Minutes – Executive Policy Committee – September 12, 2018

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 4, 2018

Item No. 15 New Heritage Conservation Districts By-Law

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Heritage Conservation Districts By-law, (a draft of which is attached as Appendix "A" to this report) which incorporates the procedures and guidelines outlined in this Report, be enacted.

2. That the fees set out in Appendix "C" to this report, effective the date on which the By-law is enacted, be approved.

3. That the Public Service explore processes for identifying and prioritizing potential HCDs, including the OurWinnipeg and Complete Communities review process, and report back to the Council within 180 days.

4. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 4, 2018

DECISION MAKING HISTORY:

Moved by Councillor Allard,

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

Carried

STANDING COMMITTEE RECOMMENDATION:

On September 4, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: New Heritage Conservation Districts By-Law

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	J. Kiernan	M. Ruta	M. Jack, Acting CAO

EXECUTIVE SUMMARY

The Public Service has been exploring the creation of Heritage Conservation Districts ("HCD"s) in Winnipeg for some time. While The City of Winnipeg (the "City") currently lists individual properties as historical resources under the Historical Resources By-law, there is no by-law to allow the listing of multiple adjoining or adjacent properties, and the relationships between them. HCDs would be a new tool available to the City to highlight areas of special heritage significance in Winnipeg as a *whole,* rather than *individual* properties.

Section 157.1 of *The City of Winnipeg Charter* (the "Charter") authorizes Council to pass by-laws respecting buildings, parcels of land, or areas that Council considers to be of special architectural or historic interest. The Heritage Conservation District By-law (the "By-law"), proposed by this report, would establish procedures, policies and guidelines for creating HCDs in Winnipeg.

The Armstrong's Point neighbourhood has been used as a Case Study in respect of preparing an HCD Study and an HCD Plan, and will be the first neighbourhood nominated under the new By-law.

RECOMMENDATIONS

1. That Council enact the Heritage Conservation Districts By-law, (a draft of which is attached as Appendix "A" to this report) which incorporates the procedures and guidelines outlined in this Report.

2. That Council approve the fees set out in Appendix "C" to this report, effective the date on which the By-law is enacted.

3. That the Public Service explore processes for identifying and prioritizing potential HCDs, including the *OurWinnipeg* and *Complete Communities* review process, and report back to the Council within 180 days.

4. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On March 5, 2015 the Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to explore methods by which The City of Winnipeg could create Heritage Conservation Districts. Authority to do so is granted under the City of Winnipeg Charter; however formal processes establishing designation requirements, considerations and approvals do not exist. This report proposes a By-law which would formalize these processes to allow for the designation of Heritage Conservation Districts.

Only Council can enact by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

- A new Heritage Conservation Districts By-law will be enacted which will formalize a mechanism for the nomination, evaluation and designation of Heritage Conservation Districts ("HCDs") in Winnipeg. This proposed new by-law will:
  - Ensure congruency with *The City of Winnipeg Charter, OurWinnipeg* and *Complete Communities;*
  - Incorporate and align with up-to-date best practices for heritage conservation;
  - Ensure fairness, clarity and certainty throughout the process of reviewing and listing potential Heritage Districts.

- This By-law does not impact the general principles of By-law No. 55-2014, the Historic Resources By-law. Properties currently included on the List of Historic Resources will remain as such. Similarly, properties with heritage designations by other levels of government will not be affected.

- The By-law will not impose an obligation to maintain vacant heritage buildings at a higher standard than is required of all vacant buildings under the Vacant Buildings By-law No. 79/2010.

- The By-law does not impact the general principles of the new Heritage Conservation Grant Program (By-law No. 63/2018).

- The By-law may impact human resources. Workload for the Heritage Department within the Urban Planning Division will increase. Other departments may be impacted depending on the guidelines and policies of each HCD Plan.

- The By-law may impact financial resources. The City may be responsible for the drafting of HCD Studies and/or Plans for each potential HCD, which may cost between $5,000 - $10,000 each. This cost is anticipated to be offset/recouped from the collection of new fees associated with the By-law (see Appendix "C").

HISTORY/DISCUSSION

Winnipeg's heritage program has spanned some 40+ years, conserving and celebrating our built heritage. Over 280 individual properties have been formally listed and protected under the Historical Resources By-law No. 55/2014 and its predecessor by-law, and significant time and resources have been dedicated to educating and promoting our valuable built heritage. In 2010 changes were made to the City of Winnipeg Charter with a mind to increased flexibility towards heritage conservation, and in 2014 the Historical Resources By-law was enacted with the same intent. The creation of Heritage Conservation Districts ("HCDs") as a new tool/type of recognition for celebrating Winnipeg's past is the logical next step.

HCDs are prevalent nationally and internationally, existing in jurisdictions big and small for over four decades. While they vary from city to city, commonalities include community input and support, value-based conservation approaches, and protection of the District's unique look and feel via formal planning documents. They include various types of properties, including private and public elements, and are generally tailored to owners' desired levels of control. Appendix "B" provides an overview of what HCDs are.

In 2013 the Public Service began exploring the creation of HCDs in Winnipeg, using the Armstrong's Point neighbourhood as a case study based partly on residents' long-standing advocacy. The results strongly recommended HCDs be created in Winnipeg, and that Armstrong's Point be nominated as the first. However, before this could be considered, Winnipeg needed a formal process by which HCDs could be created. The proposed Heritage Conservation District By-law (the "By-law") delineates eligibility requirements for designation as an HCD, the Nomination process, and all other governing factors related to this process.

The By-law is modelled after common and well-established practices from other jurisdictions, tailored to fit the Winnipeg context. It parallels many practices found in the Historical Resources By-law and strives for overall fairness and transparency to owners of properties within a proposed HCD. The evaluation process affords multiple levels of review, notification and rights of appeal for owners at multiple junctures, as well as the opportunity to attend and make representations at public hearings. Generally, the creation of an HCD does not greatly restrict a property owner's property or land use rights, although some alterations will require Heritage Permits, and proposed demolitions will be subject to an enhanced review process. Property taxes do not typically increase, buildings can be freely bought and sold, and owners will enjoy the certainty established by development parameters.

Following enactment of the By-law, the Public Service will accept the Nomination of Armstrong's Point as a proposed HCD. As an HCD Study in respect of Armstrong's Point has already been prepared, the Public Service anticipates this HCD process will be expedited. Until a final decision is made with respect to the designation of Armstrong's Point as an HCD, the protections against demolition under the By-law will be in place within the proposed Armstrong's Point HCD.

Key Highlights of the proposed Heritage Conservation District By-law
(Refer to By-law Flow Chart, Appendix D)

Part 2: Heritage Conservation Districts Generally

- Each new HCD that is created will be added to the By-law as a schedule.

- An area is eligible to be designated as an HCD if it has elements of special architectural and historical significance, and significant parts of it are 40 years old, or older.

- If an application for Nomination in respect of a proposed HCD is unsuccessful, no substantially similar application may be made for 5 years.

Part 3: Nomination Process

- Nomination of a proposed HCD can be initiated by the Director of Planning, Property and Development (the "Director"), or by a property owner from within the proposed HCD.
    - Nominators will need to demonstrate that a proposed HCD has heritage values that are likely to result in designation and are of significance to the entire city.
- Nomination forms and fees are submitted to the Designated Employee (the "DE").
- Within 90 days, the DE will make a decision as to whether the Nomination has been rejected or accepted. The applicant will be informed in writing of this decision.
- If a Nomination is accepted by the DE:
    - Every property owner within the proposed HCD will be notified by mail.
    - The applicant must give public notice in a newspaper.
    - Until a decision is made by Council whether or not to designate an HCD, no demolition permit may be issued within the proposed HCD, and any existing demolition permit is suspended.
    - Owners are provided with multiple opportunities to make written submissions and appear in delegation at Committee meetings in respect of a proposed HCD.
- If a Nomination is rejected by the DE, the decision may be appealed by the applicant, subject to a fee.

Part 4: HCD Study & HCD Plan

HCD Study

- If a proposed HCD is successfully Nominated, the applicant, in consultation with the DE, must prepare and submit an HCD Study. This document must include all relevant information (as required by the By-law) in order to demonstrate the proposed HCD meets the eligibility criteria and warrants designation.
- Once accepted by the DE, the HCD Study will be reviewed by the City's Historical Buildings and Resources Committee (the "HBRC") within 180 days. As this committee's meetings are open to the public and agendas are posted on the City's website in advance, anyone may attend for observation only.
- The HBRC will provide their recommendations to the Designated Committee in respect of whether or not the Study shows some merit to the proposed HCD, and whether the

next, and final phase, should be undertaken - preparation of the HCD Plan. The City Clerk will give notice to the Applicant of the HBRC's decision as soon as is practical afterwards.

- The Designated Committee must consider the recommendation of the HBRC, accompanied by a report from the Director providing the Director's recommendation, by the 3rd regularly scheduled meeting of that Committee following the recommendation of the HBRC.

- All property owners within the proposed HCD will be notified 30 days before the meeting at which this consideration occurs.

- The Designated Committee will either recommend that:
    - the Designated Employee prepare a Plan for the proposed HCD, or
    - the proposed HCD not be designated as an HCD.

- If the Designated Committee's recommendation matches that of the HBRC and the Director, the DE will be directed to proceed with preparing the Plan. If the Designated Committee's recommendation *does not* concur with that of the HBRC and the Director, the matter is referred to Council for a decision. Notices will be provided to every owner who made a written submission or appeared in delegation 7 days in advance of Council's meeting.

- Every owner will be notified of the final decision regarding preparation of the HCD Plan as soon as is practical.

HCD Plan

- The DE will oversee preparation of the HCD Plan and ensure it contains required information as per the By-law.

- Each Plan may vary and address different items as advised by the property owners through consultation on the proposed HCD. The Plan will be the basis for the management of the HCD, and as such, must contain all information on objectives, guidelines, policies, and restrictions on development.

- Upon completion, the Plan, along with an Administrative Report will be forwarded to the HBRC for consideration within 90 days. The HBRC must recommend the HCD be:
    - designated as per the Plan;
    - designated with amendments to the Plan, or
    - not designated at all.

- The Designated Committee will consider the Plan and report by the first regularly scheduled meeting of the Designated Committee following the date on which the HBRC's recommendations were made. Their recommendation will again state if the HCD should be:
    - designated as per the Plan;
    - designated with amendments to the Plan, or
    - not designated at all.

  Notice of this meeting will be provided to each owner located within the proposed HCD 14 days prior to the date.

Designation

- Council must consider and make the final decision in respect of the HCD Designation. Their decision will be:
    - Designate the proposed HCD as an HCD as per the Plan;
    - Designate the proposed HCD as an HCD with amendments to the Plan, or
    - Decline to designate the proposed HCD.

- The City Clerk will provide notice of this decision to the applicant and every owner as soon as is practical afterwards.

Part 5: Director's Emergency Conservation Powers

- The Director may issue an Emergency Conservation Order prohibiting the demolition or alteration of a character-defining element when he/she believes the demolition/irreparable alterations are imminent. When this happens, the owner is entitled to an expedited hearing of the nomination without a fee.

Part 6: Heritage Permits

- A Heritage Permit is the mechanism by which owners can alter the character-defining elements of a listed resource.

- Heritage permits will be subject to a fee (see Appendix C).

- Heritage Permits will be issued by the DE. Applications will be available for owners, who may discuss their plans with the DE.

- In considering the application, the DE will look for consistency of the proposed work with the HCD Plan and the Standards and Guidelines for the Conservation of Historic Places in Canada, the necessity and benefits of the work and any advice from the HBRC or HCD Advisory Committee, (if one exists.)

- Notice of the DE's decision will be provided to the applicant within 90 days.

- Where the DE does not concur with the HBRC or HCD Advisory Committee's recommendations, a notice must be published on the City's website. This decision is appealable by the applicant to the Designated Committee for a fee.

Part 7: Miscellaneous

Offences

- The minimum fine for demolishing or altering a Character-defining Element or contravening an Order is subject to a fine of no less than $1,000 and no more than $1,000,000 for each contravention, or for each day during which a contravention is ongoing.

Appeals

- Appeals are possible for any order or decision made under this By-law by filing a written appeal with the City Clerk and payment of the applicable fee.

Fee waiver

- The Director will have authority to waive all or part of a fee under the By-law where the Director determines that the fee is unfair in the particular circumstances.

FINANCIAL IMPACT

Financial Impact Statement Date: August 8, 2018

Project Name:

New Heritage Conservation Districts By-Law

COMMENTS:

The financial implications associated with the recommendations contained in this report are not reasonably determinable at this time. While implementation of the By-law may impact workloads within the Urban Planning Division of PPD and possibly other departments, depending on the guidelines and policies of each HCD Plan, it is not known if additional FTE's will be required. Also, the City may be responsible for drafting studies and/or plans for each potential HCD, which may cost from $5,000 to $10,000 each. It is anticipated that any such costs will be offset/recouped from the collection of new fees associated with the By-law.

As such, for the purposes of this report, there are no associated financial implications.

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

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)
- Armstrong's Point Residents Association
- Zoning & Permits

OURWINNIPEG POLICY ALIGNMENT

The following Directions from the City of Winnipeg's Municipal Development Plan, OurWinnipeg, support the creation of Heritage Conservation Districts:

Section 02-3 Heritage
Direction 2: Conserve, protect and celebrate the significant heritage resources that illustrate the broad range of Winnipeg's heritage values.

- Recognize the importance of a broad range of tangible and intangible heritage resources throughout the city that illustrate a unique sense of place and community pride.
- Identify, designate and protect the City's most significant heritage resources using a Historic Context Statement and a Thematic Framework for evaluation.

Direction 3: Provide leadership in heritage conservation that links to broader civic goals of economic development, sustainability and neighbourhood planning.

- Work with other governments, community groups and building owners to conserve significant heritage resources.
- Develop heritage stewardship policies that will allow the City to act as a leader in heritage conservation initiatives.
- Engage the community in developing long-term heritage resource stewardship strategies.
- Work with heritage stakeholders and other community partners in the establishment, coordination and promotion of community heritage initiatives including public education and heritage awareness.

Direction 6: Plan for the sustainable development of healthy neighbourhoods based on their particular historic identity and character.

- Work with community stakeholders to identify unique heritage identities and neighborhood legacy elements.
- Include heritage values when developing plans for new and existing neighbourhoods.
- Encourage the sustainable reuse of existing building stock and historic infrastructure.

Complete Communities also supports the concept of Heritage Districts.

Section 13 Heritage Conservation: Key Direction: Support the ongoing sustainable development of Winnipeg's urban structure through heritage conservation initiatives that assist in the development of a Complete Community.

Also Directions 1, 2, 3 and 6 as above.

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning & Design
Prepared by: Jennifer Hansell, Superintendent of Planning and Portfolio Management
Rina Ricci, Heritage Planner
Date: August 9, 2018

Appendices
Appendix “A” – Draft Heritage Conservation District By-law

Appendix “B” – Heritage Conservation District Fact Sheet

Appendix “C” – Proposed Fee Schedule

Appendix “D” – HCD Process Flow Chart

Appendix “B” – Heritage Conservation District Fact Sheet

A District is implemented via policies and guidelines that pertain to the protection of the heritage elements the community has identified as significant. Usually this is the overall look & feel of the District.

HCD’s have implications on the everyday life of the residents, but also create a certainty for development. Much like many new developments, there are guidelines to adhere to in terms of what can be built and how it should look, although not as prescriptive. In general, HCDs will not create increases in property taxes or insurance rates, but can create small rises in property values due to the certainty created by the guidelines.

Because each Plan and HCD are specific to a geographic area and created via the input of owners and residents, each Plan and HCD will be different. However, most HCDs share the following:

- Requirement for a formal study demonstrating how/why an area merits HCD designation
- Community consultation - needs to be for the community, by the community
- A clear outline of the boundaries of the HCD
- A Plan containing policies and guidelines to assist in the management of the District’s character and attributes.
- Guidelines outlining what kind of work/development requires Heritage Permits, and how to apply. This is usually for exterior alterations, landscape and streetscape design.
- Policies on demolitions
- Guidelines for infill construction

Benefits of an HCD

- Protect and conserve an area’s special and distinct heritage resources.
- Revitalization of an area.
- Potential for economic spin offs and tourism generation.
- Enhance community identity, pride and involvement.
- Convey an appealing sense of place and help shape a community’s unique identity.
- A legacy for future generations.

Appendix "C" – Proposed Fee Schedule

Application Fees

Application by Owner to Nominate a Heritage Conservation District	$2,500
Heritage Permit	As per Fee Schedule, based on type of work

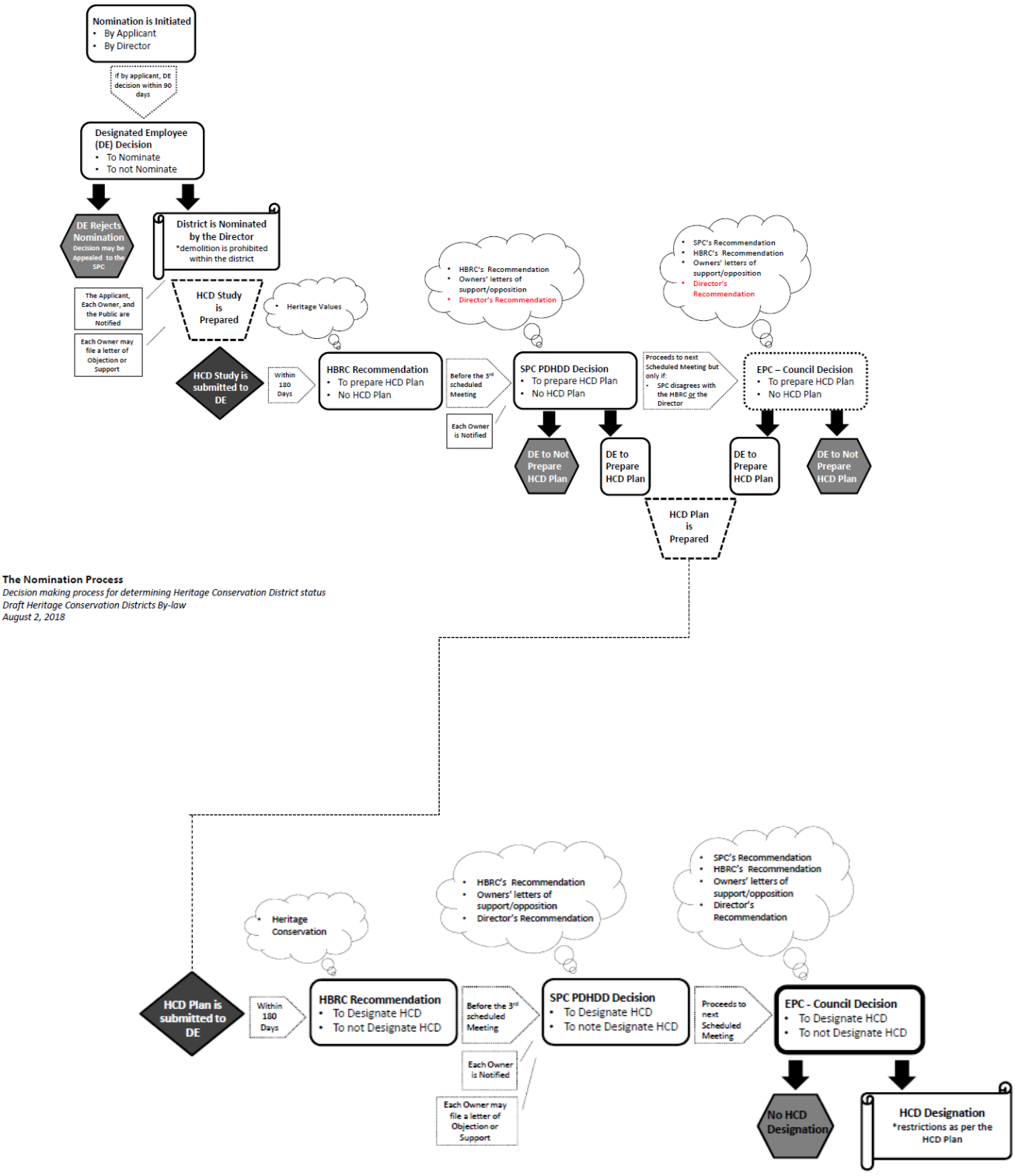
Appeal Fees

Base Fee	$765
Appeal of Director's decision not to Nominate	$1,500
Appeal of Director's decision to Nominate	No fee
Appeal of Designated Employee's decision re: Heritage Permit (by owner)	$750

Withdrawals of an Application

Partial refunding up to 100% of fee, based on amount of staff time dedicated to application

Appendix "D" – HCD Process Flow Chart



The Nomination Process
Decision making process for determining Heritage Conservation District status
Draft Heritage Conservation Districts By-law
August 2, 2018