Appendix A - Issues

The following **Summary Table** summarizes issues identified in *the Charter* as of June 2024. Additional details related to each item are provided in the **Comments Table**, starting on page 3 of this document.

SUMMARY TABLE (in order of priority)

Issue ID	Description	Comments Table Item
	MUNICIPAL BOARD	
A	MUNICIPAL BOARD – Remove the ability for applicants and/or landowners to appeal Council decisions to the Municipal Board. The City of Winnipeg does not support an unelected Board making decisions on matters for which final decision-making authority currently rests with an elected Council.	16, 33
B	MUNICIPAL BOARD – Remove the ability for Municipal Board hearings to be triggered by objections from residents.	16
C	MUNICIPAL BOARD – Reword Municipal Board 'recommendations' to be 'orders.'	19
D	MUNICIPAL BOARD – Confirm that Municipal Board may only 'order' the City to make a decision that the designated officer could have made. For instance, the Municipal Board may only require that a refused application be accepted; it cannot order that the refused application be approved.	24, 32, 33
E	MUNICIPAL BOARD – 25 voter threshold for sufficient objections is too low and needs to be increased. In a metropolitan context like Winnipeg particularly given the affordable housing crisis, this should be a 500-person voter threshold.	16
F	MUNICIPAL BOARD – The City needs the ability to recover costs of legislated referrals (i.e. advertising, venue, materials, staff time).	30
G	MUNICIPAL BOARD – Material for Hearings must be printed. Printing is expensive and cumbersome. A mechanism is required to allow for electronic submissions instead of printed submissions.	27
H	MUNICIPAL BOARD – Clarity required to determine who has standing at a Municipal Board Hearing.	28
	REFUSED vs REJECTED	
I	Applications that were 'rejected' cannot be 'refused' if received again within a year. Applications that are 'refused,' may continue to be 'refused.' The wording of section 275(2) must be corrected to allow for applications that were 'rejected' by Council to be 'refused' if received again within a year.	22
	DEVELOPMENT AGREEMENTS	
J	The City requires the ability to place development agreements on permits as per the unproclaimed sections of Bill 37.	29
K	The City would like to ensure that the ability to place development agreements on Conditional Uses and Variances remains in effect.	31
	ZONING BY-LAW CONSISTENCY	
L	Reword the requirement for the Zoning By-law to be consistent with OurWinnipeg and Secondary Plans. As worded, up-zoning of properties is required. Remove or reword to apply only to applications to re-zone.	17
	SECONDAY PLANS	
M	Confirmation that the rules for Secondary Plans only apply in instances where there is a 'designated application.' Section 234 is largely unclear and needs to be re-worked.	5, 6, 8, 11, 12, 13, 32
N	Clarify the requirement that a landowner must prepare a secondary plan in respect of a 'designated application' is a necessary clause to include in the Charter.	7, 8

Issue ID	Description	Comments Table Item
O	Assuming that the City requires an applicant of a 'designated application' to submit a secondary plan if the applicant isn't told within 20 days, then a secondary plan can no longer be required. Clarity is required as to whether this applies universally to all lands in the intended Plan Area, or only to the lands subject to the active application.	9, 10
P	Secondary Plan applicants only have to be 'owners of real property,' whereas, all other proposals require proposals to be initiated by the owner of real property that is the subject of the application. Clarification is needed for consistency.	4, 3
Q	Reconsider the ability for landowners to apply for secondary plans, as opposed to just amendments.	15
R	It is not possible to refuse a proposal for a secondary plan/amendment. Wording is required to allow the ability to refuse an application for a secondary plan/amendment that does not conform with OurWinnipeg.	23
S	There is no clear mechanism to repeal a Secondary Plan.	2, 14
	GENERAL CLEAN UP/CLARITY REQUIRED	
T	There is either a typo or a grammar error that needs to be correct in section 282.2(3). *An appeal may be commenced… …applies to an appeal.*	26
U	Clarify that 'Days' refers to 'Business Days' and not calendar days.	21, 25
V	Clarify that an applicant of a zoning by-law amendment does not have the ability to appeal changes made by Council at First Reading.	18
W	There is no remedy included in *the Charter* for when a designated employee does not determine if an application is complete within 20 days.	20
X	Processing timelines do not accommodate Council prorogue or election blackout periods. Consider: • 90 days for approval of a development agreement • 150 days for Council to approve a subdivision • 150 days to get a secondary plan to Council	25
Y	Clarify the definition of Secondary Plans vs. Secondary Plan By-laws, which are used interchangeably and sometimes includes amendments.	1
Z	Clarify that the proposal timelines begin '…*after the application is deemed to be complete by the City'*, and not when the application was submitted by the applicant. This clarity is required to ensure consistent interpretation between the City, applicants and the Province.	25
ZZ	The requirement to process building permits and development permits separately in order to meet Provincial timeframes potentially lengthens the process and makes it more onerous.	34

COMMENTS TABLE

Item	Charter Wording	Comments
1	**"secondary plan"** means a land use plan for a specific neighbourhood, district or area of the city adopted under subsection 234.7(2); **Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property. **"secondary plan by-law"** means a by-law passed under Part 6 (a) to adopt, re-adopt, replace or amend a secondary plan, or (b) to amend a by-law referred to in clause (a); **Council Adoption of secondary plans** **234(1)** Council may by by-law adopt a secondary plan to provide such objectives and actions as council considers necessary or advisable to address, in a neighbourhood, district or area of the city, any matter within a sphere of authority of the city, including, without limitation, any matter (a) dealt with in Plan Winnipeg; or (b) pertaining to economic development or the enhancement or special protection of heritage resources or sensitive lands.	The Charter now includes multiple definitions for a Secondary Plan. The definition for a 'Secondary Plan by-law' refers to a 'secondary plan'. The definition of a secondary plan is 'a land use plan for a specific neighbourhood, district or area of the city'. The definition of a 'Secondary Plan' does not include an amendment to a secondary plan, as it may not in itself qualify as a *land use plan for a specific neighbourhood district, or area of the city.* The definition of a 'Secondary Plan does include an amendment to a secondary plan.
2	**"secondary plan"** means a land use plan for a specific neighbourhood, district or area of the city adopted under subsection 234.7(2); **"secondary plan by-law"** means a by-law passed under Part 6 (a) to adopt, re-adopt, replace or amend a secondary plan, or (b) to amend a by-law referred to in clause (a); **Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property.	The Charter does not provide the ability to repeal a secondary plan by-law. It only provides the ability to adopt, re-adopt, replace, or amend.

Item	Charter Wording	Comments
3	Owners of Real Property **Definition** **234.1** In this section and sections 234.2 to 234.8, "**designated application**" means an application made by the owner of real property that is the subject of the application for (a) the adoption of, or an amendment to, a zoning by-law; or (b) the approval of a plan of subdivision. **Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property **Determining if plan sufficient** **234.4(1)** A designated employee must (a) give the owner of real property notice of the date that the city received the proposed secondary plan submitted by the owner of real property in respect of a designated application; and (b) within 20 days after the plan is received by the city, (i) determine if the plan meets the requirements set out in the by-law for submission of secondary plans, and (ii) give notice of the determination to the owner of real property.	The Charter uses 'Owner' and 'Applicant' interchangeably at times. If someone to applies for a secondary plan application that includes other landowners, do all landowners, to which the plan applies, receive notice under 234.4(1)?
4	**Initiation of amendments to the development plan** **225(1)** An amendment to the development plan may be initiated by (a) council; or (b) an application (i) made by the owner of real property to which the application refers, and (ii) filed with a designated employee. **Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property. **Initiation of development applications** **275(1)** An application for the following may be made by the owner of the real property to which the application refers: (a)[repealed] S.M. 2022, c. 27, s. 25; (b) the adoption of, or an amendment to, a zoning by-law; (c) the approval of a plan of subdivision, conditional use or variance; (d) an amendment to a development agreement; (e) consent to registration or filing of a conveyance.	Applications for DPAs and Development Applications can only be made by the 'owner of the land' for which the application applies. However, applications for Secondary Plans and Amendments can be made by any 'owner of real property' in the City, which may not include the land for which the application applies. This means that: • Someone can apply for a secondary plan/amendment for someone else's land without that landowner's permission. • More than one secondary plan/amendment application can be received for the same parcel of land. Remedy: • Reword Section 234.7(2)(b) to: *An application filed with a designated employee by the owner of real property to which the application refers.*

Item	Charter Wording	Comments
5	**Definition** **234.1** In this section and sections 234.2 to 234.8, **"designated application"** means an application made by the owner of real property that is the subject of the application for (a) the adoption of, or an amendment to, a zoning by-law; or (b) the approval of a plan of subdivision. **Determining if secondary plan required** **234.3(1)** Within 20 days after the city receives the designated application, a designated employee must (a) determine if a proposed secondary plan is required to be submitted by the owner of real property in respect of the application, in accordance with the criteria set out in the by-law for submission of secondary plans; and (b) give written notice of the determination to the owner of real property.	Sections 234.2 to 234.8 only apply to situations where an applicant is applying for: • Amendment to a zoning by-law • Plan of subdivision This includes the rules around the secondary plan requirements by-law. If a Zoning By-law Amendment or Subdivision (i.e. Designated Application) is not being applied for, then how can sections 234.2 to 324.8 apply based on the existing wording?

Item	Charter Wording	Comments
6	**Definition** **234.1** In this section and sections 234.2 to 234.8, **"designated application"** means an application made by the owner of real property that is the subject of the application for (a) the adoption of, or an amendment to, a zoning by-law; or (b) the approval of a plan of subdivision. **By-law for submission of secondary plans** **234.2(1)** Council may by by-law establish criteria for determining when, in respect of a designated application, an owner of real property must prepare and submit a proposed secondary plan to the city.	"Designated Application" = DAZ, DASZ, DAS, DASSF Wording of many sections (234.2 through 234.8) specifically only apply in relation to a 'Designated Application'. As worded, much of the content of these sections ONLY apply when a secondary plan proposal is related to a 'Designated application', and do otherwise, not apply to the processing of secondary plan applications. This includes: • 234.2(1) Council's ability to establish a by-law containing criteria for secondary plans (i.e. the by-law would only be able to be applied to situations whereby a 'designated application' is submitted) • 234.2(2) the required contents of a secondary plan criteria by-law (which only applies to secondary plan by-laws related to 'designated applications') • 234.2(3) a professional planner is required to prepare a secondary plan (but only when the proposed secondary plan is related to a 'designated application'). • 234.3(1) a designated employee has 20 days to determine if the application is complete (but only when submitted as part of a 'designated application') o Note: A decision that the secondary plan does not meet the criteria in 234.2(1) can be appealed to Municipal Board [282.1(1)(f)(i)] • 234.3(2) The City cannot require the applicant of a designated application to submit a secondary plan if the 20-day timeline in 234.3(1) is exceeded. • 234.3(3) The City cannot require a landowner to submit a secondary plan (unless a secondary plan criteria by-law exists, which only applies when someone submits a 'designated application') • 234.4(1) Notice of whether a secondary plan is sufficient must be given to the applicant within 20 days (but only when a 'designated application' is submitted) o Note: ▪ In this instance, and this instance only, exceeding the 20-day timeline, to • determine if a secondary plan meets the requirements of a secondary plan criteria by-law, or • provide notice. is appealable to municipal board [section 282.1(1)(f)(ii) which refers generally to all of section 234.4(1)(b)] ▪ Section 234.6 specifically indicates the decision by a designated employee can be appealed to Municipal Board. **Appeals** **234.6** A decision of a designated employee under clause 234.3(1)(a) or subclause 234.4(1)(b)(i) may be appealed to The Municipal Board in accordance with section 282.1. • 234.4(2) Designated employee must provide reasons why a secondary plan proposal, related to a 'designated application' by reference to section 234.4(1), does not conform with the requirements of secondary plans as per section 234.2(1) (which only applies in instances where there is a 'designated application') • 234.5 – The 20-day timeline to determine the completeness of secondary plan proposal submitted in support of a 'designated application', may be extended through agreement of both parties. Remedy: • Remove sections related to 'designated applications.' • Rewrite section 234 to define rules for proposed secondary plan by-laws when NOT related to a 'designated application.' • Place secondary plan amendments under section 275 so that they may be considered as a 'development application.'
7	**By-law for submission of secondary plans** **234.2(1)** Council may by by-law establish criteria for determining when, in respect of a designated application, an owner of real property must prepare and submit a proposed secondary plan to the city.	If a designated application were received in an area that requires a secondary plan ahead of development, the application would be refused. The City response would not be that the applicant must prepare and submit a secondary plan. Preparation of a secondary plan is discretionary. A secondary plan may be required in an area ahead of development (as per OurWinnipeg/Complete Communities). This secondary plan may be prepared by any number of parties, not just the applicant of a 'designated application'.

Item	Charter Wording	Comments
8	**By-law for submission of secondary plans** **234.2(1)** Council may by by-law establish criteria for determining when, in respect of a designated application, an owner of real property must prepare and submit a proposed secondary plan to the city.	How can a By-law *require* someone to submit a Secondary Plan (i.e. must prepare)? If the proposal does not conform with a Secondary Plan (e.g. Complete Communities), the proposal would be refused for non-conformance with the policies of Complete Communities or OurWinnipeg. Applications in some areas may not be accepted until there is a secondary plan in place as per Complete Communities/OurWinnipeg. An amendment to a Secondary Plan would be required if the policies of an existing secondary plan don't allow for something that a landowner wishes to propose. Regardless, under no instance would the City 'require' that an applicant submit a secondary plan. Applications are discretionary. As worded, this only applies to instances when a 'designated application' has been received. The scenario whereby the City requires an applicant of a 'designated application' to submit a secondary plan would not occur. As per section 275(2), any such applications would need to be refused without a hearing. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or Remedy: • Remove section 234.2(1)
9	**Failure to make determination in timely manner** **234.3(2)** In respect of a designated application, the city must not require a proposed secondary plan to be submitted by the owner of real property if the designated employee fails to give notice within the time period specified in subsection (1).	If the 20-day notification timeline is exceeded for a 'designated application', then a secondary plan can no longer be required. An administrative timeline should not take precedence over proper land use planning. This is an odd remedy as secondary plans are required in order to ensure that development occurs in a logical manner with adequate infrastructure. Missing a 20-day timeline on an application should not result in nullifying the requirement for a secondary plan for an entire area of the city. Remedy: • Remove this section
10	**Failure to make determination in timely manner** **234.3(2)** In respect of a designated application, the city must not require a proposed secondary plan to be submitted by the owner of real property if the designated employee fails to give notice within the time period specified in subsection (1).	Section 234.3(2) would never be applied and should therefore, be removed. The scenario whereby the City requires an application of a 'designated application' to submit a secondary plan would not occur. As per section 275(2), any such applications would need to be refused without a hearing. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or Remedy: • Remove this section

Item	Charter Wording	Comments
11	**Secondary plan may be required only by by-law** **234.3(3)** The city must not require an owner of real property to submit a proposed secondary plan unless one is required under a by-law adopted under subsection 234.2(1).	Section 234.3(3) would never be applied and should therefore, be removed. The scenario whereby the City requires an application of a 'designated application' to submit a secondary plan would not occur. As per section 275(2), any such applications would need to be refused without a hearing. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or Remedy: • Remove this section
12	**Determining if plan sufficient** **234.4(1)** A designated employee must (a) give the owner of real property notice of the date that the city received the proposed secondary plan submitted by the owner of real property in respect of a designated application; and (b) within 20 days after the plan is received by the city, (i) determine if the plan meets the requirements set out in the by-law for submission of secondary plans, and (ii) give notice of the determination to the owner of real property.	Section 234.4(1) would never be applied and should therefore, be removed. The scenario whereby the City requires an application of a 'designated application' to submit a secondary plan would not occur. As per section 275(2), any such applications would need to be refused without a hearing. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or Remedy: • Remove this section • Change '20 days' to '20 business days'

Item	Charter Wording	Comments
13	**Amended plan submitted** **234.4(3)** If an amended plan is submitted as a result of a determination under subsection (2), this section applies to the amended plan.	A re-submission would be considered a new application as the original proposal would not have been accepted. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or This section is redundant and should be removed. Remedy: • Remove this section
14	**Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property.	This section does not speak to who may initiate a repeal of a secondary plan by-law. Remedy: • Reword this section to include 'repeal' of a secondary plan By-law.
15	**Initiation of new or amended secondary plan** **234.7(2)** The adoption of, or amendment to, a secondary plan may be initiated by (a) council; or (b) an application filed with a designated employee by an owner of real property.	City by-laws, like development plans and City-wide zoning by-laws are initiated by the City because they apply to lands under multiple ownership. We would not accept an application from a landowner for a new OurWinnipeg, a City-wide zoning by-law, or Complete Communities. However, this section permits someone to do just that. This section allows for a landowner to apply to have rules placed on other people's lands without their permission. Also, this could also result in the scenario whereby we have more than one active application for the same property.
16	**Interpretation: when are objections sufficient?** **236.1(1)** To be sufficient for the purpose of this section, (a) in the case of a proposed zoning by-law, objections must be received from at least 25 voters; or (b) in the case of a proposed by-law that amends a zoning by-law, objections must be received from at least (i) 25 voters, or (ii) 50% of the total number of registered owners of land located within 100 metres of the real property affected by the by-law **Referral to Municipal Board** **236.1(7)** If the city receives sufficient objections within 14 days after the day the notice is given, the city must, before council gives second reading to the proposed by-law, refer the proposed by-law to The Municipal Board.	The threshold for 'sufficient objections' is too low for the City of Winnipeg. It is understood that the wording for this section was copied from *the Planning Act* which provides legislation appropriate for rural environments. Remedy: • Remove ability for objectors to appeal proposed zoning and secondary plan by-law applications to Municipal Board. • Increase the number of voters in clauses (a) and (b)

Item	Charter Wording	Comments
17	**General requirements** **236(1.1)** A zoning by-law must be consistent with the development plan by-law and any applicable secondary plan by-law.	Issue: Zoning BL must be consistent with OurWinnipeg and Secondary Plans. Prior to Bill 37/34, it was just zoning by-law amendment applications that were required to be consistent with secondary plans and OurWinnipeg. This made sense as re-zoning proposals were evaluated against the policies of the relevant secondary plans and/or OurWinnipeg. This also aligned with the fact that Secondary Plans and OurWinnipeg are policy documents which provide a vision of future conditions, objectives regarding how that vision will be realized and policies which support the objectives. Policy Areas contained in these plans provide direction for future development; which may not reflect current land uses. The way section 236(1.1) is worded implies the zoning by-laws (200/06 and 100/04) would need to be immediately made consistent with the Secondary Plans and OurWinnipeg. This requires 'up-zoning' properties throughout the City to align with secondary plan policy areas and sterilizes the very function and purpose of a secondary plan. Up-zoning would preclude the City from requiring building permits If section 236(1.1) is meant to refer only to Zoning By-law Amendments, then this section is redundant as section 275(2)(a) already addresses this requirement by requiring applications for zoning by-law amendments to conform with OurWinnipeg and any applicable secondary plans. **Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or The requirement for the Zoning By-laws (as opposed to Zoning By-law amendments) to be consistent with secondary plans and OurWinnipeg appears to be intentional. Section 236(1.1) needs to be removed entirely to avoid the City having to up-zone all properties to conform with secondary plans and OurWinnipeg.

Item	Charter Wording	Comments
18	**Effect of objections** **236.1(5)** After receiving a report from the designated committee of council, council may, (a) if there are not sufficient objections to the zoning by-law at the hearing, (i) proceed to adopt the by-law without further notice, or (ii) reject the by-law either in whole or in part; or (b) if there are sufficient objections, (i) proceed to give first reading to the by-law, or (ii) reject the by-law either in whole or in part. **Appeal of decisions** **282.1(1)** The owner of real property to which an application under this Part relates may appeal the following decisions to The Municipal Board: (a) the rejection of (i) an application respecting a secondary plan by-law or a zoning by-law, or (ii) an application to approve a plan of subdivision; (b) the rejection of an application to amend a development agreement; (c) the rejection of an application for consent to registration or filing of a conveyance; (d) a decision to impose conditions on the approval of an application referred to in clauses (a) or (b); (d.1) a decision to refuse an application for a development permit for a proposed development as not conforming to the development plan by-law, a secondary plan by-law or a zoning by-law; (d.2) a decision to refuse an application for a development permit for a proposed development as not conforming to the regional planning by-law of the Capital Planning Region; (e) [not proclaimed, but repealed by S.M. 2022, c. 27, s. 57] (f) a decision or determination of a designated employee that an application is incomplete under the following provisions or otherwise: (i) clause 234.3(1)(a), (ii) clause 234.4(1)(b), (iii) subsection 275(1.3).	An applicant of a zoning by-law amendment does not have the ability to appeal changes made by Council at First Reading. 282.1(1) allows for an applicant to appeal '*conditions imposed on the approval of an application*' which could be interpreted as being alterations made by Council at the recommendation of the Hearing Body. However, even if this interpretation were correct, there would be no opportunity for the applicant to appeal as section 236.1(5) allows for council to *proceed to adopt the by-law without further notice.*
19	**Restrictions on adoption of by-law** **236.1(9)** Council must not pass a proposed zoning by-law that has been referred to The Municipal Board unless the proposed by-law conforms to the recommendations that the board has made in its report to council in respect of the by-law. **Restriction on adoption of by-law** **270(3)** Council must not pass a proposed secondary plan by-law that has been referred to The Municipal Board unless the proposed by-law conforms to the recommendations that the board has made in its report to council in respect of the by-law.	Under *the Planning Act*, the Municipal Board will render a decision and make a 'recommendation' to the Minister. Similar wording appears in the Charter for instances whereby the Minister refers a new Development Plan to the Municipal Board [230(1)]. The Charter now contains similar language for when the City refers a zoning by-law or secondary plan matter to Municipal Board. In such instances, the City is obligated to accept the 'recommendations' made by the Municipal Board. The 'recommendations' provided by the Municipal Board to the City are not 'recommendations', but 'Orders'. Remedy: • Change the wording of sections 236.1(9) and 270(3) to clarify that the Municipal Board provides the City with an 'Order', and not a 'recommendation.'

Item	Charter Wording	Comments
20	**Application for development permit** **246(1.1)** In respect of an application for a development permit to which this section relates, (a) the city must send the owner of real property confirmation of the date that the city received the application; and (b) a designated employee must, within 20 days after the application is received, determine if the application is complete. **Development application process** **275(1.1)** In respect of an application under subsection (1), (a) the city must send the owner of the real property confirmation of the date that the city received the application; and (b) a designated employee must, within 20 days after the application is received, determine if the application is complete.	There is no remedy/recourse for when a designated employee does not determine if an application is complete within 20 days.
21	**Development application process** **275(1.1)** In respect of an application under subsection (1), (a) the city must send the owner of the real property confirmation of the date that the city received the application; and (b) a designated employee must, within 20 days after the application is received, determine if the application is complete.	The 20-day timeline needs to be clarified as 'business days.'
22	**Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or (b) is the same or substantially similar to an earlier application that was refused within one year before the day that the new application is made, the application may be refused without a hearing.	Applications that were 'refused' in the past, may continue to be 'refused.' The City no longer has the ability to 'refuse' an application that was 'rejected' by Council in the past year.
23	**Refusal of applications** **275(2)** If, in the opinion of a designated employee, an application made under subsection (1) (a) does not conform with the regional planning by-law of the Capital Planning Region, the development plan or a secondary plan for the area in which the real property to which it relates is situated, the application must be refused without a hearing; or (b) is the same or substantially similar to an earlier application that was refused within one year before the day that the new application is made, the application may be refused without a hearing.	It is not possible to refuse an application for a secondary plan or an amendment to a secondary plan. It is only possible to inform the applicant that the application is incomplete. Previously, proposals for secondary plan amendments were considered development applications as per section 275(1). Rules regarding Secondary Plans are now covered in section 234. Mechanisms under section 275 that once applied to secondary plan amendments, no longer apply to secondary plan amendments. **Initiation of development applications** **275(1)** An application for the following may be made by the owner of the real property to which the application refers: (a) [repealed] S.M. 2022, c. 27, s. 25; (b) the adoption of, or an amendment to, a zoning by-law; (c) the approval of a plan of subdivision, conditional use or variance; (d) an amendment to a development agreement; (e) consent to registration or filing of a conveyance

Item	Charter Wording	Comments
24	**Decision of Municipal Board** **282.1(7)** The Municipal Board must, by order, either dismiss the appeal or make any decision that council, the committee of council, the planning commission or the employee designated to deal with the matter could have made.	We would like clarification to ensure that the Municipal Board can only impose a decision that a designated official could have made in the case of a refusal. In other words, if a refused application is sent to Municipal Board, the Municipal Board can only order that the application be received, not approved, by Council.
25	**Appeals concerning failing to proceed** **282.2(1)** Subject to subsections (1.1), (1.2) and (2), if the following matters are not decided within the period that is specified, an applicant may consider the application to have been rejected and may appeal the rejection to The Municipal Board under section 282.1: (a) an application respecting a secondary plan or a zoning by-law within **150 days** after the complete application is received by the city; (b) an application for the approval of a plan of subdivision, within (i) **60 days** after the complete application is received by the city, if council has authorized a designated employee to make a final decision respecting the plan of subdivision, or (ii) **150 days** after the complete application is received by the city, in any other case; (c) an application for the approval of an amendment to a development agreement within **90 days** after the complete application is received by the city; (d) an application for consent to registration or filing of a conveyance within **90 days** after the complete application is received by the city; (e) for a development agreement executed under subsection 240(4) or ordered by The Municipal Board under section 282.1 within **90 days** after the applicable zoning by-law, plan of subdivision, conditional use or variance being approved by the city or ordered by The Municipal Board; (f) [not yet proclaimed].	Clarify that 'days' refers to 'business days'. The date the application is received is different than the date an application is deemed 'complete' by the City. Materials continue to be received after an application is submitted, but before the application is deemed as 'complete'. Clarify wording to read '*…after the application is deemed to be complete by the City'.* The timelines do not account for statutory holidays or Council Prorogues (election blackouts, or otherwise).
26	**Filing an appeal** **282.2(3)** An appeal may be commenced at any time within 14 days after the expiry of the applicable time period determined under subsection (1), (1.1), (1.2) or (2), and section 282.1, except subsection 282.1(3), applies to an appeal.	This section doesn't read properly for some reason. "An appeal may be commenced… …applies to an appeal"
27	MUNICIPAL BOARD	Materials provided for a Municipal Board hearing are required to be printed. This is a substantial cost to the City. Remedy: • Allow for materials to be submitted electronically as opposed to hardcopy
28	MUNICIPAL BOARD	Clarify who has standing at a Municipal Board hearing. Our experience has been that Public Servants are put on the stand and berated by individual objectors. However, the individual objectors are not subject to taking the stand themselves.

Item	Charter Wording	Comments
29	YET TO BE PROCLAIMED	The following section has yet to be proclaimed into legislation: **Development agreement for a permit** **240.1.1(1)** As a condition of issuing a permit that authorizes the following developments, the city may require the owner of real property affected by the application to enter into a development agreement with the city respecting the development and any adjacent real property owned or leased by the owner: (a) a prescribed major development; (b) a development that requires new construction or expansions of existing sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks or traffic control works. The ability to apply development agreements to permits is required to fulfill the City's Housing Accelerators Fund obligations.
30	**Costs on appeal re failing to proceed** **282.2(4)** If, in respect of an appeal under this section, The Municipal Board is satisfied that there was an unreasonable delay by the city in dealing with the appellant's application, the Board may make an order requiring the city to pay some or all of (a) the costs incurred by the Board in hearing the appeal; and (b) the appellant's reasonable costs related to the appeal.	Recommendation 2 of the PZP Report stated that, should the Municipal Board's mandate be enhanced to allow it to hear a wide range of planning, zoning and permitting appeals across the entire province, the Municipal Board should "operate on a cost-recovery basis, funded through costs assessed against the unsuccessful party, which follows best practice." Bill 37 added to *the Charter* a requirement for the City to pay costs incurred by the Board and the appellant's reasonable costs but there is no provision for an appellant being required to pay for costs. The City of Winnipeg should not be responsible for an appellant's costs. Should the City be responsible for an appellant's costs, clarification is required to define what constitutes "reasonable costs" as the City could incur significant costs similar to those incurred as part of the expropriation process. The cost of referrals to the Municipal Board are paid the City. This includes advertising, venue rental, materials for the hearing and staff time spent preparing for and attending Municipal Board hearings. The Legislation needs to be clarified to allow for the City to cover costs associated with frivolous and/or unsuccessful challenges sent to the Municipal Board. Remedy: • Remove section 282.2(4) • The Municipal Board be funded by the Province. • Municipal Board costs related to an appeal should be assessed against the unsuccessful party.
31	**Authority for development agreements** **240(1)** The city may require a person to enter into a development agreement with the city respecting the development of their land and any contiguous real property owned or leased by them if they submit an application under subsection 275(1) for any of the following: (a) the adoption of, or an amendment to, a zoning by-law; (b) the approval of a conditional use or variance.	The ability to add a development agreement to a conditional use or variance is very important. In the case that portions of Bills 37 and 34 are repealed, the City would like to ensure that this section remains.

Item	Charter Wording	Comments
32	**Appeals** **234.6** A determination of a designated employee under clause 234.3(1)(a) or subclause 234.4(1)(b)(i) may be appealed to The Municipal Board in accordance with section 282.1.	The following may be appealed to Municipal Board: • City determines that a secondary plan is required to be submitted by the applicant of a 'designated application' (Subdivision and/or Rezoning application) • City determines that a secondary plan submitted by the applicant of a 'designated application' does not meet the requirements of a secondary plan as described by a secondary plan requirements by-law. Clarify that Municipal Board may only make a decision that the designated employee could have made. That is, the Municipal Board may require that the proposed secondary plan application be accepted; and not that the proposed secondary plan application be approved (which is a decision that is made by Council). Remedies: • Clarify that it is only secondary plans that are associated with 'designated applications' that may be appealed to Municipal Board. • Clarify that Municipal Board may only make a decision that the designated employee could have made. • Remove section 234.6
33	**Appeal of decisions** **282.1(1)** The owner of real property to which an application under this Part relates may appeal the following decisions to The Municipal Board: (a) the rejection of (i) an application respecting a secondary plan by-law or a zoning by-law, or (ii) an application to approve a plan of subdivision; (b) the rejection of an application to amend a development agreement; (c) the rejection of an application for consent to registration or filing of a conveyance; (d) a decision to impose conditions on the approval of an application referred to in clauses (a) or (b); (d.1) a decision to refuse an application for a development permit for a proposed development as not conforming to the development plan by-law, a secondary plan by-law or a zoning by-law; (d.2) a decision to refuse an application for a development permit for a proposed development as not conforming to the regional planning by-law of the Capital Planning Region; (e) [not proclaimed, but repealed by S.M. 2022, c. 27, s. 57] (f) a decision or determination of a designated employee that an application is incomplete under the following provisions or otherwise: (i) clause 234.3(1)(a), (ii) clause 234.4(1)(b), (iii) subsection 275(1.3).	• Decisions to 'reject' are made by Council. • Decisions to 'refuse' are made by designated employees Clarify that Municipal Board may only make a decision that the designated employee could have made. That is, the Municipal Board may require that the proposed secondary plan application be accepted; and not that the proposed secondary plan application be approved (which is a decision that is made by Council). Remedy: • Clarify that Municipal Board may only make a decision that the designated employee could have made. • Remove ability to appeal decisions to Municipal Board.

34	PERFORMANCE STANDARDS
	
	Notice on whether application complete
	
	14.1(1)
	
	When an application for a building permit or occupancy permit is submitted, an approving authority must notify the applicant within the time period specified in the regulations and advise whether the application is complete.
	
	Deadline for permit application decisions
	
	14.2(1)
	
	Except in circumstances specified by regulation, an approving authority must make a decision on an application for a building permit or occupancy permit within the time period specified in the regulations after a complete application has been submitted.
		Building permit approval timelines
		• Development Permits (DPs) were processed separately from Building Permits (BPs) starting on November 14, 2022. The key reason they were split is due to The Provincial changes to the Charter putting strict timelines on Building Permits. When Building Permits were combined with Development Permits the date of intake was determined when the combined permits were applied for.
		• There are situations where the Development Permit triggers a Development Application (rezoning, variances, etc.). When the DP and BP were combined, the BP had to sit and wait until those entitlements were approved by Council and/or the Director (including the appeal process), causing the BP timelines to certainly be missed. The separation of DP and BP means that applicants don't apply for the BP until the entitlements are given and Development and Inspections (D&I) has a better chance of meeting the new timeline. This section in the Bill would have to be changed if a combined application were to again be viable.
		• A combined Development Permit (DP) and Building Permit (BP) could reduce time for both the applicant and city staff, however this is not currently possible given current timelines.
		
		<u>Excerpt from Bill 38 Fact Sheet:</u>
		Building and Electrical Permitting Service Standards:
		Development Permits (DPs) were split from Building Permits (BPs) in November of 2022. The key reason they were split is due to The Provincial changes to the Charter putting strict timelines on Building Permits. When Building Permits were combined with Development Permits the date of intake was determined when the combined permits were applied for. There are situations where the Development Permit triggered a Development Application (rezoning, variances, etc.). The Building permit had to sit and wait until those entitlements were approved by Council and/or the Director (including the appeal process), causing the BP timelines to certainly be missed. The separation of DP and BP means that applicants don't apply for the BP until the entitlements are given and Development and Inspections (D&I) has a better chance of meeting the new timeline. This section in the Bill would have to be changed if a combined application were to again be viable.
		
		• Permitting authorities, including the Manitoba government and municipalities, will be required to make decisions on building permit applications within fixed timeframes. This would be similar to Ontario's framework, where decisions on building permits must be issued within 10 to 30 business days, depending on the size and complexity of the project. Development Permits (DPs) were split from Building Permits (BPs) in November of 2022. The key reason they were split is due to The Provincial changes to the Charter putting strict timelines on Building Permits. When Building Permits were combined with Development Permits the date of intake was determined when the combined permits were applied for. There are situations where the Development Permit triggered a Development Application (rezoning, variances, etc.). The Building permit had to sit and wait until those entitlements were approved by Council and/or the Director (including the appeal process), causing the BP timelines to certainly be missed. The separation of DP and BP means that applicants don't apply for the BP until the entitlements are given and Development and Inspections (D&I) has a better chance of meeting the new timeline. This section in the Bill would have to be changed if a combined application were to again be viable.
		
		<u>Impacts:</u>
		• In strategic situations the combined DP/BP review has merit, for example as a way to make Housing Accelerator Fund (HAF) permits go faster would be through combined review. If we do concurrent permit review for HAF, we have potential to accelerate timelines to BP issuance, which helps meet HAF target.
		• Currently we still implement a combined DP/BP review process for greenfield 1 and 2 family development so we have the infrastructure and knowledge to do it.
		• There may be a "hybrid" approach that could have merit
		• One major implication of the combined approach is systems have been duplicated including:
		  ○ The cash desk does two transactions when they used to do one (DP payment then BP payment)
		  ○ There are two separate and sequential permit submission, intake and review processes that are staffed by two different groups, which previously happened all at once
		  ○ Clerks at the front desk were managed under a more general pool, through separation there is some degree of duplication
		  ○ If combined review occurred, the burden on clerical staff would likely be reduced
		  ○ There would likely be a reduction in the number of intake staff required as well

Item	Charter Wording	Comments
		• One issue with combined permits, which was rare, was the applicant would submit his/her BP drawings for Code review while the Development Application was being processed spending money on Architects and Engineering. If the entitlements were not given the Applicant wasted time and money on code reviews for projects that either did not receive approvals or had entitlements reduced (heights, density, etc.) at the Development Application stage. Remedy: Add language to the Charter: 'The Building Permit timeline does not begin until the associated Development Applications are approved…'