said By-law No. 7100/97 states:

"36. (1) Wherever any by-law, policy, resolution, contract or delegation of authority permits or requires any action, proceeding or act to be taken or done by an employee of the City of Winnipeg who is listed in Column 1 of Appendix "C", any such action, proceeding or act taken or done by the employee correspondingly listed in Column 2 of the Appendix, shall be conclusively deemed to have been taken or done by the employee listed in Column 1, in accordance with the said by-law, policy, resolution, contract or delegation of authority.

(2) Whenever any by-law, policy, resolution, contract or delegation of authority makes reference to an employee of the City of Winnipeg who is listed in Column 1 of Appendix "C", that reference shall be interpreted as if it had been amended to read as that employee correspondingly listed in Column 2 of said Appendix."

The City's Legal Services Division has recommended amending Appendix "C" referenced in said Transition Provision Sections 36 (1) and (2) in order to accommodate the organizational changes and resulting position title changes within the Planning, Property and Development Department. More specifically, it is recommended that Appendix "C" be updated by adding the following Item No. 15 at the end of Appendix "C":

APPENDIX "C" to By-law No. 7100/97

Column 1	Column 2
15. The Supervisor of Building Inspections The Manager of Building Inspections	15. The Manager of Development and Inspections

This single amendment will impact various individual by-laws including the Maintenance and Occupancy By-law No. 4903/88, Winnipeg Building By-law No. 4555/87, Residential Buildings Fire Safety By-law No. 4304/86, and the Termite Control By-law No. 4891/88.

Execution of Documents By-law No. 7367/99

The City of Winnipeg Execution of Documents By-law No. 7367/99 delegates authority to various positions within the civic administration to execute certain documents, instruments and agreements, including amendment to the Cemetery By-law No. 1996/78.

In April 2000, Council adopted amendments to both the City Organization By-law and the Cemeteries By-law realigning responsibility for the Municipal Cemetery Operations under the Planning, Property and Development Department. In direct alignment with these amendments, further amendments are recommended to the Execution of Documents By-law to realign responsibility for execution of all documents, instruments and agreements relating to cemetery plot deeds for plots in City-owned cemeteries.

It is therefore recommended that the Execution of Documents By-law No. 7367/99 be amended by deleting the words "Director of Property and Development Services" and replacing them with the words "Director of Planning, Property and Development" wherever they occur in Section 4 in order to reflect the change in department name.

It is further recommended that the Execution of Documents By-law No. 7367/99 be amended by adding the following subsection at the end of Section 4:

> "(e) All documents, instruments, agreements and all cemetery plot deeds for plots in city-owned cemeteries, issued in accordance with the Cemetery By-law No. 1996/78, and amendments thereto."

It is further recommended that Section 5 of said by-law be repealed to reflect the realignment of this responsibility from the Community Services Department to that of the Planning, Property and Development Department, namely:

> "5. The Director of Community Services or designate in writing is hereby empowered for and on behalf of the City of Winnipeg to execute the following agreements and documents:
>
> (a) Jointly with the City Clerk, all cemetery plot deeds for plots in City-owned cemeteries, issued in accordance with the Cemetery By-law No. 1996/78."

It is also recommended that Section 10 of By-law No. 7367/99 be repealed and substituted with the following:

> "10. The form immediately following subsection 26(1) of the Cemetery By-law No. 1996/78 as amended is further amended by this by-law, by striking the titles "City Clerk" and "Director of Community Services" as signing officers to the deed and substituting these titles with the title "Director of Planning, Property and Development."

There is no financial impact.

Report of the Executive Policy Committee dated November 28, 2001

The Executive Policy Committee recommends:

I. That Council approve amendments to the Development Fees By-law No. 6965/97, the City Organization By-law No. 7100/97 and the Execution of Documents By-law No. 7367/99 to reflect the current organizational structure and to update delegations of authority so as to provide the Planning, Property and Development Department clear delegated authorities with regard to various functional, operational, financial and management issues.

II. That Section 18.1(2) of the Development Fees By-law No. 6965/97 be amended by deleting the word “direct” in the first line thereof and replacing it with the word “recommend”.

III. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law amendments.

IV. That the Proper Officers of the City be authorized to do all things necessary to effect those by-law amendments and implement the intent of the foregoing.