Agenda – Executive Policy Committee – December 7, 2011

REPORTS

Item No. 11 Development Procedures By-law

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That the new Development Procedures By-law, attached as Schedule 1, be enacted.

2. That the Development Procedures By-law No. 5893/92 and the Demolition Permits in Residential Areas By-law No. 4665/87 be repealed.

3. That this By-law apply, as much as possible, to applications submitted to the City while the Development Procedures By-law No. 5893/02 was in force.

ADMINISTRATIVE REPORT

Title: **DEVELOPMENT PROCEDURES BY-LAW**

Critical Path: **Executive Policy Committee → Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	B. Thorgrimson	N/A	D. Joshi, COO

RECOMMENDATIONS

1. That the new Development Procedures By-law*,* attached as Schedule 1, be enacted.

2. That the Development Procedures By-law No. 5893/92 and the Demolition Permits in Residential Areas By-law No. 4665/87 be repealed.

3. That this By-law apply, as much as possible, to applications submitted to the City while the Development Procedures By-law No. 5893/02 was in force.

REASON FOR THE REPORT

New procedures are required in order to implement the new types of development applications that are related to *OurWinnipeg* and *Complete Communities* By-laws.

In revising the *Development Procedures By-law* to implement the required amendments, an overall goal was established to make the Development Procedures clear and easy to understand in explaining the steps and requirements for development applications in the approval process.

The Development Procedures is a useful resource and reference tool for detailing the submission of a development application, defining the different types of development applications, defining the different type of hearing bodies, describing the public hearing process, describing the notification of public hearings, and describing the different types of appeals and their process that may be used by Councillors, the Public Service, applicants and members of the public.

This ‘new’ by-law reflects the current process and procedures for development applications and

public hearings process as provided in the current *Development Procedures By-law* and *Demolition in Residential Areas By-law*.

Also, several 'housekeeping' revisions have been made to provide greater clarity for the by-law users and address 'gaps' in the process for development applications / processing scenarios that have been encountered in the past. These housekeeping revisions are as follows:

- Define the Public Hearing process for instances where the City is the applicant – define the dual role played by the Director as the applicant/ providing policy/professional advice. A precedent process is OurWinnipeg, Complete Communities.

- Insert wording to clarify process that no new information may be presented after the conclusion of the Public Hearing unless public representation is re-opened on new information.

- Include wording to clarify that no new information may be presented at Standing Policy Committees or Executive Policy Committee after the conclusion of a Public Hearing at Community Committee – recommend deleting words "considering extra reports" in section 5(4) to avoid misunderstanding between admin reports and political amendments.

- Include provisions / process for re-opening Public Hearings, should Executive Policy Committee or Standing Policy Committee refer an application back to the original hearing body to consider new information.

- Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – add clarification and further definition to role of the Committee – for example, role with Secondary Plans, including appeals to adopted plans.

- Remove the Public Service provision for the explanation of application and reading of Public Service report prior to Appeals Hearing – this is rarely performed in practice, and the Chair of the Committee can call upon Public Service regardless of this provision.

- The Public Hearing process is defined for Appeal Committee – recommended that process for hearing representations (rebuttals) be defined earlier and be applicable to all Public Hearings.

- Add the phrase "Priority Rezoning Process" as a section heading to assist in defining process –adds substance to phrase when used in Community Committee recommendations to Executive Policy Committee.

- Clarify grey areas for the Priority Rezoning Process – the silence in reference to the Standing Policy Committees on Property and Development and Downtown, Heritage and Riverbank Management, and Executive Policy Committee is taken as inapplicable to those committees.

- Clarify wording for maximum length of time that a Community Committee can lay over a Public Hearing item – Include clarification for definitions of "no quorum" vs.

"adjournment" vs. "rescheduling", including provisions for re-advertising when applicable. Current language is not clear to all readers.

- Amend wording for Combined Hearings at Executive Policy Committee – the Charter permits Executive Policy Committee to choose whether or not to conduct a Combined Hearing when an OurWinnipeg amendment is involved.

- Clarify wording on Combined Hearings for all committees – in particular, the Appeal Committee and hearing Variance and Conditional Use appeals together

- Clarification on applications which shall / may be considered as Combined Hearings – merit for inclusion of ZAA and DAC, DAOC and DEMO.

- Include guidelines for a "streamlined Public Hearing process", i.e. having the EPC hear all components of a development proposal in a combined hearing (i.e. zoning, financing, private access, traffic control, street closing, variances). Precedent process - Tuxedo Yards. This would enable future development proposals to come forward without separate Council decisions or bylaw amendments to enable the 'single shop' process, or multiple hearings / meetings of council committees to 'approve' different aspects of one development.

In revising the existing by-law, the existing *Demolition in Residential Areas By-law* was fully integrated into the new *Development Procedures By-law* to consolidate the location of all development applications to one by-law.

The *Development Procedures By-law* has been organized to correspond to the linear process that a development application proceeds through from application to conclusion, and is also organized so the user may look up only the parts that are needed. This by-law is made up of four main parts:

Part 1 Draft Applications: outlines the pre-application process – a process that provides a prospective applicant with an opportunity to obtain written input from appropriate City departments as well as the area Councillor in advance of making a formal application. This section includes requirements related to when and how a draft application can be submitted.

Part 2 Submitting a Development Application: details the possibility of the application being refused without a hearing. Should a prospective applicant decide to make a formal development application and the application is contrary to a City policy, the procedure is outlined in this section.

Part 3 The Approval Process: outlines the approval process for each type of development application. As part of the approval process, a Public Hearing is typically required before a Public Hearing body, which may include the Executive Policy Committee, Board of Adjustment, Standing Policy Committee on Property and Development, Standing Policy Committee on Downtown Development, Heritage and Riverbank Management or one of the five Community Committees. In some instances, the Director may consider and make decisions with respect to certain development applications as outlined in this section. The overarching objective of this section is to provide clarity with respect to the approval process, including when the Director may make a decision, what Public Hearing body is involved for each development application

type and what happens in the event of a combined hearing.

Part 4 Public Hearing Process, **Notice, Appeals:** details the public notification and appeal process for development applications. Public notification of the date/time/location of a Public Hearing is required by the *City of Winnipeg Charter*, as well as notice of the decision. This section outlines the notification requirements, including posting criteria. This section also outlines the appeal process, including when a decision can be appealed as well as the role/process of the Appeal Committee for different types of development applications. This section also outlines the steps that occur by each of the participants at a Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning, Property and Development Department are concurred in, the existing Development Procedures By-law and the existing Demolition in Residential Areas By-law will be replaced with the new **Development Procedures By-law**

HISTORY

On July 21, 2011, City Council gave Third Reading, and adopted as By-Law 67 /2010, *OurWinnipeg,* the city's official community plan, the blueprint that will guide the physical, social, environmental, and economic development of Winnipeg. *OurWinnipeg* positions Winnipeg to accommodate significant growth in a coordinated and sustainable way, which is a key to our future competitiveness. It sets a vision for the next 25 years and provides direction in three areas of focus – each essential to Winnipeg's future: a City that Works, a Sustainable City, and Quality of Life.

Also on July 21, 2011, City Council gave Third Reading, to the *Complete Communities Direction Strategy* - By-Law 68/2010 as a city-wide adopted Secondary Plan, an innovative, practical "playbook" that guides land use and development for Winnipeg. Its primary focus is to describe Winnipeg's physical characteristics and lay out a framework for the city's future physical growth and development.

Complete Communities Direction Strategy provides new tools and approaches to foster development that establishes Winnipeg as an urban leader in the achievement of unique, sustainable and complete communities and is based on two key pillars: Complete Communities and the Urban Structure. Amendments to Complete Communities may be required in the future.

FINANCIAL IMPACT

Financial Impact Statement Date: November 25, 2011

Project Name:

DEVELOPMENT PROCEDURES BY-LAW

COMMENTS:

The recommendations contained in this report are that 1) That the new Development Procedures By-law, attached as Schedule 1, be enacted, 2) That the Development Procedures By-law No. 5893/92 and the Demolition Permits in Residential Areas By-law No. 4665/87 be repealed and, 3) That this By-law apply, as much as possible, to applications submitted to the City while the Development Procedures By-law No. 5893/02 was in force.

There are no financial implications associated with these recommendations.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

- Legal Services
- City Clerks

SUBMITTED BY

Department: Planning, Property and Development
Division: Planning and Land Use
Prepared by: John Wintrup
Date: November 25, 2011
File No. O:\Reports Directive\Planning and Land Use\Urban Planning Reports\2011 Reports\DEVELOPMENT PROCEDURES BY-LAWReport.doc

List of Schedules and Attachments

1. Schedule “1” – Development Procedures By-law

Schedule 1: Development Procedures By-law

THE CITY OF WINNIPEG

DEVELOPMENT PROCEDURES BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to provide procedures for development applications and related matters.

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

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INTRODUCTION: HOW TO USE THIS BY-LAW

A. PURPOSE

i The Development Procedures By-law of The City of Winnipeg outlines the important approval procedures related to each of the different types of development applications that are required under the Winnipeg Zoning By-law No. 200/2006, the Downtown Winnipeg Zoning By-law No. 100/2004, relevant secondary plan by-laws, the Complete Communities Direction Strategy By-law No. 68/2010, and the OurWinnipeg Plan By-law No. 67/2010, as required under Part 6 of *The City of Winnipeg Charter.*

ii The Development Procedures By-law defines the different type of development applications and identifies the approval bodies for each type of development application that can be made with The City of Winnipeg.

iii The approval bodies in The City of Winnipeg governance structure are defined under the City Organization By-law No. 7100/97, which establishes the governance structure of the City and delegates certain powers and responsibilities from City Council to the Executive Policy Committee, the Standing Policy Committees and the Chief Administrative Officer.

iv The Development Procedures By-law outlines the public hearing process, notification and appeal process, which has been established under Part 6 *The City of Winnipeg Charter.*

B. GENERAL PROVISIONS

i The following subsections provide a general description of the Development Procedures By-law in order to guide the By-law user. This introduction is not a substitute for the requirements contained in this By-law. Other City of Winnipeg Bylaws, including the Winnipeg Zoning By-law, and the Downtown Winnipeg Zoning By-law , include important standards related to the development and use of property in Winnipeg. The fees and charges for development applications, permits, and related matters, are imposed under the Planning, Development and Building Fees By-law No. 77/2009 and the Fees and Charges By-law No. 196/2008. The standards for building construction are imposed under the Winnipeg Building By-law No. 4555/87.

C. SCOPE

i The Development Procedures By-law provides the user with important information related to the following development application types:

a. **OurWinnipeg Plan By-law (Plan Winnipeg):** O*urWinnipeg* is Winnipeg's 25-year blueprint that will guide the physical, social, environmental, and economic development of our city as per *The City of Winnipeg Charter*. OurWinnipeg is a statutory plan that was adopted as a By-law by City Council. Public works, undertakings and development in the city must be consistent with O*urWinnipeg* or any secondary plan, as per *The City of Winnipeg Charter*. Instance may arise when an amendment to OurWinnipeg Plan By-law is contemplated. Requires public hearing at Executive Policy Committee and Council approval.

b. **Complete Communities Direction Strategy By-law:** is one of four Direction Strategies that informs the OurWinnipeg Plan By-law. It is the new land use and development plan that will provide a framework for how Winnipeg will accommodate growth and change over the next 25 years in all areas of the city. Complete Communities Direction Strategy By-law is a statutory plan adopted as a secondary plan by-law by City Council. Instance may arise when an amendment to Complete Communities Direction Strategy By-law is contemplated. Requires public hearing at Executive Policy Committee and Council approval.

c. **Secondary Plan By-law:** Secondary plan by-laws take the general policies laid out in a city's development plan and elaborate on them, tailoring them to guide the development or redevelopment of a specific area to be adopted by Council as a by-law. In existing neighbourhoods, secondary plans adopted as a by-law may also be called neighbourhood or area master plans or in future neighbourhoods, area structure plans, neighbourhood area structure plans or precinct plans. Instances will arise when a new secondary plan by-law is proposed for adoption or an amendment to an existing secondary plan by-law is contemplated. Requires public hearing at the relevant community committee and Council approval. Amendment Applications in the Downtown require a public hearing at the

Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and Council approval.

d. **Rezoning (DAZ):** The application procedure used when rezoning property without creating new lots or modifying existing lots. Requires public hearing at community committee and Council approval.

e. **Zoning Agreement Amendment (ZAA):** An application to amend (change through deletion or addition of wording) a legal agreement that is attached as a caveat to land. Requires a public hearing at the relevant community committee and Council approval.

f. **Subdivision (DAS):** The application procedure used when a proposed plan of subdivision creates new lots and streets or lanes but does not require a zoning change. Requires public hearing at community committee and Council approval.

g. **Subdivision and Rezoning (DASZ):** Application procedure used when a proposed plan of subdivision creates new lots and requires a zoning change. Requires public hearing at community committee and Council approval.

h. **Subdivision, Short Form (DASSF):** the application procedure used when a proposed plan of subdivision creates new lots where no new public street or lane is being created and a zoning change is not required. Does not require a public hearing.

i. **Variance (DAV):** The modification of a provision of a zoning by-law. There are four types of Variance applications based on the approval process as outlined in the Development Procedures By-law:

    1. 'A' Variances are tolerances, minor variances of bulk regulations granted by the Zoning Administrator.
    2. 'B' Variances are minor variances reviewed by a Zoning Development Officer on behalf of the Director and either approved or rejected. The decision of the Director is posted on the site and anyone can appeal the decision to the Appeal Committee for a public hearing.

3. ‘C’ Variances are minor variances reviewed by a Planner who makes a recommendation to the Board of Adjustment where a public hearing is held.

4. ‘D’ Variances are minor variances usually associated with a rezoning/plan of subdivision applications that are being reviewed by a Planner who makes a recommendation to the community committee where a public hearing is held

j. **Conditional Use (DCU):** A use of real property that might be approved under a zoning by-law. May be granted by the Director (‘B’ type); the Board of Adjustment (‘C’ Type); or community committee (‘D’ Type).

k. **Plan Approval (Site Plan Approval; Schedule ‘A’ approval):** a common condition of approval for DAZ, DASZ, DCU and DAV’s is for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage for plan approval prior to the issuance of any building or development permit. The approval body is commonly the community committee and/or the Director. Site plans need to be submitted to the Zoning and Permits Branch for analysis and then to the Planning and Land Use Division for preparation of a report which is submitted to the appropriate community committee.

l. **Demolition Permits (DEMO):** the owner of a residential building wants to demolish all or part of it and leave a vacant land parcel. This requires a public hearing, generally at community committee, before the demolition permit may be issued.

ii The Development Procedures By-law provides important information regarding the following public hearing bodies. In particular, it provides guidance with respect to what hearing bodies are responsible for conducting a public hearing for the above noted development application types:

a. **Executive Policy Committee (EPC):** A committee of Council comprised of the Mayor, who is chairperson of the committee; the chairpersons of Standing Policy Committees, and any other members of Council appointed by the Mayor. Duties and powers include hearing matters related to the merits and

interpretations of OurWinnipeg Plan By-law and Complete Communities Direction Strategy By-law.

b. **Community Committee**: A three-person committee of councillors for the wards of a particular community; exercises powers and duties as provided in the City Organization By-law, including conducting hearings and making recommendations and decisions on certain development applications.

c. **Board of Adjustment (BOA):** is comprised of citizens appointed by Council; exercises functions as provided in the Board of Adjustment By-law, including conducting hearings and making recommendations and decisions on certain development applications. The decisions of the Board of Adjustment may be appealed to the Appeal Committee.

d. **Standing Policy Committee on Property and Development (SPCPD): a committee of Council the duties and powers of which include** providing policy advice to Council on matters within the areas of jurisdiction as provided by the City Organization By-law.

e. **Standing Policy Committee on Downtown Development, Heritage and Riverbank Management:** a committee of Council the duties and powers of which include providing policy advice to Council on matters related to downtown within the areas of jurisdiction as provided by the City Organization By-law.

f. **Appeal Committee, Development Applications:** The Standing Policy Committee of Council to which hearings have been delegated for the appeals for Variances and Conditional Uses granted by the Director, Board of Adjustment, or community committee. The Appeal Committee considers the merits of a development and development application by hearing all relevant information and makes a decision regarding the development application. The decision of the Appeal Committee, including one or more conditions attached to the decision, is final - there is no other municipal body with the authority to decide on variances and/or conditional uses.

g. **Appeal of Application Refusal Based on OurWinnipeg Plan By-law and/or Complete Communities Direction Strategy By-law:** applicants have an opportunity under The City of Winnipeg Charter to appeal a decision of a designated

employee to refuse a development application without a hearing due to the application not conforming with the Our Winnipeg Plan By-law and/or the Complete Communities Direction Strategy By-law. This decision can be appealed within one year. The appeal is hear by the Executive Policy Committee which will make an interpretation of the relevant policy.

h. **Appeal Committee, Application Refusal Based on secondary plan by-law:** applicants have an opportunity under *The City of Winnipeg Charter* to appeal a decision of a designated employee to refuse a development application without a hearing due to the application not conforming with a secondary plan. This decision can be appealed within one year. The appeal is heard by either the Standing Policy Committee on Property and Development or the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, depending on the location of the subject property. That committee will make an interpretation of the relevant policy.

i. **Appeal of Denial of Plan Approval:** applicants have an opportunity to appeal the first-level decision regarding approval of plans. The appeal is heard by either the Standing Policy Committee on Property and Development or the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, depending on the location of the subject property.

j. **Appeal Committee, Demolition Permit:** applicants and certain other persons have an opportunity to appeal a decision of a committee of Council on an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law. The appeal is heard by the Standing Policy Committee on Property and Development.

D. ORGANIZATION OF THIS BY-LAW

i This By-law is not necessarily intended to be read from cover to cover. It has been organized in the linear process a development application proceeds through from application to conclusion but it is organized so the user may look up only the parts that are needed. This By-law is made up of four main parts:

a. **Part 1 Draft Applications:** outlines the draft application process – a process that provides a prospective applicant with an opportunity to obtain written input from appropriate City departments as well as the ward councillor in advance of making a formal application. This section includes requirements related to when and how a draft application can be submitted.

b. **Part 2 Submitting a Development Application:** details the procedure to be followed if a development application is refused without a hearing due to the application not conforming with the OurWinnipeg Plan By-law or a secondary plan.

c. **Part 3 The Approval Process:** outlines the approval process for each type of development application. As part of the approval process, a public hearing to hear the merits of the development and development application is typically required before a public hearing body, which may include the Executive Policy Committee; Board of Adjustment; Standing Policy Committee on Property and Development; Standing Policy Committee on Downtown Development, Heritage and Riverbank Management; or one of the five community committees. In some instances, the Director may consider and make decisions with respect to the merits of certain development applications as outlined in this section. The overarching objective of this section is to provide clarity with respect to the approval process, including when the Director may make a decision, what public hearing body is involved for each development application type and what happens in the event of a combined hearing.

d. **Part 4 Public Hearing Process, Notice, Appeals:** details the public notice and appeal process for development applications. Public notification of information including the nature of the application and the date/time/location of a public hearing is required by *The City of Winnipeg Charter*, as well as notice of the decision. This section outlines the notice requirements, including posting criteria. This section also outlines the appeal process, including when a decision can be appealed as well as the role/process of the Appeal Committee. And this section outlines the steps that occur by each of the participants speaking on the merits of a development and development application at a public hearing.

PART 1: DRAFT APPLICATIONS

A. DESCRIPTION

i In advance of making a formal development application, a prospective applicant can make a draft application whereby preliminary, written input can be obtained from appropriate City departments as well as the ward councillor about the opportunities and constraints of a specific development proposal. An applicant may make a draft application for all application types identified in requirements below.

B. REQUIREMENTS

i An applicant may submit a draft application for the requirements of:

a. a proposed rezoning,

b. a proposed zoning agreement amendment,

c. a proposed plan of subdivision,

d. a variance,

e. a conditional use,

f. a proposed secondary plan by-law,

g. a proposed Complete Communities Direction Strategy By-law amendment;

h. a proposed OurWinnipeg Plan By-law amendment, or

i. any combination of the above.

ii If submitting a draft application, the applicant shall submit it to the Director and shall pay the fee prescribed in the Planning, Development and Building Fees By-law, which shall be non-refundable.

iii An applicant who has submitted a draft application may subsequently notify the Director that the applicant intends to proceed with an application for approval of the same matter, with or without amendments to the draft application.

iv An applicant who has given the Director notification under the above subsection shall proceed by submitting an application. The Director

shall review and process the application in accordance with the Development Procedures By-law.

v Where an applicant who has given the Director notification as outlined above and submits an application, the fee paid in accordance with the above subsection shall be credited toward the application fees payable imposed under the Planning, Development and Building Fees By-law.

PART 2: SUBMITTING A DEVELOPMENT APPLICATION

A. DESCRIPTION

i Prior to the City issuing a development permit, the owner of the real property in question may be required to submit a development application. In these instances, the owner is to submit the development application to the Director of the Planning, Property and Development Department in accordance with the following requirements.

B. REQUIREMENTS

i Development applications shall be made in accordance with *The City of Winnipeg Charter.*

ii The owner shall pay to the City the fees required by the Planning, Development and Building Fees By-law in respect of a development application and related approvals and permits.

iii The form and content of application forms and information to be submitted in support of an application shall be as determined by the Director from time to time.

iv The Director shall have the powers of a "designated employee" under *The City of Winnipeg Charter*.

v Development applications shall be made to the Director, who shall review all development applications to ensure that the application submitted is the proper application in relation to the owner's proposed undertaking.

vi Where, in the opinion of the Standing Policy Committee, Executive Policy Committee or the Director, as the case may be, the development application(s) is the proper application(s) in relation to the applicant's proposed development, and it conforms with OurWinnipeg Plan By-law, Complete Communities Direction Strategy By-law, and/or any secondary plan by-law for the area in which the land or building is located, the Committee or the Director shall direct that the development application(s) be referred to the appropriate designated city administrator, committee of council, or board of adjustment, as the case may be, subject to the requirements of a development application as per this By-law.

C. REFUSING AN APPLICATION

i In accordance with *The City of Winnipeg Charter* , if a development application does not conform with the OurWinnipeg Plan By-law or the Complete Communities Direction Strategy By-law or a secondary plan by-law for the area in which the subject property is located, the Director as the "designated employee" must refuse the application without a public hearing.

OURWINNIPEG PLAN BY-LAW and COMPLETE COMMUNITIES DIRECTION STRATEGY BY-LAW

a. Where the Director refuses a development application(s) for non-conformance with OurWinnipeg Plan By-law and/or Complete Communities Direction Strategy By-law; OurWinnipeg Plan By-law and a secondary plan by-law; or Complete Communities Direction Strategy By-law and a secondary plan by-law, the Director shall serve a copy of that decision on the applicant, in accordance with *The City of Winnipeg Charter*.

i. The applicant may appeal the Director's decision to the Executive Policy Committee within one year of the date of the decision, and the appeal shall be conducted in accordance with section 189 of *The City of Winnipeg Charter*.

ii. The Executive Policy Committee shall review the application(s) which is the subject of an appeal, hear any representations concerning the application's conformance with the OurWinnipeg Plan By-law and/or the Complete Communities Direction Strategy By-law; the OurWinnipeg Plan By-law and a secondary plan by-law; or the Complete Communities Direction Strategy By-law and a secondary plan by-law, make a decision and serve a copy of its decision on the applicant in accordance with *The City of Winnipeg Charter*.

iii. During the hearing the Executive Policy Committee may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary.

iv. Where the Executive Policy Committee refuses the application(s), it shall record in its minutes the reasons for the

refusal, and shall provide a copy of the reasons to the applicant on request.

SECONDARY PLAN BY-LAW

b. Where the Director refuses a development application(s) for non-conformance with a secondary plan by-law (excluding the Complete Communities Direction Strategy By-law), the Director shall serve a copy of that decision in writing to the owner, in accordance with *The City of Winnipeg Charter*.

i. The owner may appeal the Director's decision within one year of the date of the decision to the Standing Policy Committee on Property and Development, except where the land is located entirely or primarily in the area covered by The Downtown Winnipeg Zoning By-law, where the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall be the appeal body. The appeal shall be conducted in accordance with section 189 of *The City of Winnipeg Charter*.

ii. The Standing Policy Committee shall review an application(s) which is the subject of an appeal under clause 2.C, hear any representations concerning the application's conformance with the applicable secondary plan by-law, make a decision and serve a copy of its decision on the applicant in accordance with *The City of Winnipeg Charter*.

iii. During the hearing the Standing Policy Committee may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary by the decision body.

iv. Where the Standing Policy Committee refuses the application(s), it shall record in its minutes the reasons for the refusal, and shall provide a copy of the reasons to the applicant on request.

D. CITY OF WINNIPEG AS APPLICANT

i The Director as the "designated employee" under this By-law shall be the employee responsible for causing to be made any development application required or requested to be made on behalf of the City of Winnipeg for the following development application types:

a. amendment of the OurWinnipeg Plan By-law;
b. amendment of the Complete Communities Direction Strategy By-law;
c. amendment of any other secondary plan by-law;
d. adoption of a new secondary plan by-law;
e. amendment of a zoning by-law that does not change the zoning classification of any land;
f. amendment of a zoning by-law that does change the zoning classification of land;
g. closing a street right-of-way; and/or
h. closing and opening streets rights-of-way;

ii The appropriate public hearing body as provided in this By-law shall review the application(s) made by the "designated employee" on behalf of the City of Winnipeg, hear any representations concerning the application's proposed merits and, make a recommendation to Council. The City shall serve a summary of the report and its recommendations in accordance with *The City of Winnipeg Charter*.

iii During the hearing, the hearing body may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary.

PART 3: APPROVAL PROCESS

1. OURWINNIPEG PLAN BY-LAW

A. DESCRIPTION

i *OurWinnipeg* is Winnipeg's 25-year blueprint that will guide the physical, social, environmental, and economic development of our city as per *The City of Winnipeg Charter*. *OurWinnipeg* is a statutory plan that was adopted as a Plan Winnipeg By-law (67/2010) by City Council. Public works, undertakings and development in the city must be consistent with the OurWinnipeg Plan By-law or any secondary plan as per *The City of Winnipeg Charter*. Instances may arise when an amendment to the OurWinnipeg Plan By-law is contemplated for policy text or map elements. These are done through a by-law to amend the *OurWinnipeg Plan By-law*.

ii In accordance with *The City of Winnipeg Charter*, the Executive Policy Committee is the body responsible for conducting hearings for proposed amendments to the *OurWinnipeg Plan By-law*, and making reports to Council.

iii An amendment to the OurWinnipeg Plan By-law requires Council approval.

iv After second reading, the proposed amending by-law is forwarded to the appropriate Minister of the Provincial Government where it can be approved, approved subject to conditions, rejected, or referred to the Municipal Board for a public hearing prior to the Minister's decision. Once a decision is made, the Minister gives notice of the decision to the City. If the decision is to approve the proposed amending by-law, Council may then give the by-law third reading. If other applications depend on the amendment to the OurWinnipeg Plan By-law, the City will hold off on deciding those applications until the OurWinnipeg Plan By-law decision is received from the Minister.

B. REQUIREMENTS

The following requirements provide additional detail with respect to amendments to the OurWinnipeg Plan By-law.

i A proposed amendment to the OurWinnipeg Plan By-law shall, after first reading and before second reading, be referred for conduct of a public hearing in accordance with *The City of Winnipeg Charter.*

ii The Executive Policy Committee must conduct a public hearing for any application(s) which intends to amend OurWinnipeg Plan By-law in order to hear representations concerning the merits of the proposed amendment of OurWinnipeg Plan By-law, and make a report to Council. The City shall send a summary of the report and its recommendations to the applicant and any person who made submissions at the hearing, in accordance with *The City of Winnipeg Charter*.

iii During the hearing the Executive Policy Committee may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary.

C. RECOMMENDATION OF COMMITTEE

i The Executive Policy Committee report and recommendation shall be forwarded to Council.

ii No new information shall be presented to Council after the conclusion of the public hearing unless public representation is re-opened at the original hearing body to consider new information, but nothing in this By-law precludes Council considering additional recommendations from any committee of Council making them in relation to the application.

iii Council may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary

2. COMPLETE COMMUNITIES DIRECTION STRATEGY BY-LAW

A. DESCRIPTION

i The Complete Communities Direction Strategy By-law is an innovative, practical “playbook” that guides land use and development for Winnipeg. Its primary focus is to describe Winnipeg’s physical

characteristics and lay out a framework for the city's future physical growth and development. It provides new tools and approaches to foster development that establishes Winnipeg as an urban leader in the achievement of unique, sustainable and complete communities and is based on two key pillars: *Complete Communities* and the *Urban Structure*.

ii The *Complete Communities Direction Strategy* has been adopted as a secondary plan by-law by City Council (By-law No. 68/2010). The Complete Communities Direction Strategy By-law is a supporting document to OurWinnipeg Plan By-law and it serves as the City's Land Use and Development Plan.

iii Instances may arise when an amendment to the Complete Communities Direction Strategy By-law is contemplated for policy text or map elements.

iv The Executive Policy Committee, or one of the Standing Policy Committees as designated by Executive Policy Committee, shall serve as the hearing body responsible for hearing the merits of amendments to the Complete Communities Direction Strategy By-law, and making recommendations to Council.

v An amendment to the Complete Communities Direction Strategy By-law requires Council approval.

B. REQUIREMENTS

The following requirements provide additional detail with respect to amendments to the Complete Communities Direction Strategy By-law:

i A proposed amendment to the Complete Communities Direction Strategy By-law shall, after first reading and before second reading, be referred for conduct of a public hearing in accordance with *The City of Winnipeg Charter.*

ii The Executive Policy Committee, or one of the Standing Policy Committees as designated by Executive Policy Committee, shall review any application(s) which intends to amend the Complete Communities Direction Strategy By-law, hear any representations concerning the merits of the proposed amendment, and make a report to Council. The City shall send a summary of the report and its recommendations to the applicant and any person who made

submissions at the hearing, in accordance with *The City of Winnipeg Charter*.

C. RECOMMENDATION OF COMMITTEE

i The Executive Policy Committee, or one of the Standing Policy Committees as designated by Executive Policy Committee, report and recommendation shall be forwarded to Council;

ii No new information shall be presented to Council after the conclusion of the public hearing unless public representation is re-opened at the original hearing body to consider new information, but nothing in this By-law precludes Council considering additional recommendations from any committee of Council making them in relation to the application.

iii Council may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary.

3. SECONDARY PLAN BY-LAW

A. DESCRIPTION

i Secondary plan by-laws take the general policies laid out in a city's development plan and elaborate on them, tailoring them to guide the development or redevelopment of a specific area to be adopted as a by-law by Council. In existing neighbourhoods, secondary plans adopted as a by-law may also be called neighbourhood or area master plans or in future neighbourhoods, area structure plans, neighbourhood area structure plans or precinct plans.

ii Instances may arise when a new secondary plan by-law is proposed for adoption or an amendment to an existing secondary plan by-law is contemplated.

iii A public hearing to consider the merits of a proposed secondary plan by-law, or secondary plan by-law amendment will typically be held by the community committee for the community area in which the land is located.

iv Adoption or amendment of a secondary plan by-law requires Council approval.

B. REQUIREMENTS

The following requirements provide additional detail with respect to secondary plan by-laws.

i A proposed secondary plan by-law shall, after first reading and before second reading, be referred for conduct of a public hearing in accordance with *The City of Winnipeg Charter* as per the following:

a. where the land to which the proposed secondary plan by-law applies is located in one community area and covered by the Winnipeg Zoning By-law, the community committee for that community shall be the public hearing body;

b. where the land is located in two or more communities, the community committee for one of those communities, as designated by resolution of City Council, shall be the public hearing body ;

c. where the land is located in two or more communities including one within an area covered by The Downtown Winnipeg Zoning By-law, the public hearing body shall be designated by resolution of City Council;

d. where the land is located entirely or primarily in the area covered by The Downtown Winnipeg Zoning By-law, the public hearing body shall be the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

e. but if Council deems it more appropriate, it may by resolution designate either the Executive Policy Committee or a Standing Policy Committee to conduct the public hearing for any secondary plan by-law.

C. RECOMMENDATION OF COMMITTEE

i A Standing Policy Committee that conducts a public hearing to consider a proposed secondary plan by-law shall forward its report and recommendations to the Executive Policy Committee for its consideration.

ii A community committee that conducts a public hearing to consider a proposed secondary plan by-law shall forward its report and recommendation to the Standing Policy Committee on Property and Development for its consideration.

iii A Standing Policy Committee shall:

a. Forward any report and recommendation of the community committee together with its own recommendations or report and recommendations to the Executive Policy Committee for its consideration; or

b. Refer the development applications back to the original hearing body at the community committee to consider new information by re-opening the public hearing.

iv The Executive Policy Committee shall:

a. Forward any report and recommendation of the community committee and/or the standing policy committee together with its own report and recommendations to Council; or

b. Refer the applications back to the original hearing body at the committee to consider new information by re-opening the public hearing.

v No new information shall be presented to the Standing Policy Committee, the Executive Policy and/or Council after the conclusion of the public hearing unless public representation is re-opened at the original hearing body to consider new information, but nothing in this By-law precludes Council considering additional recommendations from any committee of Council making them in relation to the application.

vi Council or a committee of Council considering the matter may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised in the hearing, on procedural items, on technical information, and other matters deemed necessary.

4. ZONING AND SUBDIVISION (DAS)

A. DESCRIPTION

i In a development, a proposed zoning by-law typically refers to a rezoning (DAZ) – the application procedure used when rezoning property without creating new lots or modifying existing lots. A Zoning Agreement Amendment (ZAA) refers to a change to a zoning agreement attached to the land title as a caveat under a previous rezoning application. A Subdivision (DAS) refers to the application procedure used when a proposed plan of subdivision creates new lots and streets or lanes but does not require a zoning change. Finally a subdivision and rezoning (DASZ) refers to the application procedure used when a proposed plan of subdivision creates new lots and requires a zoning change.

ii A public hearing to consider a proposed zoning by-law, zoning agreement amendment and/or plan of subdivision will typically be held by the community committee for the community in which the land is located. When the lands in question are located in the downtown, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the public hearing to consider the proposed development and development applications. Please see 'Combined Hearings' for instances where a proposed zoning by-law, zoning agreement amendment and/or application for subdivision approval is being advanced concurrently with another item such as an amendment to the OurWinnipeg Plan By-law, an amendment to the Complete Communities Direction Strategy By-law, an amendment to a secondary plan by-law, an application for approval of a variance or a conditional use, and a street opening or street closing application.

iii Amendment of a zoning by-law requires Council approval.

B. REQUIREMENTS

The following requirements provide additional detail with respect to rezoning and subdivision applications.

TEXT AMENDMENTS TO DOWNTOWN ZONING BY-LAW

i The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed amendment to the Downtown Winnipeg Zoning By-law (including establishing or amending a planned development overlay district) which does not change the zoning classification of any land .

DOWNTOWN REZONING (DAZ), ZONING AGREEMENT AMENDMENTS (ZAA), SUBDIVISION AND REZONING (DASZ), and SUBDIVISION (DAS)

ii The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed zoning by-law change that changes the zoning classification of land where the land is located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law.

iii The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed zoning agreement amendment affecting any land, where the land is located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law.

iv The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed plan of subdivision that creates new lots and changes the zoning classification of any land, where the land is located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law.

v The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed subdivision approval that creates new lots and streets or lanes but does not require a zoning change, where the land is located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law.

DOWNTOWN & COMMUNITY AREA REZONING (DAZ), ZONING AGREEMENT AMENDMENTS (ZAA), SUBDIVISION AND REZONING (DASZ),and SUBDIVISION (DAS)

vi The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed zoning by-law change that changes the zoning classification of any land, where the land is located in two or more communities including one within an area covered by the Downtown Winnipeg Zoning By-law.

vii The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed zoning agreement amendment affecting any land, where the land is located in two or more communities including one within an area covered by the Downtown Winnipeg Zoning By-law.

viii The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed plan of subdivision that creates new lots and changes the zoning classification of any land, where the land is located in two or more communities including one within an area covered by the Downtown Winnipeg Zoning By-law.

ix The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the hearing for a proposed plan of subdivision that creates new lots and streets or lanes but does not require a zoning change, where the land is located in two or more communities including one within an area covered by the Downtown Winnipeg Zoning By-law.

DOWNTOWN SUBDIVISION BY "SHORT-FORM" (DASSF) OR CONSENT

x An application for

a. approval of a plan of subdivision under clause 256(1)(b) of *The City of Winnipeg Charter*, or

b. a consent under section 260 of *The City of Winnipeg Charter*,

shall be referred to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management as the authorized committee under those

sections, where the matter relates to real property located entirely or primarily in the area covered by The Downtown Winnipeg Zoning By-law.

The above notwithstanding, the Director may make a decision in respect of the application and may, in accordance with *The City of Winnipeg Charter*, approve it, or approve it with conditions, except a condition that the owner is required to enter into a development agreement or subdivision agreement with the City.

TEXT AMENDMENTS TO WINNIPEG ZONING BY-LAW

xi The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall conduct the public hearing for a proposed zoning by-law to enact or amend the text of the Winnipeg Zoning By-law (including establishing or amending a planned development overlay district) without changing the zoning classification of any land, that would affect land in two or more communities.

TEXT AMENDMENTS TO WINNIPEG ZONING BY-LAW, COMMUNITY AREA

xii The community committee for the community in which the land is located shall conduct the public hearing for a proposed zoning by-law to enact or amend the text of the Winnipeg Zoning By-law (including establishing or amending a planned development overlay district) without changing the zoning classification of any land, that would affect land in that community only.

COMMUNITY AREA REZONING (DAZ), ZONING AGREEMENT AMENDMENTS (ZAA), SUBDIVISION AND REZONING (DASZ),and SUBDIVISION (DAS*)*

xiii The community committee for the community in which the land is located shall conduct the hearing for a proposed zoning by-law change that changes the zoning classification of any land, where the land is covered by the Winnipeg Zoning By-law.

xiv The community committee for the community in which the land is located shall conduct the hearing for a proposed zoning agreement amendment affecting any land, where the land is covered by the Winnipeg Zoning By-law.

xv The community committee for the community in which the land is located shall conduct the hearing for a proposed plan of subdivision that creates new lots and changes the zoning classification of any land, where the land is covered by the Winnipeg Zoning By-law.

xvi The community committee for the community in which the land is located shall conduct the hearing for a proposed plan of subdivision that creates new lots and streets or lanes but does not change the zoning classification of any land,, where the land is covered by the Winnipeg Zoning By-law.

MULTIPLE COMMUNITY AREAS REZONING (DAZ) & ZONING AGREEMENT AMENDMENTS (ZAA), SUBDIVISON AND REZONING (DASZ), SUBDIVISON (DAS)

xvii The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall conduct the hearing for a proposed zoning by-law change that changes the zoning classification of any land, where the land is located in two or more communities and covered by the Winnipeg Zoning By-law .

xviii The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall conduct the hearing for a proposed zoning agreement amendment affecting any land, where the land is located in two or more communities and covered by the Winnipeg Zoning By-law .

xix The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall conduct the hearing for a proposed plan of subdivision that creates new lots and changes the zoning classification of any land, where the land is located in two or more communities and covered by the Winnipeg Zoning By-law .

xx The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall conduct the hearing for a proposed plan of subdivision that creates new lots and streets or lanes but does not require a zoning change, where the land is located in two or more communities and covered by the Winnipeg Zoning By-law .

COMMUNITY AREA SUBDIVISION BY "SHORT-FORM" (DASSF) OR CONSENT

xxi An application for

a. approval of a plan of subdivision under clause 256(1)(b) of *The City of Winnipeg Charter*, or

b. a consent under section 260 of *The City of Winnipeg Charter*,

shall be referred to the Standing Policy Committee on Property and Development as the authorized committee under those sections, where the matter relates to real property located entirely or primarily in the area covered by the Winnipeg Zoning By-law.

The above notwithstanding, the Director may make a decision in respect of the application and may, in accordance with *The City of Winnipeg Charter*, approve it, or approve it with conditions, except a condition that the owner is required to enter into a development agreement or subdivision agreement with the City.

C. RECOMMENDATION OF COMMITTEE

i A community committee that conducts a public hearing to consider a proposed zoning by-law, zoning agreement amendment and/or plan of subdivision shall forward its report and recommendation to the Standing Policy Committee on Property and Development for consideration.

ii The Standing Policy Committee on Property and Development shall:

a. Forward any report and recommendation of the community committee together with its own recommendations or report and recommendations to the Executive Policy Committee for its consideration; or

b. Refer the development applications back to the original hearing body at the community committee to consider new information by re-opening the public hearing.

iii The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, if it conducts a public hearing to consider a proposed zoning by-law, zoning agreement amendment and/or plan

of subdivision, shall forward its report and recommendations to the Executive Policy Committee for its consideration.

iv The Standing Policy Committee on Property and Development, if it conducts a public hearing to consider a proposed zoning by-law, zoning agreement amendment and/or plan of subdivision, shall forward its report and recommendations to the Executive Policy Committee for its consideration.

v The Executive Policy Committee shall:

a. Forward any report and recommendation of the community committee and/or the standing policy committee together with its own report and recommendations to City Council; or

b. Refer the applications back to the original hearing body at the committee to consider new information by re-opening the public hearing.

vi No new information shall be presented to the Standing Policy Committee, Executive Policy Committee and/or Council after the conclusion of the public hearing unless public representation is re-opened at the original hearing body to consider new information, but nothing in this By-law precludes Council considering additional recommendations from any committee of Council making them in relation to the application.

vii Council or a committee of Council considering the matter may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised during the hearing, on procedural items, on technical information, and other matters deemed necessary.

HEARING BODY QUORUM

viii When a hearing body lacks quorum, the members of the hearing body may reschedule the hearing to the soonest possible date at the same committee.

D. COMMMUNITY COMMITTEE RECOMMENDATIONS

DECISION TIME LIMITS

i A community committee conducting a public hearing for a development application(s) and/or considering a submitted Plan Approval, including applications under a Combined Hearing, shall make a decision regarding the development application(s) and Plan Approval by the third regularly scheduled meeting, which includes the public hearing or public meeting when the item is first listed on the community committee agenda as being counted as the 'first meeting'.

a. A community committee may lay over or adjourn a hearing twice, in two successive meetings, but shall make a decision or recommendation (as the case may be) on the application(s) at the third meeting.

b. A community committee may lay over or adjourn a hearing once to the third meeting, skipping the second meeting, but shall make a decision or recommendation (as the case may be) on the application(s) at the third meeting.

c. The community committee shall not lay over or adjourn a hearing to a date later than the third regularly scheduled meeting.

ii The public hearing may be rescheduled beyond the third regularly scheduled meeting due to:

a. A lack of quorum, as the lack of quorum is distinct from a committee voting to lay over or adjourn a hearing, thus is not counted; or

b. Re-advertisement of the public hearing that is needed to meet notice requirements. An incorrect advertisement regarding the nature of the application or a notification that did not meet the statutory time period, does not allow for the first scheduled public hearing to be opened, in which case the re-advertised public hearing is counted as the first meeting.

iii Should no decision or recommendation (as the case may be) be made on the application(s) by the committee community by the third regularly scheduled meeting, all development application(s) and/or Plan

Approvals, including ones in a combined hearing, shall be forwarded to the Standing Policy Committee on Property and Development for consideration and recommendation.

PRIORITY ZONING PROCESS DEVELOPMENT APPLICATIONS, COMMUNITY COMMITTEE

iv A community committee that conducts a public hearing to consider a proposed zoning by-law, zoning agreement amendment and/or plan of subdivision, or a combined public hearing not involving an amendment to a secondary plan by-law, shall forward its report and recommendation to the Executive Policy Committee for consideration when:

a. The community committee concurs, in its recommendation, in all respects with the Director's recommendation, and

b. No person registers in opposition or submits an objection to the development application(s) that is subject to a public hearing.

v The Priority Rezoning Process does not apply to the Standing Policy Committee on Property and Development, the Standing Policy Committee on Downtown, Heritage and Riverbank Management, or Executive Policy Committee.

5. VARIANCE AND CONDITIONAL USE

A. DESCRIPTION

i A variance (DAV) means the modification of a provision of a zoning by-law. There are four types of Variance applications based on the approval process as outlined in this By-law:

a. 'A' variances are tolerances, which are minor variances of a bulk regulation granted by the Director.
b. 'B' variances are reviewed by the Director and are either approved or rejected. The decision of the Director is posted on the site and anyone can appeal the decision to the Appeal Committee for a public hearing.
c. 'C' variances are reviewed by the Director who makes a recommendation to the Board of Adjustment where a public hearing is held.
d. 'D' variances are reviewed by the Director who makes a recommendation to the community committee where a public hearing is held.

ii A Conditional Use (DCU) means a use of a building or land described as a conditional use in a zoning by-law which may be approved under Part 6 of *The City of Winnipeg Charter*. There are three types of conditional use applications based on the approval process as outlined in this By-law:

a. B' conditional uses are reviewed by the Director and are either approved or rejected. The decision of the Director is posted on the site and anyone can appeal the decision to the Appeal Committee for a public hearing.
b. 'C' conditional uses are reviewed by the Director who makes a recommendation to the Board of Adjustment where a public hearing is held.
c. 'D' conditional uses are reviewed by the Director who makes a recommendation to the community committee where a public hearing is held.

B. REQUIREMENTS

i The following requirements provide additional detail with respect to variance and Conditional Use applications.

ii The Director may consider and make decisions in respect of applications for the following types of variances, in accordance with *The City of Winnipeg Charter*:

a. **Zoning tolerances**

1. The grant of any zoning tolerance in any zoning district.

2. Zoning tolerances may be granted by the Director by endorsing on the relevant document or accompanying plans by rubber stamp or other means the phrase "tolerance granted" or any words to the same effect accompanied by a clear indication of the nature of that tolerance by any one or more of words, dimensions and drawings.

b. **Agricultural and Parks districts**

1. In an agricultural district any variance of any yard or bulk rule.

2. In each park district a variance not exceeding 25% of any yard, bulk or density rule.

c. **Residential districts**

1. In the "RR5, "RR2", "R1", "R2", "RMU" and "RMH" Districts any variance of any zoning rule, except lot area for one-family dwellings, single-family dwellings and two-family dwellings.

2. In the districts and for the uses described in clause (c) a variance of lot area not exceeding 10% of the zoning rule set out in the applicable zoning by-law.

3. In each Multiple-Family District and Multiple-Family Dwellings in Commercial or Institutional Districts, but not including "R2", a variance of the zoning rules set out in the applicable zoning by-law:

A. not exceeding 10% of any density rule;

B. not exceeding 25% of any yard or bulk rule;

C. not exceeding 25% of any parking or loading rule;

D. not exceeding 25% of any sign rule; and

E. allowing the temporary development of a parking lot or loading area or both not exceeding one (1) year.

d. **Commercial and Institutional districts**

1. In each Commercial and Institutional District, excepting multiple-family dwelling requirements, a variance of the zoning rules in the applicable zoning by-law:

A. not exceeding 25% of any yard, bulk or floor area limitation rule;

B. not exceeding 25% of any sign rule;

C. not exceeding 25% of any parking and loading space rule; and

D. allowing the temporary development of a parking or loading area or both not exceeding 1 year.

e. **Manufacturing districts**

1. In each Manufacturing District, a variance of the zoning rules set out on the applicable zoning by-law:

A. not exceeding 25% of any yard, bulk or floor area limitation rule;

B. not exceeding 25% of any sign rule;

C. not exceeding 25% of parking and loading space rules; and

D. allowing the temporary development of a parking or loading area or both not exceeding 1 year.

f. **Accessory structures**

1. Subject to clauses (a) to (j) any variance of the applicable zoning rules for accessory structures in any zoning district.

g. **Downtown**

1. Any variance of the applicable zoning rules in any zoning district contained within the Downtown Winnipeg Zoning By-law.

iii The Director may approve an application for a variance subject to conditions that will ensure that any development to be carried out under the variance meets the criteria set out in *The City of Winnipeg Charter*. The Director shall not make the approval of a variance subject to conditions unless the applicant for the variance has been given a reasonable opportunity to make submissions respecting the variance.

DIRECTOR CONDITIONAL USES (DCU 'B')

i The Director may consider and make decisions in respect of applications for the following types of conditional uses specified in subsection (2), in accordance with *The City of Winnipeg Charter*:

a. **Home Occupations**

i. A conditional use to allow a home occupation under The Winnipeg Zoning By-law.

b. **Downtown**

i. Any conditional use under The Downtown Winnipeg Zoning By-law.

ii The Director may approve an application for a conditional use subject to conditions that will ensure that such use meets the criteria set out in *The City of Winnipeg Charter*. The Director shall not make the approval of a conditional use subject to conditions unless the applicant for the conditional use has been given a reasonable opportunity to make submissions respecting the conditional use.

BOARD OF ADJUSTMENT VARIANCES / CONDITIONAL USES (DAV 'C' and DCU 'C')

iii Conditional use applications and variance applications, other than those the Director, the community committee, Standing Policy Committee or Executive Policy Committee make an order, shall be referred to the Board of Adjustment established by *The City of Winnipeg Charter,* to be dealt with in accordance with this by-law and The Board of Adjustment By-law.

COMMMUNITY COMMITTEE VARIANCES / CONDITIONAL USES (DAV 'D' and DCU 'D')

iv The community committee for the community in which the land is located shall conduct the hearing for a variance and/or a conditional use, if not decided by the Director, on land in a Commercial, Manufacturing, or Residential Multi-Family zoning district if the application(s) are submitted to the City within two years after Council has, after a public hearing held by that community committee, passed a by-law approving either or both of:

a. an amendment to a zoning by-law, or

b. a plan of subdivision

respecting the land.

TERMINATION OF VARIANCE OR CONDITIONAL USE

iii The Director may terminate an approval of a variance or a conditional use in accordance with *The City of Winnipeg Charter*.

6. DEMOLITION PERMITS

A. DESCRIPTION

i The owner of a residential building wants to demolish the structure and leave a vacant land parcel for a period of time. This requires a public

hearing, generally at community committee, before the demolition permit is issued..

B. REQUIREMENTS

The following requirements provide additional detail with respect to demolition permits:

i For the purposes of this By-law the term "residential building" includes every building containing one or more dwelling units, as defined by Winnipeg Zoning By-law applicable to a zoning lot, whether alone or together with other uses in that building.

ii Within all districts zoned by the Winnipeg Zoning By-law to allow residential buildings in The City of Winnipeg, no permit for the demolition of the whole or any part of a residential building shall be issued unless:

a. the applicant for that permit already holds a building permit for construction of:

- a new building; or
- renovation of the existing building; or
- the establishment of some other permitted use on the same zoning lot as the building proposed to be demolished or partly demolished,

which building permit is valid for at least 120 days from the proposed date of issuance of that demolition permit.

iii The new building or renovation work or the establishment of another permitted use as described in the building permit referred to above shall be substantially completed within one (1) year, in the case of a one or two-family dwelling and in other cases two years, from the date of commencement of the demolition authorized by that demolition permit and that demolition permit shall be subject to and shall be endorsed with that condition.

iv Where the owner of a residential building objects to compliance with subsections 4.6.B.ii and 4.6.B.iii above, he or she may apply to the

designated committee for an order exempting that residential building from compliance.

v An application must be in writing, filed with the City Clerk and must include the address of the residential building that is the subject of the application, the applicant's name and the applicant's address.

vi The application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii above shall be referred for conduct of a public hearing in accordance with *The City of Winnipeg Charter* as per the following:

a. where the land to which the proposed demolition permit is located in one community and covered by the Winnipeg Zoning By-law, to the community committee for that community;

b. where the land is located in two or more communities, to a public hearing body designated by resolution of City Council;

c. where the land is located in two or more communities including one within an area covered by the Downtown Winnipeg Zoning By-law, to a public hearing body designated by resolution of City Council;

d. if the demolition permit is in combination with an application to amend the *OurWinnipeg Plan By-law* or the *Complete Communities Direction Strategy By-law* or another secondary plan by-law, the Executive Policy Committee, or one of the Standing Policy Committees as designated by Executive Policy Committee, shall conduct the public hearing.

vii Section 6 of this Part does not apply to:

(a) the area covered by the Downtown Winnipeg Zoning By-law;

(b) a demolition carried out by or on behalf of the City in order to address an emergency situation;

(c) a demolition carried out by the owner or occupant of property in compliance with an order issued by a designated employee pursuant to section 184 of *The City of Winnipeg Charter* which requires the owner or occupant to remedy a deficiency in the

structural integrity of a building or another dangerous condition that constitutes a by-law contravention and

(i) specifically identifies demolition to be an option available to the owner or occupant; and

(ii) expressly states that it is not necessary to comply with section 6 of this Part in order to comply with the order;

(d) a demolition carried out by the City under section 185 of *The City of Winnipeg Charter* to remedy a by-law contravention

(i) identified in an order referred to in clause ©; or

(ii) identified in any other order so long as, prior to determining that demolition is the most appropriate means of remedying the contravention, the designated employee has consulted with the councillor in whose ward the property lies.

C. RECOMMENDATION OF COMMITTEE

i The Committee shall conduct a meeting to receive representations from the applicant and any other interested persons for or against issuance of the demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii.

ii The Committee may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised during the hearing, on procedural items, on technical information, and other matters deemed necessary.

iii Upon completion of that public hearing the Committee shall consider the representations received and:

a. if the Committee finds that in its opinion the existence of a vacant lot resulting from issuance of the demolition permit without the endorsement described in subsection 4.6.B.iii.:

- would not create, or increase, pressures for approval of a new land use for the building site, not permitted by the existing zoning without rezoning or a zoning variance or a conditional use approval, and

- would not create, or increase, pressures against normal maintenance and use of properties on abutting lands or in the adjacent area for uses permitted under the existing zoning, and

- would not create a visual detriment to the adjoining lands and adjacent area,

the Committee shall by resolution order issuance of the demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii and without the endorsement described in subsection 4.6.B.iii;

iv if the Committee finds that in its opinion one or more of those adverse effects would be caused but they can all be avoided by conditions imposed by the Committee in its order, the Committee shall by resolution order issuance of the demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii and without the endorsement described in subsection 4.6.B.iii, subject to those conditions;

or

v Reject the application.

7. COMBINED HEARING

A. DESCRIPTION

i A combined hearing occurs where a proposed development requires public hearings on two or more items. In instances where a combined hearing is held, it will typically be held by the community committee for the community in which the land is located and covered by the Winnipeg Zoning By-law. When the lands in question are located in the Downtown, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall conduct the public hearing. In instances where an amendment to the OurWinnipeg Plan By-law and/or the Complete Communities Direction Strategy By-law is required it will typically be held by the Executive Policy Committee.

B. REQUIREMENTS

ii The Executive Policy Committee may consider all application(s) for a proposed development which proposes an amendment to the OurWinnipeg Plan By-law and one or more of the following:

a. an amendment to the Complete Communities Direction Strategy By-law;

b. an amendment to a secondary plan by-law;

c. an amendment to a zoning by-law

d. an amendment to a zoning agreement;

e. a plan of subdivision;

f. a conditional use, other than those in respect of which the Director decides;

g. a variance, other than those in respect of which the Director decides;

h. to close a street right-of-way;

i. to close and open streets rights-of-way;

j. a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law.

iii The Executive Policy Committee may consider all application(s) in a combined hearing for a proposed development which proposes an amendment to the Complete Communities Direction Strategy By-law and one or more of the following:

a. an amendment to a secondary plan by-law;

b. an amendment to a zoning by-law

c. an amendment to a zoning agreement;

d. a plan of subdivision

e. a conditional use, other than those in respect of which the Director decides;

f. a variance, other than those in respect of which the Director decides;

g. to close a street right-of-way;

h. to close and open streets rights-of-way;

i. a non-conforming approach under the Private Access By-law;

j. a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law.

iv Should the Executive Policy Committee not hear application(s) in a combined hearing for a proposed development which includes an amendment to the Complete Communities Direction Strategy By-law, the development applications shall be heard at the hearing bodies designated in this By-law.

v The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall consider all application(s) in a combined hearing for a proposed development where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law which proposes:

a. an amendment to a secondary plan by-law;

b. an amendment to a zoning by-law

c. an amendment to a zoning agreement; and/or

d. a plan of subdivision; and/orand one or more of the following:a conditional use, other than those in respect of which the Director decides;

e. a variance, other than those in respect of which the Director decides;

f. to close a street right-of-way;

g. to close and open streets rights-of-way;

h. a non-conforming approach under the Private Access By-law.

vi The Standing Policy Committee on Property and Development, or one of those community committees as designated by the Standing Policy Committee on Property and Development, shall consider all application(s) in a combined hearing for a proposed development where the matter relates to real property located in two or more communities covered by the Winnipeg Zoning By-law which proposes:

a. an amendment to a secondary plan by-law;

b. an amendment to a zoning by-law

c.

d. an amendment to a zoning agreement; and/or

e. a plan of subdivision;

and one or more of the following:

f. a conditional use, other than those in respect of which the Director decides;

g. a variance, other than those in respect of which the Director decides;

h. to close a street right-of-way;

i. to close and open streets rights-of-way; and/or

j. a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law.

i The community committee shall consider all application(s) in a combined hearing for a proposed development where the matter relates to real property located entirely or primarily in the area covered by the community committee and the Winnipeg Zoning By-law which proposes:

a. an amendment to a secondary plan by-law;

b. an amendment to a zoning by-law

c. an amendment to a zoning agreement;

a plan of subdivision; and one or more of the following:

d. a conditional use, other than those in respect of which the Director decides;

e. a variance, other than those in respect of which the Director decides;

f. to close a street right-of-way;

g. to close and open streets rights-of-way; and/or

h. a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law.

PART 4: PUBLIC HEARING PROCESS, NOTICE, APPEALS

1. PUBLIC HEARING PROCESS

A. DESCRIPTION

i Members of the public, including councillors not sitting on the hearing body for an application, may attend a public hearing and make representations regarding a development and development application.

ii Members of the hearing body constitute an impartial body that 'hears' all sides on the merits of the proposal in a public forum before making a recommendation or decision (as the case may be). Contact with members of the public, including the applicant, discussing matters related to the application outside the public hearing is considered inappropriate in this quasi-judicial forum.

iii The applicant and/or designate should attend the public hearing to speak on the proposal's merits; anyone else may also attend the hearing and may speak for or against the merits of the development, or register for information only.

iv Generally, and unless otherwise directed by the hearing body, the applicant (and/or designate) is heard first, followed by those in support of the application. Next, those registered in opposition are heard, followed by those registered for information. Finally, the applicant may, if he/she so desires, return to speak in rebuttal to address any matters that was raised by the previous speakers. The applicant must not provide new information in the rebuttal unless it addresses a matter raised by the previous speakers.

v A persons making a representation may make a presentation using visual aids and/or submit material regarding the development, including petitions, to the hearing body.

vi The hearing body may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised during the hearing, on procedural items, on technical information, and other matters deemed necessary.

vii The hearing body hears all the representations concerning the proposed development and application. The committee may then close the public hearing and make a decision or recommendation to approve the application, reject the application, or approve it with conditions. The committee may also decide to adjourn the public hearing to another public meeting at a later date.

viii The City gives notice of the hearing body's decision or recommendation, in accordance with *The City of Winnipeg Charter*.

ix The public hearing is the only opportunity for members of the public and the applicant to voice their opinions to the decision making body on the merits of the proposed development and development applications. No new information may be presented to the decision making body after the conclusion of the public hearing unless public representations are re-opened at the original hearing body to consider new information.

x The decision of the committee including one or more conditions attached to the decision may be appealed to the Appeal Committee for a new public hearing, should the type of development application be appealable.

xi A councillor who has made representations at a public hearing on an application or sat on a body which conducted a public hearing on the

application shall not be or remain in the appeal hearing room during an appeal hearing for that application.

B. REQUIREMENTS

i Unless otherwise directed by the hearing body, the applicant (or appellant, as the case may be) shall make representations first regarding the merits of the development, followed in order by others in support and others opposed and those who registered for information; after which the applicant (or appellant) shall be heard in rebuttal.

ii The hearing body may question persons making representations at a public hearing and shall allow opportunity to reply to the applicant and supporters, and to rebut those responding to the application as provided, but the body shall not allow cross-examination.

iii The hearing body may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised during the hearing, on procedural items, on technical information, and other matters deemed necessary.

iv After completion of all representations regarding the merits of the development and development applications, the hearing body shall not receive further representations unless the hearing body re-opens representations on one or more issues to all persons wishing to be heard, applying the process described above as closely as practical, subject to the direction of the hearing body.

2. PUBLIC NOTIFICATION

A. DESCRIPTION

i There are a number of instances when the City must give notice of an upcoming public hearing, or of a decision made by a hearing body or the Director.

ii Public notification of public hearing information including the date, time, location and nature of the development applications is required by *The City of Winnipeg Charter*. Typically this information is posted on a sign, either on a building or parcel of land of the subject property, for variances and conditional use applications. For applications such as a plan of subdivision, a zoning by-law or amendment, an amendment to

a zoning agreement, a secondary plan by-law or amendment, or an amendment to the Complete Communities Direction Strategy By-law or the OurWinnipeg Plan By-law, the notification is an ad-cut in two newspapers at least 14 days prior to the date of the public hearing.

iii The Board of Adjustment, Committees or Director must give notice of a decision with respect to a variance or conditional use.; and If the decision is appealed, the City must give notice of the appeal hearing to the appellant and the applicant and each person who made submissions at the hearing respecting the application.

B. REQUIREMENTS

NOTICE OF HEARING OR DECISION

i Notice of hearings held under Part 6 of *The City of Winnipeg Charter* shall be given in accordance with *The City of Winnipeg Charter*.

ii A decision under this By-law shall be prepared and served in accordance with *The City of Winnipeg Charter*.

NOTICE OF DIRECTOR'S ORDER AND RIGHT TO APPEAL

iii When the Director makes a decision on an application for a variance or a conditional use, the Director shall give notice of the decision in accordance with *The City of Winnipeg Charter*.

iv Where a decision of the Director on an application for a variance or a conditional use is appealed, the City shall give notice of the appeal hearing. The Appeal Committee shall conduct a hearing on the appeal and give its decision on the appeal, in accordance with *The City of Winnipeg Charter*.

v The Director must post on a building or parcel of land subject to an application, and maintain in good condition, notice of a decision for 14 days for variances and conditional uses which are subject to appeal. The notice must be:

a. at least 215.9 mm by 279.4 mm (8.5 inches by 11 inches) in dimension;

b. printed in legible characters of at least 10 point size; and

c. maintained in good condition.

NOTICE OF HEARING - BOARD OF ADJUSTMENT VARIANCES AND CONDITIONAL USES

vi The Director must post on a building or parcel of land subject to an application, and maintain in good condition, a notice of the hearing for 14 days prior to a public hearing for variances and conditional uses which are subject to public hearings. The notice must be:

a. at least 215.9 mm by 279.4 mm (8.5 inches by 11 inches) in dimension; and

b. printed in legible characters of at least 10 point size; and

c. maintained in good condition.

NOTICE OF HEARING – COMMUNITY COMMITTEE, STANDING POLICY COMMITTEE AND EXECUTIVE POLICY COMMITTEE, VARIANCES, CONDITIONAL USES AND DEMOLITION PERMITS

vii The Director must post on a building or parcel of land subject to an application, and maintain in good condition, a notice of the hearing for 14 days prior to a public hearing for variances, conditional uses and demolition permits which are subject to public hearings. The notice must be:

a. at least 215.9 mm by 279.4 mm (8.5 inches by 11 inches) in dimension;

b. printed in legible characters of at least 10 point size; and

c. maintained in good condition.

NOTICE OF HEARING – COMMUNITY COMMITTEE, STANDING POLICY COMMITTEE AND EXECUTIVE POLICY COMMITTEE, REZONINGS, ZONING AGREEMENT AMENDMENTS, PLANS OF SUBDIVISION, SECONDARY PLAN BY-LAWS

viii The Director must give notice of a public hearing in two newspapers at least 14 days prior to the date of the hearing for development

application(s) for a plan of subdivision with new streets, a plan of subdivision with or without new streets and amendment to a zoning by-law, an amendment to a zoning by-law, an amendment to a zoning agreement, and/or a secondary plan by-law or amendment.

ix The Director must post on a building or parcel of land subject to an application, and maintain in good condition, a notice of the hearing for 14 days prior to a public hearing for development application(s) for a plan of subdivision with new streets, a plan of subdivision with or without new streets and amendment to a zoning by-law, an amendment to a zoning by-law, an amendment to a zoning agreement, and/or a secondary plan by-law or amendment. The notice must be:

a. at least 215.9 mm by 279.4 mm (8.5 inches by 11 inches) in dimension;

b. printed in legible characters of at least 10 point size; and

c. maintained in good condition.

NOTICE OF HEARING – EXECUTIVE POLICY COMMITTEE, OUR WINNIPEG PLAN BY-LAW AND COMPLETE COMMUNITIES DIRECTION STRATEGY BY-LAW

x After Council gives first reading to a proposed amendment to the OurWinnipeg Plan By-law, the Director must give notice of a public hearing in two newspapers in two consecutive weeks. The first publication must be at least 14 days before the day when the hearing is to begin. The publications must be at least 6 days apart. The second publication may be less than 14 days before the day when the hearing is to begin.

xi After Council gives first reading to a proposed amendment to the Complete Communities Direction Strategy By-law, the Director must give notice of a public hearing in two newspapers at least 14 days before the day when the hearing is to begin.

NOTICE OF OURWINNIPEG PLAN BY-LAW PASSAGE

xii Within 14 days after Council passage of an amendment to the OurWinnipeg Plan By-law, the Director must give public notice of the amending by-law in two newspapers.

NOTICE OF MEETING AND NOTICE OF ORDER – DEMOLITION PERMIT

xiii On receipt of an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law, the hearing body shall cause notice to be given to the applicant and by posting a notice on or near the building site for at least two weeks before the meeting.

xiv The notice shall briefly describe the application and give the date, time and place at which the hearing body shall conduct a meeting to receive representations from the applicant and any other interested persons for or against issuance of the demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law.

xv The order of the hearing body shall be sent in accordance with *The City of Winnipeg Charter* to the applicant and to every person who made representation at the meeting and provided his or her name to the hearing body for service.

NOTICE OF HEARING – APPEAL COMMITTEE

xvi The Director must post on a building or parcel of land subject to an application, and maintain in good condition, notice of a hearing for 14 days prior to an appeal hearing for variances, conditional uses and demolition permits without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law. The notice must be:

a. at least 215.9 mm by 279.4 mm (8.5 inches by 11 inches) in dimension;

b. printed in legible characters of at least 10 point size; and

c. maintained in good condition.

ENHANCED POSTERS

xvii The Standing Policy Committee on Property and Development may identify circumstances in which the manner of posting notice is insufficient or ineffective due to the nature of the proposed development or the uniqueness of the subject site and the surrounding lands, and in those circumstances, subject to the discretion of the Director, the applicant must post signage, at the applicant's expense, which meets the specifications set out in Schedule "A".

NOTICE OF COMMITTEE REPORT

xviii Where a hearing body conducts a hearing under Part 6 of *The City of Winnipeg Charter* for the purpose of making a recommendation to Council respecting a proposed by-law or an application, and submits a report to Council, the City shall give notice of the report and the meeting where Council is to consider the report, in accordance with *The City of Winnipeg Charter*.

NOTICE OF ANTICIPATED ADJOURNMENT

xix Where an applicant has requested a further adjournment to a previously adjourned public hearing, notice may be provided by City Clerks to those registered on file of the expected adjournment through ordinary mail to be received at least 96 hours prior to the public hearing.

NOTICE OF COMMITTEE ORDER AND APPEAL

xx Where a community committee, Standing Policy Committee or Executive Policy Committee makes a decision on an application for a variance, a conditional use, or demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law, the clerk of the Committee or his/her delegate shall give notice of the decision by ordinary mail to the applicant and each person who made submissions at the hearing respecting the application, in accordance with *The City of Winnipeg Charter*.

xxi Where a decision of the community committee, Standing Policy Committee or Executive Policy Committee on an application for a variance or a conditional use is appealed, the city shall give notice of

the appeal hearing in accordance with *The City of Winnipeg Charter*. The Appeal Committee shall conduct a hearing on the appeal and give its decision on the appeal, in accordance with *The City of Winnipeg Charter*.

xxii Where an order of the community committee, Standing Policy Committee or Executive Policy Committee on an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law is appealed, notice of the date and time of the appeal shall be provided in accordance with The *City of Winnipeg Charter* by the City Clerk to all persons to whom a copy of the order is required to be sent and to the members of the community committee, Standing Policy Committee or Executive Policy Committee (as the case may be).

NOTICE OF BOARD OF ADJUSTMENT ORDER AND APPEAL

xxiii Where the Board of Adjustment makes a decision on an application for a variance or a conditional use, the secretary of the Board of Adjustment or his/her delegate shall give notice of the decision by ordinary mail to the applicant and each person who made submissions at the hearing respecting the application, in accordance with *The City of Winnipeg Charter*.

xxiv Where a decision of the Board of Adjustment on an application for a variance or a conditional use is appealed, the city shall give notice of the appeal hearing in accordance with *The City of Winnipeg Charter*. The appeal committee shall conduct a hearing on the appeal and give its decision on the appeal, in accordance with *The City of Winnipeg Charter*.ADDRESS FOR SENDING NOTICE

xxv Where an address for sending a decision or notice of hearing is required, one of the following shall be used:

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;

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

c. the address for service provided by the person to be served in an application to the City under this By-law; or

d. if the person to be served has made a representation at a hearing under this By-law, the address for service provided by the person.

NOTICE OF SITE PLAN APPROVAL APPEAL

xxvi Where a community committee, Board of Adjustment, and/or designated employee makes a decision on a Site Plan Approval that is appealed by the applicant, the clerk of the committee or his/her delegate shall give notice of the appeal to the community committee, Board of Adjustment, and/or designated employee who made the original decision.

3. APPEALS

A. DESCRIPTION

i Committee recommendations and Council decisions on rezonings, subdivisions and zoning agreement amendments, secondary plan by-law amendments, and Complete Communities Direction Strategy By-law amendments applications are not subject to appealed to any City body.

ii Appeal, Variances and Conditional Use: a decision of the designated employee, Board of Adjustment, community committee, Standing Policy Committee or Executive Policy Committee (including one or more conditions attached to the decision) may be appealed to the Appeal Committee - an impartial body that conducts a public hearing on an appeal – for a new public hearing on the development and development application.

a. In accordance with The City of Winnipeg Charter, only the applicant, persons who made submissions at original public hearing and/or an adjacent property owner can file an appeal against a variance or conditional use decision. Any of those persons may appeal the decision within 14 days after the person received or is deemed to received notice of the decision, as the case may be. They appeal by filing with the City Clerk a written notice of appeal which must identify the decision being appealed, show the printed name, mailing address and contact telephone number of the appellant, and should be signed by the appellant.

iii Appellants: Unless otherwise directed by the Appeal Committee, appellants make representations first at the hearing of the appeal, followed by anyone also in opposition to the original decision. Any person opposing the appeal who is in attendance at the Appeal Committee is then allowed to make representations. Only the appellants have the final opportunity to be heard in rebuttal (i.e., to address representations made by persons opposed to the appeal).

OURWINNIPEG PLAN BY-LAW AND COMPLETE COMMUNITIES DIRECTION STRATEGY BY-LAW

iv Appeal, OurWinnipeg Plan By-law and Complete Communities Direction Strategy By-law: applicants have an appeal opportunity under *The City of Winnipeg Charter* to appeal the decision of the designated employee to refuse a development application without a hearing due to the application not conforming with the OurWinnipeg Plan By-law or the Complete Communities Direction Strategy By-law (or both).

v The Winnipeg Public Service may refuse a development application without a hearing on the grounds that the application does not conform with the OurWinnipeg Plan By-law or the Complete Communities Direction Strategy By-law (or both) – this decision can be appealed within one year.

vi The appeal is heard by the Executive Policy Committee.

The Executive Policy Committee will make an interpretation of the policies in the Our Winnipeg Plan By-law and/or the Complete Communities Direction Strategy By-law which affect the development application.

a. EPC does not review the merits of the proposed development, only makes an interpretation of the applicable policy text and/or mapping element.

b. Any development applications that are required for the proposed development are still required should the Executive Policy Committee decide the development application(s) do conform with the Our Winnipeg Plan By-law and the Complete Communities Direction Strategy By-law.

vii In accordance with subsection 228(2) of *The City of Winnipeg Charter,* after Council gives second reading to a by-law which proposes to amend the OurWinnipeg Plan By-law, the City must give notice by

ordinary mail to every person who made submissions at the public hearing for the proposed by-law, stating that, among other things, any person who made submissions at the hearing may file an objection, with stated reasons, with the appropriate Minister of the Government of Manitoba within 14 days after the notice is given. In accordance with section 229 of *The City of Winnipeg Charter,* the Minister may approve or reject the proposed by-law, approve it subject to conditions, or refer it to The Municipal Board for a hearing.

viii The Minister will give the City written notice of the Minister's decision. If the decision is to approve the proposed by-law, Council may then give the by-law third reading. If other applications have been combined and depend on the amendment to the OurWinnipeg Plan By-law, the City will hold off on deciding the other applications until it receives the Minister's decision.

SECONDARY PLAN BY-LAW

ix Appeal, Secondary Plan By-law: applicants have an appeal opportunity under *The City of Winnipeg Charter* to appeal the decision of the designated employee to refuse a development application without a hearing due to the application not conforming with a secondary plan for the area in which the subject property is situated.

x The Winnipeg Public Service may refuse a development application without a hearing on the grounds that the application does not conform with a secondary plan for the area in which the subject property is situated – this decision can be appealed within one year.

xi The appeal is heard by the Standing Policy Committee on Property and Development except where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law, in which case the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall hear the appeal.

a. The Standing Policy Committee will make an interpretation of the policies in the secondary plan which affect the development application.

b. Standing Policy Committee does not review the merits of the proposed development, only makes an interpretation of the applicable policy text and/or mapping element.

c. Any development applications that are required for the proposed development are still required should the Standing Policy Committee decide the development application(s) do conform with the secondary plan.

SITE PLAN APPROVAL

xii Appeals related to Site Plan Approval: only the owner or applicant seeking plan approval may appeal the first-level decision.

xiii The first-level decision maker (whether the Director, community committee, or both) must make a clear and timely decision (approve, approve with conditions, or deny) regarding Site Plan Approval.

xiv The owner or applicant may appeal the first-level decision within one year of the decision.

xv The appeal is heard by the Standing Policy Committee on Property and Development where the matter relates to real property located entirely or primarily in the area covered by the Winnipeg Zoning By-law; and the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law.

a. Community committee members involved in the first-level decision cannot participate in hearing the appeal as members of the Standing Policy Committee.

b. The City shall give notice of the appeal hearing in accordance with The City of Winnipeg Charter to the owner or applicant and to the first-level decision-maker(s).

c. The Standing Policy Committee shall conduct a hearing and make a decision on the appeal, which shall be to:

i. approve the site plan as approved at the first level,

ii. approve a different site plan than was approved at the first level, or

iii. substitute and approve a new site plan.

d. Any development applications that are required for the proposed development are still required after the Standing Policy Committee's decision on the appeal.

DEMOLITION PERMIT

xvi Appeal, Demolition Permit: An appeal from an order of the community committee on an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law may be made to the Standing Policy Committee on Property and Development in accordance with The *City of Winnipeg Charter* by any person to whom a copy of the order is required to be sent under section 2.B.xiii in Part 4. The City shall give notice of the appeal hearing in accordance with *The City of Winnipeg Charter* to all persons to whom a copy of the order is required to be sent under section 2.B.xiii in Part 4 and to the members of the community committee.

B. REQUIREMENTS

i A majority of the members of the Appeal Committee shall constitute a quorum, but where one or more members are disqualified due to participation in the original hearing or having advised the committee they have a conflict of interest, the majority of councillors remaining, if not fewer than two, shall constitute a quorum.

ii At a hearing, the Appeal Committee must hear any person who may be affected by the result of the hearing and who wishes to make submissions, ask questions or register objections on their own behalf or on behalf of others.

iii If appeals of two or more of

- a variance order,

- a conditional use order, and

- an order of a committee on an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law

relate to the same proposed development, the Appeal Committee may hear the appeals in a combined hearing.

iv The Appeal Committee may ask questions of the Winnipeg Public Service for the purposes of soliciting clarification on matters raised

during the hearing, on procedural items, on technical information, and other matters deemed necessary.

DIRECTOR DECISION VARIANCES AND CONDITIONAL USES

v Any decision by the Director on a development application for a variance or a conditional use, where the matter relates to real property located entirely or primarily outside the area covered by the Downtown Winnipeg Zoning By-law, may be appealed to the Appeal Committee, in accordance with *The City of Winnipeg Charter*.

a. The Appeal Committee shall be the committee designated to hear appeals in the City Organization By-law.

vi Any decision by the Director on a development application for a variance or a conditional use, where the matter relates to real property located entirely or primarily within the area covered by the Downtown Winnipeg Zoning By-law, may be appealed to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, in accordance with *The City of Winnipeg Charter.*

BOARD OF ADJUSTMENT VARIANCES AND CONDITIONAL USES

vii Any decision by the Board of Adjustment after a public hearing on a development application for a variance or a conditional use may be appealed to the Appeal Committee, in accordance with *The City of Winnipeg Charter*.

a. The Appeal Committee shall be the committee designated to hear appeals in the City Organization By-law.

COMMITTEE COMMUNITY VARIANCES AND CONDITIONAL USES

viii Any decision by a community committee after a public hearing on a development application for a variance or a conditional use may be appealed to the Appeal Committee, in accordance with The *City of Winnipeg Charter*.

a. The Appeal Committee shall be the committee designated to hear appeals in the City Organization By-law No. 7100/97,

COMMUNITY COMMITTEE DEMOLITION PERMIT APPEAL

ix An appeal from an order of the community committee on an application for a demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law may be made to the Standing Policy Committee on Property and Development in accordance with The *City of Winnipeg Charter* by any person to whom a copy of the order is required to be sent under section 2.B.xiii in Part 4.

OURWINNIPEG PLAN BY-LAW AND COMPLETE COMMUNITIES DIRECTION STRATEGY BY-LAW APPEAL

x A decision by the designated employee to refuse a development application without a hearing on the grounds that the application does not conform with the OurWinnipeg Plan By-law or the Complete Communities Direction Strategy By-law may be appealed to the Executive Policy Committee within one year of the date of the decision of the Director.

SECONDARY PLAN BY-LAW APPEAL

xi A decision by the designated employee to refuse a development application without a hearing on the grounds that the application does not conform with a secondary plan for the area in which the subject property is situated may be appealed within one year to the Standing Policy Committee on Property and Development, except where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law, in which case the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall hear the appeal.

APPEAL ARISING OUT OF COMBINED HEARING

xii Where an application for a conditional use order, variance order, and/or demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law is included in a combined hearing at Executive Policy Committee:

a. the Standing Policy Committee on Property and Development, shall hear and decide any appeals, in accordance with this By-law and *The City of Winnipeg Charter,* except where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law, in which

case the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management shall hear and decide any appeals.

xiii Where an application for a conditional use order, variance order, and/or demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law is included in a combined hearing at a Standing Policy Committee:

a. the appeals shall be heard by the committee designated to hear appeals in the City Organization By-law. If the committee so designated is the same committee as conducted the original hearing, the appeals shall be heard by another committee of Council as designated by resolution of Council.

xiv Where an application for a conditional use order, variance order, and/or demolition permit without compliance with subsections 4.6.B.ii and 4.6.B.iii in Part 3 of this By-law is included in a combined hearing at a community committee:

a. the appeals shall be heard by the committee designated to hear appeals in the City Organization By-law.

PART 5: DEFINITIONS

In this By-law:

"appeal committee" means the Committee of Council to which the conduct of appeal hearings under this By-law has been delegated.

"appellant" means a person who has filed an appeal of a in accordance with The City of Winnipeg Charter.

"application" means a development application.

"bulk" means the size of buildings or structures and their relationships to each other and to open areas and lot lines and includes

(a) height and floor area

(b) the area of the zoning lot on which a building is located and the number of dwelling units or rooms within such building in relation to the area of the zoning lot

(c) the shape of buildings or structures

(d) the location of exterior walls of buildings in relation to lot lines, to other walls of the same building, to legally required windows, and to other buildings

(e) open areas on a zoning lot and the relationship between or among open areas and buildings or structures on the zoning lot.

"conditional use" means a use of a building or land described as a conditional use in a zoning by-law which may be approved under Part 6 of *The City of Winnipeg Charter*.

"conditional use order" means an order in respect of an application for a conditional use.

"community", "communities", "community areas" means, as the case may be, the five (5) subareas of Winnipeg that correspond with the five (5) Community Committees namely, Assiniboia, Lord Selkirk–West Kildonan, City Centre, Riel, and East Kildonan–Transcona.

"density" means the number of permitted dwelling units or the allowable floor area of buildings related to the area of the zoning lot on which those dwelling units or floor area are located.

"development" means the construction of a building on, over or under land, a change in the use or intensity of use of a building or land, the removal of soil or vegetation from land, the deposit or stockpiling of soil or material on land, and the excavation of land.

"development application" means an application for

(a) adoption of, or an amendment to, a zoning by-law;

(b) approval of a plan of subdivision, conditional use or variance; or

(c) consent to registration or filing of a conveyance.

"Director" means the Director of Planning, Property and Development and his/her delegates.

"designated employee" when used in a provision of the City of Winnipeg Charter, means an employee designated by Council to carry out

(a) a responsibility under the City of Winnipeg Charter, or

(b) a responsibility in respect of a by-law to which reference is made in that provision;

"draft application" means a development application which is submitted to the City for preliminary review and discussion.

"representations" means information, material or argument presented orally or submitted in writing or other form at a public hearing including representations made in person or on behalf of another person.

"residential building" includes every building containing one or more dwelling units, as defined by the zoning by-law applicable to a zoning lot, whether alone or together with other uses in that building.

"variance" means the modification of a provision of a zoning by-law.

"variance order" means an order in respect of an application for a variance.

"zoning by-law" has the same meaning as in *The City of Winnipeg Charter.*

"zoning rule" or **"rule"** means any requirement of a zoning by-law.

"zoning tolerance" means

(i) in the case of a variance of any yard or space separation, a variance not exceeding 5% of the requirement set out in the applicable zoning by-law or 0.3 m, whichever is the greater; and

(ii) in any other case, a variance not exceeding 5% of the requirement set out in the applicable zoning by-law.

PART 6: CONSEQUENTIAL AMENDMENTS

1. *The Private Access By-law is amended as follows:*

(a) In section 2, in the definition of "Council Committee"

(i) in (b), "or" *is struck out;*

(ii) in (c), "or" *is added after "located";*

(iii) the following is added after (c):

(d) the Executive Policy Committee,

(b) In subsection 12(1), the following is added after "14"*:*

and the combined hearing provisions in Part 3, section 7 of the Development Procedures By-law

(c) In subsection 12(2), "or the Executive Policy Committee" *is added after* "Committee"*.*

(d) In subsection 13(1), the following is added after "14"*:*

and the combined hearing provisions in Part 3, section 7 of the Development Procedures By-law

*(e) In subsection 13(3), "*Executive Policy Committee," *is added after* "A decision by the".

(f) The following is added after subsection 31(3):

31(3.1) Subsections (1), (2) and (3) are subject to the combined hearing provisions in Part 3, section 7 of the Development Procedures By-law.

PART 7: REPEAL AND TRANSITIONAL PROVISIONS

1. The Development Procedures By-law No. 5893/92 and the Demolition Permits in Residential Areas By-law No. 4665/87 are repealed.

2. This By-law applies, as much as possible, to applications submitted to the City while the Development Procedures By-law No. 5893/02 was in force.

PART 8: SHORT TITLE

1. This By-law may be referred to as the “Development Procedures By-law”.

DONE AND PASSED this day of , 2011.

_____
Mayor

_____
City Clerk

Approved as to planning details:

_____
for Director of Planning, Property and Development

Approved as to form:

_____
for Director of Legal Services and City Solicitor

SCHEDULE "A" TO DEVELOPMENT PROCEDURES BY-LAW

SITE POSTING SPECIFICATIONS

Sign Specifications

1. Materials for a 4 foot X 8 foot sign shall include laminated plywood or other wood by-product board (½ inch thick) or corrugated plastic (10 mil thick).
   Sign shall be affixed to a building wall or free-standing using 4 inch X 4 inch posts or secured to a skid structure and anchored to the ground. Sign installation shall be certified by a qualified, registered professional engineer.
2. Plywood or wood by-product board shall have front and back sides, and all edges shall be painted with white acrylic exterior enamel.
3. All lettering shall be black with fonts and sizes as per attached sample and requirements set out on page 2 of this Schedule.
4. All signs shall be pre-approved by the Director of Planning, Property and Development (or designate) prior to installation and shall be placed on the site in accordance with the approved plan.

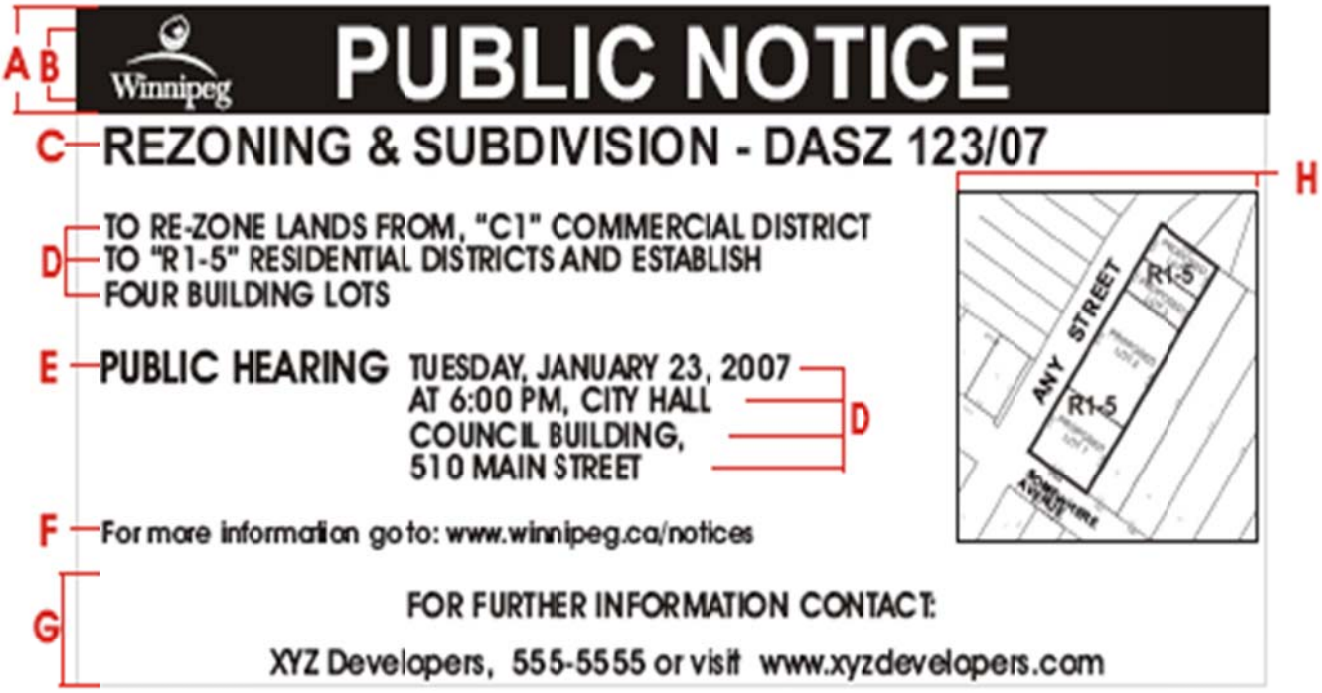
Applicant Information Area (located at the bottom of the sign)

1. Applicant area shall be not less than 8 inches and not more than 16 inches from the bottom of the sign.
2. Applicant information may not be used for promoting, selling or advertising a product and/or service.
3. Applicant information area may contain: developer/owner/applicant name(s), address, phone number, email or web site address including a rendering of the proposed building or development.
4. Colour may be used in the applicant information area; however, this area is not intended to detract from the primary purpose of the Public Notice.
5. Applicant information area, including size, colour and content, is subject to the approval of the Director of Planning, Property and Development (or designate).

Site Posting Instructions

1. The site shall be posted no more than 21 days or less than 10 days prior to the date of the first public hearing.
2. If the sign is for a Variance and or Conditional Use application, either in whole or in part, the site shall be posted no more than 21 or less than 14 days prior to the date of the first public hearing.
3. Sign posting shall be maintained until final disposition of the application(s); that is, until after the decision of the designated Committee is posted on the City's website.

4. Sign shall be removed no sooner than 1 day nor more than 14 days after the final disposition of the application.
5. Bottom edge of the 4' X 8' sign shall be a minimum of 4 feet and a maximum of 8 feet above ground level.
6. Sign shall be located no further than 3 feet from a property line.
7. Applicant may use a sign vendor of their choice.
8. If installing a sign using 4" X 4" posts, applicant must Call Before You Dig (480-1212) - Manitoba Hydro.



SIGN SPECIFICATIONS:
Sign Size - 8 ft. width x 4 ft. height minimum
A = 7.5" black band
B = 5" lettering (Public Notice wording)
C = 2.75" lettering (Type of application/file #)
D = 1.75" lettering (Description of request)(Date/time/location)
E = 2.25" lettering (Public Hearing wording)
F = 1.5" lettering (website info)
G = 8" minimum area for developers information
H = 2 ft. width diagram