THE CITY OF WINNIPEG

BY-LAW NO. 55/2014

A By-law of THE CITY OF WINNIPEG to protect and conserve buildings, land, elements of a building or land, or areas of special architectural or historic interest

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

Short title

1 This By-law may be referred to as the "Historical Resources By-law".

Definitions and interpretation

2 In this By-law

"alteration", in respect of a historical resource, includes

(a) the construction or installation of an addition to a building or element of a building, including the installation of any sign, advertisement, hoarding or wall;

(b) the modification, repair, restoration, renovation or maintenance of a building or element of a building;

(c) an action that results in damage to the exterior of a building, or to land, or an element of a building or land;

(d) an excavation, or the construction or installation of a permanent or temporary structure of any kind on the property on which a resource is located;

"building" includes a structure, statue, memorial, monument, fountain, gate, bridge or any other fixture or immovable object;

"citizen" means a person, other than a member of Council, who resides in Winnipeg and is eligible to vote in a civic election in the City of Winnipeg;

"conservation" includes all actions or processes that are aimed at safeguarding a resource so as to retain its heritage value and extend its physical life, and includes preservation, rehabilitation and restoration or a combination thereof;

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

"demolition", in respect of a resource, includes the following:

(a) the destruction, removal, dismantling of a resource;

(b) a significant and irreversible alteration of a resource;

and, without restricting the generality of the foregoing, includes any action for which a demolition permit under the Winnipeg Building By-law is required;

"Designated Committee" means the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management;

"designated employee" means

(a) the Director; and

(b) the Heritage Planner and other employees of the City who have been given responsibility by the Director for heritage matters or have been authorized by the Director to administer and enforce this By-law;

"Director" means the Director of the department of the City with responsibility for heritage planning and currently refers to the Director of Planning, Property and Development for the City of Winnipeg;

"element" means a feature or aspect of a building or land;

"heritage permit" means a permit issued by the designated employee pursuant to Part 3 of this By-law;

"heritage values" means heritage values embodied by a resource based on the following criteria:

(a) its importance in illustrating or interpreting the history of the city or a neighbourhood;

(b) its association with important individuals, groups or events;

(c) its illustration of the architectural or design history of the city;

(d) its embodiment of distinct or unusual architectural or design characteristics or a particular style or method of construction;

(e) its location in an area of historical or architectural interest; and

(f) its historical or architectural integrity.

"Historical Buildings and Resources Committee" means the committee continued by section 37 of this By-law;

"historical or architectural integrity" means the authenticity of a historical resource's identity that is evidenced by the survival of the following components that existed during the property's historic period:

(a) location;
(b) design;
(c) setting;
(d) materials;
(e) workmanship;
(f) character and feeling; and
(g) association(s);

"historical resource" means a resource that is on the List;

"Inventory" means the Inventory of Buildings established under the Historical Buildings By-law No. 1474/77;

"List" means the List of Historical Resources established under this By-law;

"listed resource" means a building or land, or an element of a building or land that has been added to the List of Historical Resources;

"listing" means an entry on the List;

"nominated", in respect of a resource, means

(a) a resource which is deemed to have received a nomination to be added to the List under subsection 8(4); or

(b) a resource that has received a nomination to be added to the List under Part 1, Division 2;

"owner", unless the context requires otherwise, means the owner of the property on which a resource is located;

"regular meetings" means those meetings occurring on a predetermined monthly interval as outlined in the schedule distributed to the Historical Buildings and Resources Committee members at the start of each calendar year;

"resource" means a building or land, or an element of a building or land;

PART 1 - LIST OF HISTORICAL RESOURCES

Division 1 – General

List of Historical Resources established

3 A List of Historical Resources is hereby established that contains

(a) the buildings, erections and structures set out on the Buildings Conservation List, which is Schedule "A" of the Historical Buildings By-law No. 1474/77 as it existed immediately before this By-law came into force; and

(b) any additional resources added to the List pursuant to this By-law.

Transition from Buildings Conservation List

4 For the purposes of clause 3(a), the restrictions imposed on a building by virtue of the grade under which the building was registered pursuant to the Historical Buildings By-law No. 1474/77 are hereby adopted as protections imposed in respect of the building or one or more elements of the building pursuant to this By-law.

Publication of listing

5(1) A listing must set out the elements of the resource that are identified in a listing under subsection 19(2) or 20(4) and are subject to protection from demolition or alteration under subsection 6(1) and (2). If an element of a resource is not set out in the listing, it is not protected from demolition or alteration.

5(2) The Director shall ensure that the List is kept up to date and is posted on the City's website.

Protections for listed resources

6(1) Subject to Part 4, the owner of a property on which a listed resource is located must not

(a) demolish or alter, or permit to be demolished or altered, the listed resource; or

(b) construct, erect or locate a permanent or temporary building on the property in contravention of a listing.

6(2) For greater certainty, clause (1)(a) prohibits the owner of a property on which a listed resource is located from taking any action that would have the effect of destroying, removing or dismantling a listed resource.

6(3) No permit may be issued by the City that is inconsistent with the restrictions placed on a resource or a property by a listing under this By-law unless a heritage permit issued pursuant to this By-law authorizes the action for which a permit is sought.

6(4) Subject to subsection (5), an employee designated under a by-law of the City who is taking an action or measure to remedy a contravention of that by-law under subsection 185(1) of *The City of Winnipeg Charter* is bound by the obligations imposed on the owner of a resource under this section.

6(5) Notwithstanding subsection (4), where an emergency arises that affects the health or safety of persons or affects property, an employee who is authorized to take any action or measure under that by-law that is necessary to meet the emergency or to reduce its effects may do so without the need to comply with the obligations imposed by this By-law. However, an employee acting under this authority must:

(a) take into account the fact that a resource has been listed and must make such efforts as are reasonable in the circumstances to conserve the protected elements of the resource; and

(b) where it is reasonable to do so in the circumstances, consult with the Historical Buildings and Resources Committee prior to taking the actions or measures.

Effect of decision by Designated Committee or Council

7(1) Where, in accordance with this By-law, a decision has been made by the Designated Committee or Council that

(a) a resource should not be added to the List; or

(b) a resource should be removed from the List;

no restrictions imposed by this By-law apply in respect of that resource.

7(2) Subject to subsection (3), where a decision has been made in respect of a nomination to list a resource or an application to remove a resource from the List or for a listing to be modified in accordance with this By-law, no substantially similar nomination or application may be made for a period of five years.

7(3) Notwithstanding subsection (2), the Designated Committee may direct the Historical Buildings and Resources Committee to review a nomination or an application where there has been a material change of circumstances since a decision with respect to a substantially similar nomination or application was made.

Division 2 – Nomination Process

Nomination for resources to be added to List

8(1) Except for buildings on the Buildings Conservation List that are added to the List by section 3, no resource may be added to the List unless it has been nominated.

8(2) Subject to subsection (4), only the Director may nominate a resource to be listed. The Director may do so upon application by the owner of the resource to nominate the resource, or upon the Director's own initiative.

8(3) A building may not be nominated under this By-law unless it is at least 40 years old.

8(4) All buildings on the Inventory on the date this By-law comes into effect are deemed to have been nominated on the date this By-law comes into force and the nomination is deemed to include all elements of the building.

Owner-initiated nomination process

9(1) Upon payment of any applicable fee, the owner of a resource is entitled to apply to the Director to have the resource nominated for listing and, as part of the nomination, must identify the specific elements of the resource the applicant is seeking to have protected in the listing.

9(2) Where the owner applies under subsection (1), the Director must decide within 90 days whether or not to nominate the resource. This decision must be based on whether the Director

considers that the resource has heritage values that are likely, upon further review, to result in a listing. The Director must notify the owner of his or her decision.

9(3) If the Director decides to nominate the resource, the nomination must identify the specific elements of the resource that the Director believes should be protected in the listing, which may be different than the elements identified by the owner in an application to nominate the resource.

9(4) If the Director decides not to nominate the resource, upon payment of any applicable fee, the owner may appeal the decision to the Designated Committee pursuant to *The City of Winnipeg Charter*. After hearing the appeal, the Designated Committee may uphold the appeal and direct the Director to nominate the resource, or may uphold the decision not to nominate the resource. The Designated Committee's decision on appeal is final and may not be further appealed.

Director-initiated nomination process

10(1) The Director is authorized to nominate a resource for listing on his or her own initiative only if he or she considers that the resource has heritage values that are likely, upon further review, to result in a listing and if

(a) the resource is owned by the City of Winnipeg; or

(b) the resource is not a single family residential building;

and the resource has heritage values of widespread significance to the City or the community. The nomination must identify the specific elements of the resource that the Director believes should be protected in the listing.

10(2) The Director must give notice of the nomination to the owner of the nominated resource in accordance with section 41. The notice must include information about the owner's right of appeal under subsection (3).

10(3) The owner of a resource nominated under subsection (1) may appeal the nomination to the Designated Committee within 14 days of receiving or being deemed to have received notice of the nomination. No fee is payable for the appeal. After hearing the appeal, the Designated Committee may uphold the appeal and direct the nomination to be withdrawn, or may uphold the decision of the Director to nominate the resource. The Designated Committee's decision on appeal is final and may not be further appealed.

Protections for nominated resources

11(1) The owner of a nominated resource is prohibited from demolishing any element that is proposed in a nomination to be listed until the Historical Buildings and Resources Committee makes a recommendation concerning the nomination. During this time, no demolition permit may be issued in respect of the protected elements of that resource and any existing demolition permit in respect of the protected elements of that resource is suspended.

11(2) The protections imposed by subsection (1) take effect

(a) in the case of an owner-initiated nomination process, when the application to nominate the resource has been received by the Director;

(b) in the case of the deemed nomination of buildings previously on the Inventory pursuant to subsection 8(4), on the day this By-law comes into force; and

(c) in the case of nominations by the Director, at the time the owner has received or is deemed to have received the notice required by subsection 10(2).

Review of nomination by HBRC

12(1) Subject to this section, the Historical Buildings and Resources Committee must hold a meeting to review and make recommendations concerning a nominated resource within 36 months of its nomination.

12(2) Notwithstanding subsection (1), the owner of a nominated resource is entitled to have the nomination reviewed by the Historical Buildings and Resources Committee on an expedited basis

(a) upon application by the owner to the designated employee and payment of any applicable fee;

(b) when the Director nominates a resource on his or her own initiative under subsection 10(1); or

(c) when the Director issues an order prohibiting alterations of the resource under Part 2.

12(3) Unless the owner of the resource requests a postponement, the Historical Buildings and Resources Committee must conduct an expedited review within 90 days of the date the owner is first entitled to an expedited review.

Criteria for HBRC review

13(1) The Historical Buildings and Resources Committee must make a recommendation to the Designated Committee that a nominated resource should be listed only if the resource is of outstanding architectural or historic significance in the heritage values it embodies.

13(2) In making a recommendation to list a resource, the Historical Buildings and Resources Committee must identify which elements of the resource it considers should be protected in the listing because they contribute to the heritage value of the resource through their materials, form, location, spatial configuration, use, or cultural association or meaning.

Owner's rights re. review by HBRC

14(1) The owner of the resource being reviewed is entitled to make a written submission concerning the nomination to the Historical Buildings and Resources Committee through the office of the City Clerk. If the submission is submitted at least fourteen days prior to the review, it must be considered by the Committee in its review of the nomination.

14(2) The designated employee must give notice of the pending review by the Historical Buildings and Resources Committee to the owner at least 30 days before the review. The notice must

(a) identify the nominated resource and the elements that are proposed to be listed;

(b) identify research material, reports and any other written material that will be considered by the Committee as part of the review and offer to provide them to the owner upon request;

(c) advise the owner of the resource that he or she is entitled to submit written material for consideration by the Historical Buildings and Resources Committee and the date by which the written material must be submitted.

Recommendations of HBRC

15(1) After reviewing a nomination, the Historical Buildings and Resources Committee may make any recommendations with respect to the nominated resource it wishes to the Designated Committee. The Historical Buildings and Resources Committee is not bound in its recommendations by the terms of the nomination being reviewed.

15(2) The City Clerk must give the owner of the resource notice of the recommendations of the Historical Buildings and Resources Committee as soon as practical after the recommendations have been made.

Protection for resources after recommendation by HBRC

16(1) Subject to this section, the owner of a resource is prohibited from demolishing or altering, or permitting to be demolished or altered, the elements of the nominated resource concerning which the Historical Buildings and Resources Committee has made a recommendation for listing in a manner inconsistent with any recommendation made by the Historical Buildings and Resources Committee to the Designated Committee.

16(2) The protection for the resource imposed in subsection (1) takes effect when notice of the Historical Buildings and Resources Committee's recommendations has been given to the owner of the resource under subsection 15(2) and extends until a final decision with respect to the nomination is made under this By-law.

16(3) For greater certainty, no restriction is imposed by this By-law on the owner of a resource under subsection (1) where the Historical Buildings and Resources Committee recommends that a nominated resource should not be listed.

Consideration by Designated Committee

17(1) Subject to requests for postponements by the owner, the Designated Committee must consider the recommendations from the Historical Buildings and Resources Committee within 90 days after receiving the recommendations.

17(2) Subject to subsection (1), the Director is authorized to provide a report with respect to the nomination for consideration by the Designated Committee at the time it considers the recommendations of the Historical Buildings and Resources Committee.

17(3) The City Clerk must notify the owner of the resource at least 14 days prior to the date the Designated Committee considers the recommendations from the Historical Buildings and Resources Committee with respect to the resource.

Criteria for decision by Designated Committee

18(1) In determining whether a resource should be added to the List, the Designated Committee must consider whether the resource is of outstanding architectural or historic significance in the heritage values it embodies and may, in addition, consider the economic viability of conserving the resource.

18(2) A determination of the economic viability of protecting and preserving a resource under this section must be based on the following criteria:

(a) the condition of the resource;

(b) the costs of the continued repair and maintenance of the resource;

(c) the importance and value derived from the conservation or continued conservation of the resource;

(d) the efforts that have been made by the owner to date to conserve the resource; and

(e) the merits of alternative proposals for the resource or the site on which it is located, other than conserving the resource by adding it to the List.

Options for Designated Committee

19(1) After considering the Historical Buildings and Resources Committee's recommendations with respect to the nomination, the Designated Committee must determine whether or not the resource should be listed.

19(2) When it determines that a resource should be listed, the Designated Committee must set out in the listing the elements that it considers should be protected but may only include elements that were proposed either in the nomination or in the recommendations made by the Historical Buildings and Resources Committee.

Consideration of nomination by Council

20(1) Subject to section 21, the determinations of the Designated Committee under section 19 concerning a nomination are recommendations to Council that must be considered by Council within 60 days of the meeting of the Designated Committee at which the recommendations were made.

20(2) In considering a nomination, Council must use the same criteria as are required to be considered by the Designated Committee by section 18.

20(3) After considering the recommendations of the Historical Buildings and Resources Committee and the Designated Committee together with any recommendations made by the Executive Police Committee, Council may list or decline to list the resource.

20(4) When it decides to list a resource, Council must set out in the listing the elements that are to be protected but may only include elements that were proposed either in the nomination or in the recommendations made by the Historical Buildings and Resources Committee.

When Designated Committee determinations are final

21(1) Notwithstanding section 20, the determinations of the Designated Committee are deemed to be final decisions that are not to be considered by Council and may not be appealed if:

(a) they are identical to the recommendations of the Historical Buildings and Resources Committee; and

(b) the owner does not oppose the recommendations.

21(2) For the purposes of subsection (1), the owner is deemed not to oppose the recommendations of the Historical Buildings and Resources Committee if he or she neither

(a) appears in person or by agent at the meeting of the Designated Committee at which the recommendations are considered to advise of his or her opposition; nor

(b) advises the City Clerk in writing of his or her opposition to the recommendations of the Historical Buildings and Resources Committee prior to the meeting of the Designated Committee at which the recommendations are considered.

21(3) Notwithstanding that the owner has

(a) appeared in person or by agent at the meeting of the Designated Committee at which the recommendations are considered to advise of his or her opposition; or

(b) advised the City Clerk in writing of his or her opposition to the recommendations of the Historical Buildings and Resources Committee prior to the meeting of the Designated Committee at which the recommendations are considered;

the owner may withdraw his or her opposition to the recommendations by so advising the City Clerk in writing.

21(4) Notwithstanding subsection (1), where the owner of the resource is the City of Winnipeg, the determinations of the Designated Committee are deemed to be final decisions that are not to be considered by Council and may not be appealed.

Notifications of Designated Committee's recommendation and final decision

22(1) The City Clerk must give notice to the owner of the resource of

(a) the Designated Committee's recommendations and the date of the meeting of Council to consider those recommendations; and

(b) a final decision with respect to the nomination.

The notice required by clause (a) must be given at least seven days prior to the meeting of Council to consider those recommendations.

22(2) The City Clerk must send notice of the Designated Committee's recommendations and the date of the meeting of Council to consider those recommendations to any person who requests such notice prior to the decision being made by Council and who provides an address to which the notice may be sent. This requirement is met if the notice is sent by ordinary mail or electronic mail.

Division 3 – Removal from or Modification of List

Definition

23 In this Division, "application" means an application for a listed resource or a listed element to be removed from the List, or for a listing to be modified.

Application for removal from or modification of List

24(1) After paying any applicable application fee, the owner of a listed resource may apply for a listed resource or a listed element to be removed from the List or for the listing to be modified.

24(2) The Director may apply for a listing to be modified or a listed resource to be removed from the List but may do so only if

(a) the resource is damaged or destroyed to the point where the resource no longer embodies heritage values sufficient to justify its continued inclusion on the List; or

(b) the resource poses a health or safety hazard.

24(3) The Director's decision to apply under subsection (2) is not subject to appeal.

Protection of listed resource pending decision on application

25 The protections applicable to a listed resource remain in place until and unless the Designated Committee or Council, as the case may be, removes the resource from the List or modifies the listing in a manner that modifies or eliminates the protection.

Review of application by HBRC

26(1) The Historical Buildings and Resources Committee must review an application under this Division and provide recommendations to the Designated Committee within 90 days after the application is made.

26(2) The Historical Buildings and Resources Committee may recommend that a resource or an element of a resource be removed from the List if it no longer embodies sufficient heritage values to justify its continued inclusion on the List.

26(3) Sections 14 and 15 are applicable to the review of the application by the Historical Buildings and Resources Committee, with the changes necessary to accommodate an application rather than a nomination.

Consideration by Designated Committee

27(1) Subject to requests for postponements by the owner, the Designated Committee must consider the recommendations from the Historical Buildings and Resources Committee within 90 days after receiving the recommendations.

27(2) Subject to subsection (1), the Director is authorized to provide a report with respect to the nomination for consideration by the Designated Committee at the time it considers the recommendations of the Historical Buildings and Resources Committee.

27(3) In considering an application under this Division, the Designated Committee must consider whether the resource or the identified element of the resource continues to embody heritage values sufficient to justify its continued inclusion on the List and, if applicable, the hazard posed by the resource and may, in addition, consider the economic viability of conserving the resource or the identified element of the resource, using the criteria set out in subsection 18(2).

27(4) Notwithstanding subsection (3), in considering an application under this Division, the Designated Committee must not consider the merits of alternative proposals for the resource or the site on which it is located unless the owner has obtained zoning approvals and building permits consistent with his or her plans for redevelopment of the site.

27(5) The Designated Committee may make any determination with respect to the application that was sought in the application or that was recommended by the Historical Buildings and Resources Committee or may determine that the application should be denied.

Consideration of application by Council

28 Sections 20, 21 and 22 apply, with changes as necessary to accommodate an application rather than a nomination, to consideration of the application by Council, the circumstances in which the determinations of the Designated Committee are final, and requirements with respect to notices.

PART 2
DIRECTOR'S EMERGENCY CONSERVATION POWERS

Emergency conservation powers of Director

29(1) Notwithstanding any other provision in this By-law, where

(a) a nomination to add a resource or an element of a resource to the List has been made;

(b) the Director is satisfied that the resource embodies extraordinary heritage values; and

(c) there is reason to believe that irreparable alterations to the resource or an element identified in the nomination are imminent;

the Director may issue an emergency conservation order prohibiting alterations in respect of the resource that would otherwise be permitted under this By-law.

29(2) An emergency conservation order issued under this section must be given to the owner of the resource in accordance with section 117 of *The City of Winnipeg Charter* and takes effect upon it being so given.

29(3) An appeal of an emergency conservation order made under this section may be made to the Designated Committee in accordance with *The City of Winnipeg Charter*. No fee is payable for the appeal.

29(4) Subject to the emergency conservation order being overturned, in whole or in part, on appeal, the owner of a resource identified in an emergency conservation order must not contravene the order until the nomination has been reviewed and a recommendation concerning the nomination has been made by the Historical Buildings and Resources Committee. Once the Historical Buildings and Resources Committee has made a recommendation concerning the nomination, section 16 applies.

PART 3
HERITAGE PERMITS

Heritage permits

30(1) Subject to this section, upon application by or on behalf of the owner of a listed resource, the designated employee may issue a heritage permit authorizing the owner of a listed resource to carry out alterations in respect of the resource. The heritage permit may only allow alterations that are consistent with conservation of the heritage values embodied by the elements identified in the listing.

30(2) A heritage permit may be issued subject to conditions or restrictions.

30(3) The decision of the designated employee to issue or to deny a heritage permit and to impose conditions or restrictions on the heritage permit must be based upon the following factors:

(a) the fundamental goal of conserving and enhancing the heritage values referred to in the listing embodied by the resource;

(b) the practical necessity for the proposed alterations for which a heritage permit is being sought;

(c) the benefits of various techniques or approaches by which the proposed alterations could be conducted;

and the decision must be consistent with the *Standards and Guidelines for the Conservation of Historical Places in Canada* published from time to time by Her Majesty the Queen in Right of Canada.

Reference to HBRC mandatory

31(1) Subject to subsection (2), prior to making a decision concerning the issuance of a heritage permit, the designated employee must refer the application for consideration by the Historical Buildings and Resources Committee and must take into account the advice of the Historical Buildings and Resources Committee in making a decision.

31(2) Subsection (1) does not apply where, in making a decision concerning an application for a heritage permit, the designated employee applies guidelines established from time to time by the Historical Buildings and Resources Committee.

Notice of decision to owner

32(1) The designated employee must give notice to the owner of the resource of his or her decision concerning the application for a heritage permit in accordance with *The City of Winnipeg Charter*.

32(2) If the designated employee fails to notify the owner of a decision in respect of an application for a heritage permit within 90 days after the owner has provided all of the information necessary for the designated employee to make a decision with respect to the application, the owner may proceed with the alteration for which a heritage permit was sought without the need for a heritage permit.

32(3) An application for a heritage permit is not complete until all the information reasonably necessary for the designated employee to make a decision in respect of an application has been provided to the designated employee.

Public notice of decision

33 Where the designated employee makes a decision in respect of a heritage permit that differs substantially from the advice of the Historical Buildings and Resources Committee:

(a) he or she must publish on the City's website a notice that contains:

(i) the decision made in respect of the application for a heritage permit;

(ii) a statement that any resident of Winnipeg may appeal the decision to the Designated Committee within 14 days of the publication of the notice;

(iii) the information required to be provided by subsection 116(2) of *The City of Winnipeg Charter*; and

(b) he or she must notify the Chair of the Historical Buildings and Resources Committee of this decision.

Decision subject to appeal
34(1) Upon payment of any applicable fee, the owner of a resource is entitled within 14 days to appeal to the Designated Committee a decision by the designated employee concerning an application to issue or refuse to issue a heritage permit in respect of that resource.

34(2) Upon payment of any applicable fee, any resident of Winnipeg is entitled within fourteen days of the publication of the decision under section 33 to appeal to the Designated Committee a decision by the designated employee concerning an application to issue or refuse to issue a heritage permit that differs substantially from the advice of the Historical Buildings and Resources Committee concerning the application for the heritage permit.

34(3) Where the designated employee makes a decision in respect of a heritage permit that differs substantially from the advice of the Historical Buildings and Resources Committee, the decision is not final and a heritage permit must not be issued until

(a) the time period for appealing the decision has expired and no person has appealed the decision; or

(b) where the decision has been appealed, the appeal has been heard and decided, in which case the heritage permit must reflect the decision of the Designated Committee.

PART 4
COMMEMORATIVE LIST

Commemorative list established
35(1) There is hereby established a Commemorative List consisting of resources of significant historical or architectural interest which have not been added to the List.

35(1) Inclusion of a resource on the Commemorative List is intended solely to recognize significant historical and architectural resources and to encourage their conservation. It does not restrict the owner of the resource from developing or demolishing the resource.

Director given authority to add to or remove from Commemorative List
36(1) The Director is authorized to add resources to or remove resources from the Commemorative List based on his or her assessment of the significance of their heritage values.

36(2) The Director may establish one or more processes by which resources may be brought to his or her attention as worthy of being added to the Commemorative List.

PART 5
HISTORICAL BUILDINGS AND RESOURCES COMMITTEE

Historical Buildings and Resources Committee

37(1) The Historical Buildings Committee established under the Historical Buildings By-law No. 1474/77 is hereby continued as the Historical Buildings and Resources Committee.

37(2) The Historical Buildings and Resources Committee consists of the following individuals appointed by Council:

(a) up to three members of Council, one of whom shall be designated the Chair of the Historical Buildings and Resources Committee by Council;

(b) two individuals with expertise in heritage resource conservation employed by the Province of Manitoba;

(c) two individuals with expertise in heritage resource conservation employed by the Government of Canada;

(d) two members in good standing of the Manitoba Association of Architects;

(e) one member in good standing of Manitoba Association of Landscape Architects;

(f) one member in good standing of the Association of Professional Engineers and Geoscientists of Manitoba; and

(g) two citizen members at large.

37(3) Members of Council shall be appointed to the Historical Buildings and Resources Committee at the annual organizational meeting of Council for terms of one year and may be re-appointed.

37(4) Subject to subsection (6), individuals who are not members of Council shall be appointed to the Historical Buildings and Resources Committee for terms of three years and may be re-appointed, except that citizen members at large may be re-appointed for a limit of one additional term.

37(5) When a member of the Historical Buildings and Resources Committee fails to serve out the entirety of his or her three year term, another individual may be appointed to serve out the remainder of the term.

37(6) Notwithstanding subsections (4) and (5), appointments of members who are neither members of Council nor citizen members at large may be for terms shorter than three years when this is required in order to ensure that roughly one-third of the terms end each year and, in any event, to avoid more than one-half of the terms ending in any single year.

37(7) Subject to subsections (4) and (5), Council may re-appoint members whose terms have expired, have resigned, have forfeited their membership by the operation of subsection (8) or have been expelled by the Historical Buildings and Resources Committee pursuant to subsection (3).

37(8) Subject to subsection 39(4), a member of the Historical Buildings and Resources Committee, other than a member of Council, who fails to attend at least 60% of regular meetings in a calendar year forfeits his or her membership on the Historical Buildings and Resources Committee.

37(9) Members of the Historical Buildings and Resources Committee are not appointed as representatives of their employers or the organizations or governments of which they are members but rather are appointed by Council to provide their expertise and advice in a disinterested manner.

Duties of Historical Buildings and Resources Committee

38(1) The Historical Buildings and Resources Committee has the following powers, duties and functions:

(a) to make recommendations concerning nominations and applications with respect to the List of Historical Buildings and Resources;

(b) subject to the provisions of this By-law, to determine when reviews of nominated resources or applications under Part 1, Division 3 will take place;

(c) to give advice to the designated employee when applications for heritage permits are referred to him or her under subsection 31(1);

(d) to prepare guidelines referred to in subsection 31(2) for use by the designated employee in making decisions concerning applications for heritage permits;

(e) to provide expert advice, information and assistance to the Designated Committee in respect of heritage plans, policies and programs and on other matters relating to heritage;

(f) to encourage decision-makers to reflect heritage resource principles and facilitate heritage resource conservation activity in building standards, secondary plans, land use and other regulatory by-laws and planning decisions;

(g) to encourage integration of heritage considerations into overall city and community planning and into investment and development decision-making;

(h) to promote public understanding of the importance of conserving heritage resources and of protecting the physical and aesthetic context in which heritage resources and areas exist;

(i) to offer expert advice to property owners, construction trades and others concerning means by which heritage resources can be protected and conserved;

(j) to carry out the other functions assigned to it by this By-law or by Council.

38(2) In carrying out its duties and functions, the Historical Buildings and Resources Committee may seek the opinions and advice of experts and advocates, including representatives of the Manitoba Historical Society and the Heritage Winnipeg Corporation.

38(3) The Director must provide professional and technical support to the Historical Buildings and Resources Committee sufficient for the Historical Buildings and Resources Committee reasonably to perform its functions.

Procedures of Historical Buildings and Resources Committee

39(1) The Historical Buildings and Resources Committee may establish rules concerning its procedures and the activities of its members that are not inconsistent with this By-law or *The City of Winnipeg Charter*, including rules concerning conflicts of interest. These rules take effect only when ratified by the Designated Committee. If no rule has been established in this By-law or under this provision concerning a matter, the Procedure By-law No. 50/2007 applies.

39(2) Without restricting the generality of subsection (1), the Historical Buildings and Resources Committee may establish subcommittees, which are not subject to the In Camera By-law No. 21/2011, and may elect a Deputy Chair from among the members of the Committee.

39(3) The Historical Buildings and Resources Committee may expel a member, other than a member of Council, for violating rules set out in this By-law or rules established by the Committee.

39(4) At the request of a member who cannot attend meetings of the Committee for a period of time, the Historical Buildings and Resources Committee may suspend the membership of the member for up to six months.

39(5) For the purposes of carrying out the duties of the Historical Buildings and Resources Committee,

(a) quorum consists of more than 50% of the total number of members appointed to the Historical Buildings and Resources Committee; and

(b) subject to subsection 39(9), all matters must be decided by a majority of the members of the Historical Buildings and Resources Committee who are present at the meeting.

39(6) For the purposes of determining quorum, vacancies created by resignations, forfeitures of membership, expulsions and suspensions shall not be included in the total number of members of the Historical Buildings and Resources Committee.

39(7) At the discretion of the Chair of the Historical Buildings and Resources Committee, meetings to deal with urgent matters

(a) may be held in addition to regular meetings;

(b) may take place with one or more members participating by telephone; and

(c) are binding where

(i) every member of Committee is notified of the meeting, including the agenda of the meeting, at least 24 hours in advance and given a reasonable opportunity to participate; and

(ii) subject to subsection 39(9), at least 50% plus one member of the Committee participates in the vote.

39(8) As provided for in section 78 of *The City of Winnipeg Charter*, some or all of the members of the Historical Buildings and Resources Committee may convene seminars to receive or discuss information relevant to their work and these seminars are not subject to the provisions of the In Camera By-law No. 21/2011.

39(9) Members of Council may participate in discussions concerning nominations, applications and references with respect to heritage permits but are prohibited from voting on the matter. Where this provision applies, the members of Council are not considered to be a member of the Committee for the purposes of clause (5)(b) and subclause (7)(c)(ii).

PART 5
MISCELLANEOUS

Offences

40(1) Any person who contravenes this By-law or an order issued under this By-law commits an offence.

40(2) Any person who demolishes or alters a resource in contravention of this By-law or an order issued under this By-law is subject to a fine of no less than $1000.00 and no more than $1 million for each contravention or each day during which a contravention is on-going.

Default rules for giving notice

41(1) Unless otherwise specified, a requirement for giving notice imposed by this By-law may be met by

(a) personal service on the person required to be notified; or

(b) sending the notice by registered mail, delivery, fax or e-mail to an address determined in accordance with subsection (3).

41(2) Where notice is given by one of the methods set out in clause (1)(b), it is deemed to have been received on the third day after the day it was mailed, delivered, faxed or e-mailed.

41(3) Where it is necessary to determine an address for giving notice for the purposes of this By-law:

(a) if the document to be given relates to an application made by or on behalf of a person, the address provided as part of the application, including a fax number or e-mail address, may be used;

(b) if the person to whom the document is to be given or to whom a document is to be sent has provided an address for the purposes of being given or sent notice, the address so provided, including a fax number or e-mail address, may be used.

(c) if the person to whom the document is to be given or to whom a document is to be sent is the owner of real property, either of the following addresses may be used:

(i) the address maintained by the tax collector for the purpose of issuing the tax notice for that property; or

(ii) if the person is a registered corporation that has not been dissolved, the address of the registered office of the corporation shown in the articles or incorporation or in the last notice filed under section 19 of The Corporations Act, C.C.S.M. c. C225.

Powers of designated employees

42(1) The Director and other employees of the City to whom this power is delegated by the Director may conduct inspections and take steps to administer and enforce this By-law and, without limiting the generality of the foregoing, may

(a) issue orders prohibiting work being done in contravention of this By-law; and

(b) may remedy a contravention of this By-law in accordance with *The City of Winnipeg Charter*.

The Director and employees designated for those purposes have the powers of a designated employee under *The City of Winnipeg Charter* for the purposes of administering and enforcing this By-law.

42(2) Without restricting the powers set out in subsection (1), after giving reasonable notice to the owner and occupant of a building, a designated employee may enter a building where this is reasonably required in order to assess its architectural or historical interest for the benefit of the Historical Buildings and Resources Committee, the Designated Committee and Council in reviewing or considering a nomination or an application under this By-law.

Appeals

43 Except as otherwise provided in this By-law, an appeal from an order or decision of a designated employee that is authorized by *The City of Winnipeg Charter* or this By-law may be made to the Designated Committee by filing a written appeal with the City Clerk in accordance with *The City of Winnipeg Charter*.

Historical Buildings By-law repealed and replaced

44(1) Subject to subsection (2), the Historical Buildings By-law No. 1474/77 is hereby repealed and replaced with this By-law.

44(2) Notwithstanding subsection (1), if on June 1, 2014

(a) an application has been made under section 12 (Delisting or change of grade) or 17 (Certificate of Suitability) of the Historical Buildings By-law No. 1474/77; or

(b) the Historical Buildings Committee has made a recommendation with respect to a possible listing under the Historical Buildings By-law No. 1474/77;

the matter shall be dealt with as though the Historical Buildings By-law No. 1474/77 had not been repealed.

Consequential amendments to City Organization By-law

45 The City Organization By-law No. 7100/97 is amended:

(a) in section 11, by striking out "*Heritage Matters*";

(b) in section 13.2,

(i) by adding

- *"Heritage Matters"*

immediately after

- *"Planning and Land Use"; and*

(ii) by striking out subclause (o)(i); and

(c) by replacing 13.4(b) with "*administer the Historical Buildings and Resources By-law*".

Consequential amendments to Heritage Conservation Tax Credit By-law

46(1) The Heritage Conservation Tax Credit By-law No. 7155/98 is amended by this section.

46(2) Section 2 is amended by replacing the definition *"designated structures"* with the following:

"DESIGNATED STRUCTURES" *means those buildings listed on the List of Historical Resources established under the Historical Resources By-law;*

46(3) *"Buildings Conservation List"* is replaced with *"List of Historical Resources"* wherever it appears.

46(4) *"Historical Buildings By-law"* is replaced with *"Historical Resources By-law"* wherever it appears.

46(5) Subsection 3(2) is amended by replacing *"The"* with *"So long as the building remains a designated structure, the"* at the beginning of the subsection.

46(6) The following is added after subsection 4(2):

4(3) The amount of any tax credit provided under 3 in respect of a designated structure is reduced in the first year it is used by the amount of a research fee

established by Council with respect to the inclusion of that designated structure on the List of Historical Resources.

Consequential amendments to accommodate new name of Historical Buildings Committee

47 All by-laws of the City of Winnipeg are amended by replacing *"Historical Buildings Committee"* with *"Historical Buildings and Resources Committee"*.

Coming into force

48(1) Subject to subsection (2), this By-law comes into force on June 1, 2014.

48(2) Part 4 comes into force when this By-law is enacted by Council.

DONE AND PASSED, in Council assembled, this day of , 2014.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning, Property and Development

Certified as to form:

_____
For A/Director of Legal Services and City Solicitor