Minutes – Executive Policy Committee – March 14, 2012

Minute No. 192
Report – Standing Policy Committee on Property and Development – March 6, 2012

Item No. 6 Strategy to Improve Building Permit and Inspection Processing Times

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Building Permit Strategy and Action Plan (Strategy) be endorsed as outlined in Appendix A.

2. That the amendments to the Winnipeg Building By-law No. 4555/87 and the Winnipeg Electrical By-law No. 74/2009 (draft amending By-laws shown as Appendix G and summary explanation included as Appendix F) be enacted, which will:

    A. Explicitly give the designated employee the flexibility to rely on professional seals without the need for further review other than audit-based systems in plan review and building inspection;

    B. Clarify that property owners have an on-going obligation to comply with the codes that were in existence at the time any construction on their property took place;

    C. Clarify the responsibilities of property owners and design professionals in the permit process;

    D. Clarify the terms on which permits are issued.

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

Report – Standing Policy Committee on Property and Development – March 6, 2012

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On March 6, 2012, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: ***Strategy to Improve Building Permit and Inspection Processing Times***

Critical Path: **SPC on Property and Development - Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Dueck	B. Thorgrimson	N/A	D. Joshi Chief Operating Officer

RECOMMENDATIONS

1. That Council endorse the Building Permit Strategy and Action Plan (Strategy) attached as Appendix A.
2. That Council enact amendments to the Winnipeg Building By-law (4555/87) and Winnipeg Electrical By-law (draft amending By-laws attached as Appendix G and summary explanation attached as Appendix F), which will:
   - explicitly give the designated employee the flexibility to rely on professional seals without the need for further review other than audit-based systems in plan review and building inspection;
   - clarify that property owners have an on-going obligation to comply with the codes that were in existence at the time any construction on their property took place;
   - clarify the responsibilities of property owners and design professionals in the permit process;
   - clarify the terms on which permits are issued.
3. That the proper Officers of the City be authorized to do all things necessary in order to implement the intent of the foregoing.

REASON FOR THE REPORT

The Public Service is proposing a number of significant changes to its current processes and systems for reviewing applications for building permits, and inspecting construction activities. The goal of these changes is to reduce permit issuance and inspection processing times while maintaining a high degree of building code and by-law compliance.

IMPLICATIONS OF THE RECOMMENDATIONS

The Building Permit Strategy and Action Plan (Strategy) outlined more fully in **Appendix A** identifies three key strategies to support the goal of ***reducing permit issuance and inspection processing times while maintaining a high degree of building code and by-law compliance***. They are:

a) to improve the quality of permit application and building plan submission (completeness of application and compliance with codes) and construction (compliance with codes)
b) to increase the permit processing and inspection service capacity of the City of Winnipeg's existing resources through:
   - Employing an audit-based approach to permit application plan submissions and inspections
   - Increasing reliance on professional seals and certificates associated with permit application plan submissions and inspections
   - On-going continuous system improvement initiatives
c) to increase accountability for code compliance on the part of professionals and trades working in the construction industry

The two most obvious methods of reducing permit issuance times are to hire additional qualified staff and to engage in less thorough reviews. While the Public Service will continue to seek to recruit staff for both permanent and temporary positions, hiring during a period of heated construction activity has proven to be challenging. While some of the strategies and action items listed in the Strategy reduce the number and level of plan examinations and inspections through increased audits and reliance on professional seals, care has been taken to simultaneously improve the quality of code compliance. While many established builders and professionals submit code-compliant plans and construct in a compliant manner, others routinely submit plans deficient in the completeness of information and compliance with relevant building codes. Improving the quality of both plan submission and construction will also reduce permit issuance and inspection processing times as fewer deficiencies will improve Public Service efficiency in engaging with reviews and inspections.

1. Audit approach to review of permit applications and inspections

In practical terms, the City has always employed elements of an audit approach to reviewing / inspecting building plans and construction activity. That is, not every element of construction or of a building plan is reviewed for compliance with every possible article of the building code. Historically, plan examination and inspection management have directed the inspection of certain elements of potential non-compliance, focusing on higher likelihood or higher risk items.

However, by employing a more systematized and formal audit approach, the City stands to meet the following objectives:

a. **Increased code compliance**. The current approach holds few real consequences for applicant non-compliance (e.g. apart from a delay in permit issuance when plan changes are required, or the remediation of non-compliant work). It is believed that a more systematized approach will improve compliance as applicants and builders are forced to rely less on the City to 'catch errors' and ensure accountability when audits reveal non-compliance.
b. **Decreased permit issuance and inspection times**. An audit approach to plan review and building inspection should reduce the actual time that the Public Service engages on each project. This effectively increases the City's resources and capacity to process permits and

engage in inspections and will lead to a reduction in the current backlog of permit applications awaiting review. This will in turn improve processing times.

2. **Audit processes, programs, and factors**

The proposed audit processes and programs will incorporate various factors. These may include:

- Degree of risk to the public (severity of impact and likelihood of occurrence)
- Past performance of the applicant, professional and/or tradesperson involved
- Capacity of the Public Service to engage in the review / inspection process

3. Impact of audit approach for residential permits

For residential projects including renovations, new building construction and additions, those permit applicants who are not established builders will continue to be subject to standard comprehensive reviews of building plans and construction inspections. However, established builders for which the City has been able to determine a statistically relevant performance history will be continuously tracked in terms of code-compliant plan submission and in terms of construction. Builders with better performance records will be subject to significantly less extensive plan reviews supplemented by a statistically based audit program which will involve a more comprehensive review of their plans and construction work. The audit frequency models will be applied in accordance with the past performance records, but the audits will be conducted at random.

It is expected that established builders will be motivated to increase the quality of their plan submissions and construction through internal quality improvement and control programs in order to be subject to faster permit issuance and fewer inspections. A core level of on-going reviews and inspections will be required to ensure that performance data remains current.

4. Increased reliance of professional seals and certificates for commercial permits

As is specifically permitted under section 483(3) of the City of Winnipeg Charter[1], the City will increasingly rely on the professional seal and certificate of registered engineers and architects when inspecting permit applications and construction. The plan is for this reliance on seals to include the following:

- In building projects where professional seals are already required, the City will no longer inspect building plans as a matter of course for a variety of lower-risk, non-immediate life safety building code issues, as determined and amended from time to time by the designated employee (examples outlined in Appendix D)
- The City will communicate this reliance on professional seals in the form of a requirement for a signed statement by the professionals and the property owner to record their acknowledgement of this reliance as well as to recommend a base level of insurance in the event of non-compliance (e.g. $1 million of professional errors and omissions insurance) (see example of proposed Professional Statement in Appendix C).
- The introduction of an Optional Professional Certificate Program (OPCP) for permit issuance for qualified[2] commercial projects which currently require professional seals and include a certificate from the professional(s) and owner as outlined in Appendix E.

[1] "For the purpose of an inspection, the City may rely on a certificate of or representation by an engineer, architect, surveyor or other person with expertise respecting the thing being certified or represented, and where the City relies on such a certificate or representation, it is not liable for any loss or damage arising from the negligence of the person giving the certificate or making the representation."

[2] The optional program will not be available for certain complex building categories such as hospitals and high-rise buildings.

5. Increased accountability of professional and licensed trades individuals and companies

A key strategy item involves increased accountability for those professionals and licensed tradespersons submitting building plans for acceptance as well as those performing or reviewing construction work. This accountability will include a more assertive approach by the City in reporting non-compliance to the relevant professional associations (e.g. APEGM / MAA) for possible review as well as holding disciplinary hearings for tradespersons licensed by the City, which may result in the suspension or revocation of licenses for plumbing, electrical or mechanical tradespersons.

It is expected that this higher level of accountability will result in all professionals and tradespersons applying more diligence and care to their work, which will increase the quality of construction and decrease the Public Service resources necessary to monitor this work.

6. Changes to the building and electrical by-laws

A more thorough summary of the proposed changes to the by-laws is set out in Appendix F. The by-law amendments are attached in Appendices G and H. Some key changes include the following:

- Explicitly authorizing the designated employee flexibility to rely on professional seals or certificates as to code compliance
- Clarification of the responsibility of the property owner for ensuring that construction meets the terms of the permit and by-law
- Clarification that if a building project is non-compliant with code, either during construction or upon completion, it is the requirement of the owner to bring the building into compliance
- Introduction of language of the professional certification that architects or engineers must provide when submitting sealed plans. This statement has developed in consultation with APEGM and MAA.
- Clarification that the current owner of a building has an on-going obligation to ensure that the building meets the standards of codes that were in effect at the time of any construction, alteration or renovation of the building. (While this was previously widely understood to be the case, the By-law was not explicit about this issue.)
- Clarification and reduction of the list of types of work requiring a permit (e.g. elimination of the requirement of a permit solely based on the value of construction).
- Clarification that one of the conditions that the City may impose for interim occupancy permits is an indemnification of the City by the owner and proof of insurance.
- Establishing clear timeframes regarding the time period for which a permit application and a permit is valid.
- Amendments to the composition and authority of the Winnipeg Building Commission (WBC).
    - Historically the WBC has dealt primarily as technical appeal body associated with orders to comply with Residential Buildings Fire Safety By-law 4304 (pertaining to building standards for older residential multiple family dwelling units). The demand for these hearings has dwindled and the last meeting of the WBC was held in 2008.
    - The proposal is for the WBC to more formally expand its authority to make recommendations on technical building, electrical, and fire code matters associated with new construction, code equivalencies, and orders to comply with construction related by-laws.
    - The formal composition of the WBC is amended to no longer include a member of an association representing operators of multiple family dwellings and instead include a second ‘member at large’. It is expected that the nature of issues being reviewed will require specific expertise in building and fire codes.

- A subsequent report to Council is expected shortly to appoint a new WBC membership as all previous membership terms have expired.

Appendix A sets out in greater detail the Public Service' current plans to implement the Building Permit and Inspection Strategy and Action Plan (Strategy). However, it should be noted that the Public Service will require flexibility to change the specifics of these plans as implementation proceeds.

A subsequent report to Council is expected in the coming months, which will outline some additional proposed changes including:

- reduction in fees for permits issued within the optional OPC Program to reflect the decreased cost of plan examination
- charging for most permits at the time of permit application rather than at the time of permit issuance
- increasing pricing for 'staged' permits to better represent the increased costs of plan examination review and handling

HISTORY

The City is mandated by provincial legislation to enforce various building codes, including the Manitoba Building Code and the Manitoba Fire Code. In addition, The City of Winnipeg Charter requires that the City enact zoning by-laws to regulate development and use of property in the city. Compliance with these codes and various City by-laws, including, for example, the Lot Grading, Waterworks and Sewer by-laws and the Private Access and Streets by-laws, is reviewed when building plans are submitted as part of a building permit application.

The City has struggled with the issue of permit processing times (e.g. review and sign-off on building plans submitted as part of permit applications) and timely response for inspections for a number of years. Various initiatives have been made to address and improve the situation including:

- Amalgamation of many elements of the permit process within a single location ('one-stop shop') (1997)
- Staged automation and computerization of permit processes beginning in 1998
- Permits X-Press initiative (2004)
- Formation of the Industry Advisory Group (2004)
- Implementation of a variety of Red Tape Recommendations (2007)
- Introduction of the Permits Reserve (2008)

These initiatives have all achieved successes to varying degrees but within a context of fluctuating permit demand (e.g. construction activity) and the City's fluctuating capacity (retirements, recruitment challenges) to process this demand. Recent factors affecting these issues include:

- A robust construction and growth environment within the city
- Increase in scale and complexity of recent commercial projects (projects like the Canadian Museum of Human Rights, the new stadium, and the Manitoba Hydro tower).
- Increased complexity of the Provincial Building Code
- High retirement rates of experienced staff within the Public Service
- Challenges and inability to recruit qualified staff (e.g. engineers and trades people with relevant employment experience) from within a high-growth construction environment, which is currently paying a premium for experienced labor

Internal reviews of the process have also resulted in recommendations to develop a more structured and intentional audit approach to plan review and inspections.

Additionally, the Public Service has been encouraged by industry partners - members of the Industry Advisory Group (IAG) - to engage in many of the strategies and action items identified in this plan. These ideas were presented to the IAG in October, 2011 and received positive feedback. Since that time, additional consultation has occurred with members of the Manitoba Home Builders Association (MHBA), Manitoba Association of Architects (MAA) and the Association of Professional Engineers and Geoscientists of Manitoba (APEGM), to discuss relevant details.

MHBA has indicated their support, in writing, for a proposed audit based approach to residential plan examination and inspection. Winnipeg Construction Association (WCA) has expressed written support for the increased reliance on professional certificates and agreed to advocate for this change with their clients. Both MAA and APEGM have indicated that their members have the expertise to certify code compliance and have been generally supportive regarding strategies to rely more fully on professional certification and to hold non-compliant applicants more accountable. Although opinions vary by stakeholder, the general consensus is that the Strategy moves the process in a positive direction.

FINANCIAL IMPACT

Financial Impact Statement

Date: March 1, 2012

Project Name:

Strategy to improve building permit and inspection processing times

COMMENTS:

1. The recommendations contained in this report include that 1) Council endorse the Building Permit Strategy and Action Plan (Strategy) attached as Appendix A and 2) that Council enact amendments to the Winnipeg Building By-law (4555/87) and Winnipeg Electrical By-law (draft amending By-law attached as Appendix G and explanation attached as Appendix F), which will:
- explicitly give the designated employee the flexibility to rely on professional seals without the need for further review other than audit-based systems in plan review and building inspection;
- clarify that property owners have an on-going obligation to comply with the codes that were in existence at the time the construction on their property took place;
- clarify the responsibilities of property owners and design professionals in the permit process;
- clarify the terms on which permits are issued.

There are no direct 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 Department

The Permits X-Press Industry Advisory Group (IAG) which includes representation from:

- Manitoba Home Builders Association (MHBA)
- Winnipeg Construction Association (WCA)
- Manitoba Association of Architects (MAA)
- Association of Professional Engineers and Geoscientists of Manitoba (APEGM)

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Stan Dueck
Date: March 1, 2012
File No. O:/Reports Directive/Development and Inspections/Manager of D & I

APPENDIX A

Building Permit Strategy and Action Plan



Appendix B

Process and Service Improvements Summary
Residential Plan Examination and Housing Inspections

Initiatives Implemented To-date

Residential Housing Inspections:

1. Builder Defect Self Certification Program (DCP)

The DCP was implemented in January, 2011 for use by qualifying professional builders that allows self-certification of certain deficiencies. Qualifying builders correct deficiencies and submit photos and statements confirming that the deficiencies have been corrected.

The DCP reduces the number of physical re-inspections by the Public Service, thus increasing inspection capacity, efficiency, and reducing appointment wait times. Self-certification is subject to an audit. Builders found to be fraudulent in their certification will be removed from participation in the program.

2. Appointment-based Inspection System (AIS)

The AIS was implemented for all residential housing inspections in February, 2011 and applies to all customers -- professional builders and homeowners alike. The AIS is intended to improve the manner in which inspection services are provided by scheduling inspections based on appointments that can be made any time during normal working hours. Inspectors no longer receive direct phone calls during a narrow one hour period each morning for the purpose of scheduling inspections. Rather, appointments can be made days and weeks in advance. Inspector redundancy has been built into the system to allow for sick time, and emergency inspections.

AIS shifts scheduling activities from inspectors to administrative support staff and allows inspectors to spend more time at job sites.

3. Shift to wireless technology

Inspection software is increasingly updated in the field and directly into tracking software. This decreases time delay in transferring field notes to a central database and increases response time for customer inquiries.

Initiatives to be implemented in Q2, 2012

Audit-approach to Plan Examination and Inspections

1. Standard and forensic audit checklists

Standard and forensic audit checklists are being reviewed and re-established for both the review and approval of residential building plans for new units, additions, and renovations.

2. Audit program for established residential builders

A residential audit program that is being finalized and will begin to be implemented in Q2, 2012 will include the following features:

- All residential permit applications from the general public and home builders with low volume or limited permit history will continue to receive standard current plan reviews and inspections.
- Established professional home builders, for which the City can establish an ongoing statistically significant history of performance, and who are members of a recognized home warranty program, will be eligible for the audit approach to both residential plan examination and inspections.
- Participants in the audit program will still be required to submit engineer-sealed foundation plans and their plans will still be subject to a standard review for compliance with zoning, water, sewer and streets by-laws. However, the plan reviews for Building By-law compliance will be less extensive and will be supplemented with the audit program.
- Based on a statistically weighted sampling plan, applicants with a performance history of code compliant permit applications and inspections will be audited, at both the plan examination and inspections stages, less often than those whose performance shows a history of non-code compliant plan submissions and / or deficiencies on inspection.
- Builders with a history and / or record of non-code compliant plan submissions and / or deficiencies on inspection will continue to receive standardized reviews and inspections.
- Applicant performance data will be assessed regularly to maintain meaningful performance records.
- Audit frequency will be assigned to balance issues of Public Service capacity, applicant performance, and public safety risk.
- Periodic and random 'forensic' audits will be conducted to help ensure compliance with a broader range of code issues.
- Builders will receive feedback about their current performance measures in order to assist them in improving their performance record with increased internal quality controls
- All applicants will still be audited to help ensure that current quality is being maintained. Additionally, all applicants will receive random 'forensic' audits to ensure that a broader range of code issues are being monitored.
- Only established builders with recognized consumer warranty programs will be subject to the audit program.

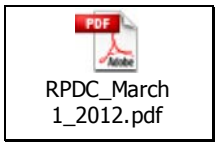
Summary

- The provision of service concentrates on the areas of highest risk. Based on a risk analysis, a variety of factors such as the nature of the project, and the past performance of the applicant will determine if an inspection will be required or, alternately, by way of the audit function, by-passed and no inspection be required.
- The program 'systematizes' what is intuitive to many: those builders that have a history of measurable quality and have proven to be consistent in terms of code compliance will receive fewer plan reviews and inspections. Those that have not will continue to receive standard inspections of their plans and work.

Appendix C

The intent is to implement this Certificate requirement in Spring 2012, following further consultation and communication with Industry.

Example of Proposed Required Certificate



Appendix D

Examples of items for which compliance with codes will still apply, but for which the Public Service will not routinely check ***when building plans are submitted under professional seal.***

Section 3.7 – Health Requirements

- Number of plumbing fixtures such as water closets, lavatories.

Section 3.8 – Barrier-Free Design

- Barrier-free entrances[3]
    - Will continue to be subject to inspection at construction stage
- Barrier-free path of travel within buildings
    - Non-safety (accessibility) items
        - Will continue to be subject to inspection at construction stage
    - Safety items (e.g. slip resistance of walking surfaces)\
        - continue current practice of no plan review, but will be subject to inspection at construction stage
    - Issues related to fire and other emergency protection within the building, and for exiting etc. including considerations for barrier-free protections are dealt with in other sections of the code, which will continue to be reviewed.
- Washrooms and fixtures required to be barrier-free.
    - All barrier free washroom requirements
        - Will continue to be subject to inspection at construction stage
- Ramps
    - Landings on ramps
        - Will continue to be subject to inspection at construction stage
    - Ramp slope and guardrail requirements are reviewed under other sections of the code
- Doorways and doors
    - Door operating devices and thresholds
        - Continue current practice of no plan review, but will be subject to inspection at construction stage
    - Other items are of a non-safety nature
        - Will continue to be subject to inspection at construction stage

Part 5 – Environmental Separation

- Insulation
- Air barrier systems
- Vapour barriers
- Protection from precipitation
- Foundation and floor drainage
- Protection from noise
    - Not considered a safety objective within the building code (health)
    - Will no longer be reviewed before permit issuance

[3] Not considered a safety objective within the building code (accessibility)

- Will continue to be subject to inspection at construction stage

Part 7 – Plumbing Services

- All plumbing code requirements
    - Continue current practice of no plan review, but will be subject to inspection at construction stage.

Part 8 – Safety Measures

- Fencing construction sites etc.
    - Continue current practice of no plan review, but will be subject to inspection at construction stage

Appendix E

The intent is to implement this Optional Certificate Program in Spring 2012 following further consultation and communication with Industry.

The Optional Professional Certificate Program - DRAFT

This Optional Professional Certificate Program eliminates standard plan review procedures prior to permit issuance.

This Program is open to architects and engineers registered to practice in Manitoba and that are members in good standing with the Manitoba Association of Architects or the Association of Professional Engineers and Geoscientists of Manitoba. (The professional must be the applicant).

This Program may only be used for commercial projects - new construction and additions. Consideration will be given to expanding the Program in the future to include building alteration permits submitted by professionals. (Certain complicated buildings such as hospitals may be excluded at the discretion of the City).

Program Steps:

Step 1. Pre-submission:

- Intent and approval to apply is communicated at a pre-application meeting. (applicable meeting fees as per fee schedule)
- Alternative solutions to the prescriptive requirements of the Building Code must be approved at the pre-application stage and in accordance with the "Guide – Building Permit Submissions for Commercial Projects"

Step 2. Submission:

- Certificates by all of the design professionals involved and the owner (see below) are submitted with permit application. Professionals and owners will declare acknowledgement that the permit will be issued without a review of building code compliance, and that if non-compliance is revealed in the course of an audit or inspection, that remediation of the non-compliant item will be required.
- All of the documentation required by the Building Site and Design Summary (BSDS), including the BSDS and the certificates (mentioned above) must be submitted at the time of application
- Professionals in this program must carry a minimum of $2M (with a recommended level of $5M) of Errors and Omissions Insurance and pledge to keep the insurance for at least two years beyond the project completion. Policy certificates can be filed with the City in advance and resubmitted annually.

Step 3. Application Review:

- Permit applications are reviewed for issues of
  - zoning
  - compliance with requirements of the Water and Waste Department for issues relating to lot grading and site servicing, and compliance with the Lot Grading, Waterworks and Sewer By-laws
  - compliance with requirements of the Public Works Department such as approaches and site access and compliance with the Private Access By-law 49/2008 and the Streets Bylaw 1481/77
  - compliance with the requirements of the Fire Paramedic Service
  - completeness of submission (to ensure ease of potential audit of building plans)

Step 4. Permit Issuance:

- Building permits will be issued without building code or electrical code plan examination
- The target for permit issuance under this option is after five business days, assuming full compliance with all requirements relating to zoning, Water and Waste Department Review, Public Works Department review, and Fire Paramedic Service Department and complete submission.

Step 5: Audit Phase

- Audits of compliance with building code issues will be performed on an estimated 15-30% of the plans submitted under this option
- Plans will be selected for audit based on a variety of factors including
  - random selection
  - resource capacity
  - previous compliance history
- Audits revealing non-compliance with code will result in owners being required to take action to remediate the issue of non-compliance

Step 6: Inspection Phase

- Standard building inspections procedures remain.

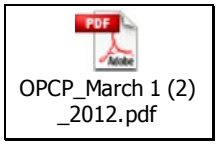
Issues of Non-compliance and Appeal Process

- If deficiencies which pertain to substantive issues of life safety are noted during the audit or inspections, the City may issue a stop work order.
- If not all deficiencies noted during an audit have been resolved, the permit will be revoked.
- If an architect or engineer has displayed negligence or incompetence with regard to, or lack of knowledge of, the Manitoba Building Code, Manitoba Fire Code, Electrical Code or other applicable laws, rules or regulations as demonstrated by applications, plans or certifications submitted by the architect or engineer to the City, or, if the architect or engineer has submitted applications, plans or certifications to the City that were required to be prepared by the architect or engineer or under their supervision but that were not prepared by the architect or engineer or under their supervision the City will report this professional to the appropriate professional association.
- Additionally, the City may exclude an architect or engineer from future participation in the Optional Professional Certificate Program (OPCP)
- Upon exclusion, the architect or engineer will only be re-instated to the OPCP once all disciplinary requirements of the association have been met. In addition, before re-instatement, the professional must demonstrate acceptable code knowledge by having a minimum of three plans submitted and approved for issuance of a building permit, to the satisfaction of the Designated Employee.
- Applicants or professional can request a formal recommendation by the Winnipeg Building Commission to the designated employee with respect to decisions about the application of Codes, including those concerning alternative solutions and deviations. Final decision by the designated employee can be appealed to the Standing Policy Committee on Property and Development.

Other

- Any amendments to the original submission must be professionally certified and submitted (also subject to audit).
- Applicants who file under the professional certification option may not subsequently request an audit or plan review or approval. To obtain a plan examination and approval, the applicant must withdraw the professionally certified application and then file a new application.
- A full review of a professionally certified application may also be conducted at any time based upon receipt of a complaint, evidence of non-compliance, or other determination made by the City.

DRAFT Optional Professional Certificate



OPCP_March 1 (2)
_2012.pdf

Appendix F

Key Points in Amending the By-law(s)

Impact on owners

- Replaces the confusing term “person responsible” with the more straightforward term “owner”. The former definition of “person responsible” is now used to define “owner”.
- Makes clear that owners are responsible for ensuring that plans, drawings, specifications and certificates that are required for an application have been prepared, signed and sealed by appropriate design professionals.
- Makes clear that, unless they notify the designated employee otherwise, owners are responsible for ensuring that the design professional who drafted the plans for an aspect of construction must also review the construction of that aspect. For example, the design professional who sealed the mechanical drawings must also review the construction of the mechanical aspect of the building unless the owner notifies the designated employee that a different design professional will conduct the review.
- Clarifies that owners must rectify any points of non-compliance with Code that took place during construction.
- Clarifies that there is an on-going responsibility on owners to ensure that the building meets the standards that were in place at the time that any part of the building was constructed or altered. For example, if a building was constructed in 1970, the current owner is responsible for ensuring that it meets the Codes that were in place in 1970. If part of it was renovated or upgraded in 2001, that part must meet the Codes that were in place in 2001.

Impact on Design Professionals

- Codifies some features of existing system. For example, it reflects the requirement of the Manitoba Building Code that, in cases where designs for construction must be prepared by architects or engineers, those plans, drawings and related documents must be signed and sealed by the design professional.
- Alters the wording of the statements that must be signed and sealed by design professionals to more closely reflect the requirements of the Codes. The new wording also makes clear that the design professional is offering his or her carefully considered professional opinion – and not just an “off-the-cuff” opinion or a mere legal formality - about the compliance of the plans and the construction with the applicable Codes.
- Prohibits anyone who is not a qualified architect or engineer who is skilled in the particular aspect of construction from signing and sealing the plans, drawings and certificates.

Impact on designated employee

- Authorizes the designated employee to design certificates that must be signed by design professionals for those buildings that require plans to be designed by architects and/or engineers and require the construction to be reviewed by the design professional who prepared the plans. The authority given to the designated employee is limited by certain specific statements that the By-law requires that the designated employee must include in the certificates. The specified statements are set out in the By-law and are based on requirements already contained in the Codes.
- Authorizes the designated employee to limit or even eliminate entirely any review conducted by the City on plans or certificates signed and sealed by design professionals. The certificates required by the designated employee in such a situation could be different than those generally

required when design professionals submit their plans or review construction and the designated employee is empowered to impose requirements on design professionals, such as requiring them to have professional liability insurance. The designated employee is also authorized to institute audit programs to check on the Code compliance of the plans prepared and construction reviewed by professionals.

- Authorizes the designated employee also to eliminate the review by the City of plans submitted for buildings that are not required to be designed by an architect or engineer. In this case, an audit is mandatory.
- Makes clear that, whenever no review of plans or construction is done by the City, the owner is still responsible for ensuring that the resulting construction is Code-compliant. If it is not, the owner must correct the non-compliance at his or her expense.

Permits

- Clarifies that new permits can be required if the amendments and alterations to submitted plans are substantial and require an additional review
- Clarifies that permits are considered abandoned if the applicant fails to provide information necessary to process the application, or fails to respond to communication by the City or otherwise appears to have abandoned the application.
- Provides that only the owner, a person on behalf of the owner or a licensed tradesperson can apply for a permit. A contractor will no longer be able to apply for a permit except on behalf of the owner.
- In addition to the existing rule that permits expire if work is not initiated within 6 months and pursued at a reasonable pace thereafter, provides that work must be completed within 3 years except as otherwise permitted by the designated employee for exceptionally large projects. The designated employee can authorize an extension for on construction for up to 6 months and an extension for completion for up to 3 years. However, in order to qualify for the extension, the permit holder will have to provide a deposit in the amount of the permit fee and commit to a work plan with specific target dates. If an owner fails to meet the deadlines and then applies for a new permit for the same project, the requirement for the deposit and work plan still apply.
- Clarifies that the City may ask for an indemnity and certificate of insurance from the owner before issuing an interim occupancy permit.
- Eliminates the need for permits for non-structural work (other than electrical and plumbing) in single family houses.

Building Commission

- Alters the composition of the Commission by eliminating the representative of owners/operators of multi-family residential properties in favour of an additional member at large
- Provides a mechanism for an applicant to request a recommendation by the Commission to the designated employee with respect to decisions about the applications of Codes, including those concerning alternative solutions and deviations. However, a recommendation of the Commission resulting in a formal decision by the designated employee could still be appealed to the Standing Policy Committee.
- Provides for members to recuse themselves from decisions if they are in a direct conflict of interest. Where there is no direct conflict but a decision could impact current or future work of a Commission member, the member must declare this but is entitled to participate in the decision.

Appendix G

