

SECONDARY PLANS

Legislation and By-Law Framework

City of Winnipeg Charter

INTERPRETATION, PURPOSES AND GENERAL AUTHORITY

Definitions

"**secondary plan by-law**" means a by-law passed under Part 6 (Planning and Development) that adopts, replaces or amends a **secondary plan**; (« règlement municipal sur un plan secondaire »)

SECONDARY PLANS

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.

Conformity with Plan Winnipeg

234(2) A **secondary plan** by-law must be consistent with Plan Winnipeg.

Hearing on secondary plan by-law

234(3) After council gives first reading to a proposed **secondary plan** by-law,

- (a) the city must give notice of a hearing by a committee of council respecting the proposed by-law; and
- (b) the committee of council designated for the purpose must conduct a hearing respecting the proposed by-law and submit its report respecting the proposed by-law to council.

EFFECT OF PLAN BY-LAWS

Compliance with plan by-laws

235 The passing of a Plan Winnipeg by-law or a **secondary plan** by-law does not require council, any person, or any department or agency of the government, to undertake a proposal contained in the by-law, but public works, undertakings and development in the city must be consistent with Plan Winnipeg or any **secondary plan**.

Extension of withholding

246(2) Within the period for which the issuance of a permit is withheld under subsection (1), council must consider the application for the permit and may

- (a) reject the application if council considers that the proposed development for which it is intended does not conform with a Plan Winnipeg by-law or a **secondary plan** by-law;
- (b) require the permit to be withheld for a further period of not more than 90 days if council considers that the proposed development for which it is intended does not conform with
 - (i) a proposed Plan Winnipeg by-law or **secondary plan** by-law that is not in force but, before the application was made, had been initiated under subsection 225(1) (initiation of amendment to Plan Winnipeg) or proposed under section 234 (adoption of **secondary plans**), or

- (ii) a proposed zoning by-law that, before the application was made, had been referred under subsection 236(3) (hearing on zoning by-law) to a committee of council or a planning commission; and
- (c) where the issuance of the permit has been withheld for a further period under clause (b), require the permit to be withheld for a further period of not more than 35 days if
 - (i) the proposed Plan Winnipeg by-law was submitted to the minister in accordance with this Part before the application was made or before the expiry of the period for which the permit was withheld under clause (b) and the decision of the minister under section 229 (decision of minister) or an order of the Lieutenant Governor in Council under section 232 (referral to L. G. in C.) is received before the expiry of that period, or
 - (ii) the report of the committee of council or the planning commission to which the proposed **secondary plan** by-law or zoning by-law had been referred was not received by council before the expiry of the period for which the permit was withheld under clause (b), or was received before the expiry of that period but the report recommended amendments to the proposed by-law.

Compensation

246(3) Where a Plan Winnipeg by-law, **secondary plan** by-law or zoning by-law comes into force within the periods for which the issuance of a permit is withheld under subsections (1) and (2), the application for the permit may be refused if the development for which the permit is intended does not conform with the by-law, but where council does not pass such a by-law within those periods,

- (a) the permit must not be further withheld; and
- (b) the owner of the land in respect of which the permit is withheld under clause (2)(b) or (c) is entitled to compensation for damages resulting from the withholding of the permit, and subsections 245(2) and (3) (where permit cancelled) apply, with necessary changes, in respect of the withholding.

Criteria for approving variances

247(3) An application for a variance with respect to a property may be approved if the variance

- (a) is consistent with Plan Winnipeg and any applicable **secondary plan**;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

Procedure for applications for conditional uses

254 Subsection 247(3) and sections 248 to 252 apply with necessary changes to applications for conditional uses of land or buildings and approvals and rejections of such conditional uses.

Content of standards by-law

255(2) A by-law passed under subsection (1) must conform with Plan Winnipeg, **secondary plans** and zoning by-laws, and may establish standards, criteria or requirements respecting

- (a) the layout of, and access to, dedicated land, lots, blocks, and other units of land;
- (b) the construction of streets;
- (c) the width, grade and elevation of streets by reference to minimum or maximum standards, criteria or requirements, or to any other standard council considers appropriate;
- (d) the provision and location of strips of land to act as buffers;
- (e) the efficient use of energy, including the orientation of lots and parcels so as to obtain maximum benefit from solar energy;
- (f) transportation systems, including their operation in a manner that is efficient and convenient for citizens;

- (g) the determination of whether land is suitable for subdivision;
- (h) the provision of works, services and utilities;
- (i) sites for schools, parks and recreation areas;
- (j) the protection of sensitive lands;
- (k) flood control;
- (l) the conveyance or dedication of land for purposes of the city other than streets; and
- (m) such other matters as council may consider advisable.

Restriction on approvals of plans of subdivision

257(1) A plan of subdivision must not be approved unless

- (a) the land that is proposed to be subdivided is suitable for the purpose for which the subdivision is intended; and
- (b) the proposed plan of subdivision conforms with
 - (i) Plan Winnipeg,
 - (ii) any applicable **secondary plan**,
 - (iii) any applicable zoning by-law, and
 - (iv) the by-law passed under section 255 (subdivision standards by-law).

Referral to Municipal Board

270(1) Where

- (a) a proposed **secondary plan** by-law deals with the airport vicinity protection area; and
- (b) a municipality, or the board of a planning district established under *The Planning Act*, that is adjacent to the area, or the Government of Canada or the Government of Manitoba objects to the proposed by-law by filing a notice of objection with the city clerk before the day of the meeting at which council is to consider the report of a committee of council or planning commission respecting the proposed by-law;

the city must, before council gives second reading to the proposed by-law, refer the proposed by-law to The Municipal Board.

Hearing by Municipal Board

270(2) Where a proposed **secondary plan** by-law is referred under subsection (1) to The Municipal Board, the board must

- (a) give notice of a hearing respecting the proposed by-law in accordance with clause 230(1)(a) (hearing by Municipal Board) which applies with necessary changes;
- (b) conduct a hearing respecting the proposed by-law; and
- (c) submit a report, with recommendations, to council in respect of the proposed 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.

DEVELOPMENT IN AIRPORT AREA

Zoning by-laws in airport vicinity protection area

271 The city must ensure that all zoning by-laws that apply to real property in the airport vicinity protection area conform with regulations, if any, made under subsection 269(1).

Application of section 270

272 Section 270 (referral to Municipal Board) applies, with necessary changes, to

- (a) every proposed zoning by-law affecting real property in the airport vicinity protection area; and
- (b) every application for approval of a plan of subdivision, or amendment to a plan of subdivision, affecting real property in the airport vicinity protection area, in which case,
 - (i) references in section 270 to a "proposed **secondary plan** by-law" or "proposed by-law" shall be read as references to an "application for approval of a plan of subdivision or amendment to a plan of subdivision",
 - (ii) the reference in section 270 to "the day of the meeting at which council is to consider the report of a committee of council or planning commission respecting the proposed by-law" shall be read as "the day the application for approval will be considered",
 - (iii) references in section 270 to "giving second reading" and "passing" shall be read as references to "approving", and
 - (iv) references in section 270 to "council" shall be read as references to "council or the committee of council, planning commission or employee authorized to approve the plan of subdivision or amendment".

Initiation of development proposals

275(1) An application for

- (a) adoption of, or an amendment to, a zoning by-law;
- (b) approval of a plan of subdivision, conditional use or variance; or
- (c) consent to registration or filing of a conveyance;

may be made by the owner of real property to which the application refers.

Rejection of applications

275(2) If, in the opinion of a designated employee, an application made under subsection (1)

- (a) does not conform with Plan Winnipeg 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 rejected within one year before the day that the new application is made, the application may be refused without a hearing.

APPEALS

Appeals to designated hearing bodies

189(1) A person

- (a) to whom an order under section 184 (order to remedy contravention) is directed; or
- (b) who is aggrieved by
 - (i) an order or decision of the Winnipeg Building Commission or a planning commission, or
 - (ii) an order or decision of a designated employee in respect of the issuance, suspension, or cancellation, or refusal to issue or grant, a licence, permit, approval or consent;

may appeal the order or decision to a hearing body designated by council by filing a written notice of appeal.

NOTICE OF HEARING

Notices of hearings

277 Unless otherwise provided, where under this Part a notice is required to be given of a hearing, other than a hearing conducted by The Municipal Board under subsection 230(1) (hearing by Municipal Board) or 270(2) (hearing by Municipal Board), the notice must be given

- (a) by public notice in two newspapers,
 - (i) in the case of a hearing respecting a proposal to adopt, re-adopt, replace or amend Plan Winnipeg, in not less than two consecutive weeks, and
 - (ii) in any other case, at least once;
- (b) by serving a copy of the notice on
 - (i) the applicant, if there is one,
 - (ii) in the case of a hearing respecting a Plan Winnipeg by-law or a zoning by-law, on any municipality, or the board of any planning district, any part of which is within 1 km of any real property in respect of which the hearing is to be conducted, and
 - (iii) any other person that council considers advisable; and
- (c) in the case of a hearing respecting a proposal to adopt, re-adopt, replace or amend Plan Winnipeg, by serving a copy of the notice on the minister at least 21 days before the day of the hearing.

COMBINED HEARINGS

Combined hearings and notices

278(1) A hearing and notice of the hearing required under this Part in respect of a proposed development may be combined with another hearing and notice where the proposed development requires two or more of the following:

- (a) an amendment to Plan Winnipeg;
- (b) an amendment to a **secondary plan**;
- (c) an amendment to a zoning by-law;
- (d) an amendment to a development agreement;
- (e) an application for approval of a variance;
- (f) an application for approval of a conditional use of land;
- (g) an application for approval of or amendment to a plan of subdivision;
- (h) an application for consent to register or file an instrument;
- (i) a business license under section 149.

Combinations of hearings

278(2) If a hearing provided for in this Part

- (a) must be held by
 - (i) the executive policy committee of council, it may combine the hearing with the hearing of any matter listed in subsection (1), or
 - (ii) a standing committee of council or a committee of council, the committee may combine the hearing with the hearing of any matter listed in clauses (1)(b) to (i); or

(b) may be held by a planning commission, the planning commission may hold a combined hearing in respect of one or more of the following:

- (i) one or more of the matters listed in subsection 274(1) (powers, duties and functions of planning commission), and
- (ii) a business licence under section 149.

Exercise of powers where hearings combined

278(3) Where a hearing body holds a combined hearing under subsection (2), the hearing body has all the powers and duties in respect of all matters dealt with at the combined hearing that the employee or hearing body designated to deal with any of those matters would have had if the matters were not dealt with at the combined hearing.

Plan Winnipeg

- 3. Thoughtful development – evaluating the costs and benefits of development proposals. The intent is to take maximum advantage of existing infrastructure through increased densities and compact form, to commit to inner city revitalization and heritage conservation, and to provide integrated transportation options.
- 1B-01 Support Neighbourhood Revitalization The City shall support neighbourhood revitalization through efforts that address the physical, social, and economic needs of neighbourhoods giving first priority to Major Improvement Neighbourhoods identified on Policy Plate D and second priority to Rehabilitation Neighbourhoods identified on Policy Plate D by:
 - i) coordinating the delivery of services and programs such as recreation, leadership, life-skills, and employment through community-based facilities to ensure maximum benefit and convenience to local residents and business interests;
 - ii) engaging the community, including residents, businesses, organizations, and schools in the identification and management of neighbourhood issues and in the preparation of improvement strategies (including the development of **secondary plans** where warranted);
 - iii) providing leadership in the development of multi-level government programs and the facilitation of effective inter-agency communication networks to support community-based strategies; and iv) encouraging targeted private sector investment in neighbourhoods including the provision of infill housing and local services.
- 3A-01 Promote Orderly Development The City shall promote orderly development through land use designations on Policy Plate A by:
 - i) considering the Downtown designation to signify a unique multi-functional area, the centre of business and service-oriented activity, government and other institutional operations, major arts and cultural attractions, and some specialty retail and regional recreation, with a large and diverse mix of residential uses and transportation options;
 - ii) considering the Neighbourhood designation to signify areas of local identity with mutually supportive uses generally including a residential mix together with a variety of educational, recreational, institutional, commercial, and possibly industrial uses, at a scale and density compatible with each other;
 - iii) considering the Industrial designation to signify areas of concentrated industrial uses and supportive infrastructure with the possible inclusion of compatible commercial uses;
 - iv) considering the Rural designation to signify areas primarily devoted to agricultural uses and related support functions until such time that these lands are required to be redesignated for future development;
 - v) considering the identification of areas of Regional Commercial and Mixed-Use Concentration to signify the general desired locations for large scale commercial development attracting customers city-wide and beyond, with the intent to direct future development of that nature to those general locations;
 - vi) considering the Major Open Space designation to signify distinctive areas of city-wide importance that provide opportunities for passive nature-oriented activities and/or a variety of active recreational facilities; and

- vii) identifying those areas of the city that are governed by **secondary plans**, and promoting the use of **secondary plans**, where warranted, to provide greater clarity in the interpretation of policy designations.

3B-02 Guide the Development of New and Existing Residential Areas The City shall guide the development of new and existing residential areas designated as Neighbourhood on Policy Plate A by:

- i) requiring developments to provide a full range of municipal infrastructure in an environmentally-sound, economical, and timely manner;
- ii) preparing detailed **secondary plans** for future neighbourhoods in consultation with residents and business interests to ensure the coordination of local and regional services and the compatibility of land uses and other objectives;
- iii) ensuring that existing neighbourhoods are protected and adopting **secondary plans** to govern development in existing neighbourhoods where warranted (those neighbourhoods currently governed by **secondary plans** are identified on Policy Plate A);
- iv) evaluating new residential development proposals according to appropriateness of location and assessing their long-term impact within an evaluation framework established in consultation with the development industry; and
- v) encouraging the abatement or relocation of livestock operations and other incompatible uses before adjacent new development is permitted.

3B-08 Regulate Land Uses in Rural Areas The City shall regulate land uses within locations designated as Rural on Policy Plate A by:

- i) designating agriculture and related support functions as the principal use in rural areas through the requirement of a minimum site area of 16 ha (40 acres) or such other minimum size as would be allowed under an applicable **secondary plan** and subject to minimal variances;
- ii) allowing the subdivision of land into parcels less than 16 ha (40 acres) only through the preparation and adoption of a **secondary plan**;
- iii) allowing the redesignation of Rural land to Neighbourhood or Industrial only where there is a demonstrated need for additional land to satisfy projected demand and where a full range of municipal infrastructure can be provided in an environmentally-sound, economical, and timely manner;
- iv) preparing **secondary plans** for unserviced residential areas to delineate boundaries of those areas, to establish minimum parcel sizes, and to establish appropriate servicing criteria (those Rural Areas currently governed by **secondary plans** are identified on Policy Plate A);
- v) allowing the possible subdivision or conversion of land in unserviced residential areas to new residential use giving priority to property having frontage on an existing improved right-of-way other than a highway and requiring the proposed development be consistent with immediately prevailing densities;
- vi) ensuring the protection of ground water quality and quantity in unserviced residential development areas by regulating development and sewage disposal; and
- vii) considering the South St. Vital Action Area Plan to be an unserviced residential area **secondary plan** as provided for under item ii) above, notwithstanding item v) above.

Secondary Plan: a more detailed plan having the status of a by-law which includes a statement of the City's policies and proposals for the development, redevelopment or improvement of a specific area of the city.

Development Procedures By-Law

DEVELOPMENT APPLICATIONS

3. (1) Development applications shall be made in accordance with The City of Winnipeg Charter.
amended 8162/2002
- (2) Development applications shall be made to the Director, who shall review all development applications to ensure that the application submitted is the proper application in relation to the applicant's proposed undertaking.
amended 7107/97
- (3) The director may refuse a development application without a hearing, in accordance with The City of Winnipeg Charter.
amended 8162/2002
- (4) repealed 8162/2002
- (5) (a) Where the director refuses a development application under subsection (3) for non-conformance with a **secondary plan**, the director shall serve a copy of that decision on the applicant, in accordance with The City of Winnipeg Charter.
amended 8162/2002; 92/2004
- (b) The applicant may appeal the director's decision in clause (a) to the Standing Policy Committee on Property and Development, and the appeal shall be conducted in accordance with section 189 of The City of Winnipeg Charter.
amended 8162/2002; 92/2004
- (c) The Standing Policy Committee on Property and Development shall review an application which is the subject of an appeal under clause (b), hear any representations from the applicant concerning the application's conformance with the applicable **secondary plan**, make a decision and serve a copy of its decision on the applicant in accordance with The City of Winnipeg Charter. Where the Standing Policy Committee on Property and Development refuses the application, it shall record in its minutes the reasons for the refusal, and shall provide a copy of the reasons to the applicant on request.
amended 8162/2002; 92/2004
- (6) (a) Where the director refuses a development application under subsection (3) for non-conformance with Plan Winnipeg, the director shall serve a copy of that decision on the applicant, in accordance with The City of Winnipeg Charter.
amended 92/2004
- (b) The applicant may appeal the director's decision in clause (a) to the Executive Policy Committee, and the appeal shall be conducted in accordance with section 189 of The City of Winnipeg Charter.
amended 92/2004
- (c) The Executive Policy Committee shall review an application which is the subject of an appeal under clause (b), hear any representations from the applicant concerning the application's conformance with Plan Winnipeg, make a decision and serve a copy of its decision on the applicant in accordance with The City of Winnipeg Charter. Where the Executive Policy Committee refuses the application, it shall record in its minutes the reasons for the refusal, and shall provide a copy of the reasons to the applicant on request.

amended 8162/2002; 92/2004

(7) repealed 7948/2001

(8) Where, in the opinion of the Standing Policy Committee on Property and Development, Executive Policy Committee or the Director, as the case may be, the development application is the proper application in relation to the applicant's proposed development, and it conforms with Plan Winnipeg and any **secondary plan** for the area in which the land or building is located, the Committee or the Director shall direct that the development application be referred to the appropriate designated city administrator, committee of council, or board of adjustment, as the case may be.

added 7948/2001

PUBLIC HEARING ON SECONDARY PLAN

5. (1) A proposed **Secondary Plan** By-law shall, after first reading and before second reading, be referred for conduct of a public hearing in accordance with The City of Winnipeg Charter:

amended 8162/2002

(a) where the land to which the proposed **Secondary Plan** By-law applies is located in one community to the community committee for that community;

(b) where the land is located in two or more communities to the community committee for one of those communities as designated by resolution of City Council;

but if council deems it more appropriate it may by resolution designate either the executive policy committee or a standing committee to conduct the public

hearing.

(2) Starting at whichever committee of council conducts the public hearing referred to in subsection (1) its report and recommendations shall be forwarded up to council, with the combined report and recommendations of each subsequent committee considering the matter, in the sequence community committee - any standing committee other than the Standing Policy Committee on Property and Development - the Standing Policy Committee on Property and Development and Executive Policy Committee; but nothing in this By-law precludes council considering additional reports and recommendations from any committee making them.

amended 7167/98; 7948/2001; 42/2004

(3) Notwithstanding subsections (1) and (2), where the matter relates to real property located entirely or primarily in the area covered by The Downtown Winnipeg Zoning By-law, a proposed **secondary plan** by-law shall, after first reading and before second reading, be referred for conduct of a public hearing in accordance with The City of Winnipeg Charter, to the Standing Policy Committee on Downtown Development.

added 42/2004; 92/2004

(4) The Standing Policy Committee on Downtown Development shall forward its report and recommendations to the Executive Policy Committee for its consideration and forwarding of the combined report and all recommendations to Council, but nothing in this by-law precludes Council from considering additional reports and recommendations from any committee making them.

added 42/2004

COMBINED HEARING

amended 8162/2002

6. (1) Subject to subsections (2) and (3) where a proposed development requires public

hearings on two or more of an amendment to Plan Winnipeg, an amendment to a **Secondary Plan**, an amendment to a zoning by-law, approval or amendment of a plan of subdivision, or an application for approval of a variance or a conditional use, the required public hearings shall be combined and shall be held by the committee set by or designated under sections 4 and 5.

amended 6303/94; 8162/2002

(2) Where an amendment to Plan Winnipeg is included in a combined hearing it shall be held by the Executive Policy Committee.

amended 6303/94; 8162/2002

(3) Where an application for a conditional use order or variance order or both is included in the combined hearing:

(a) where the matter relates to real property located entirely or primarily in the area covered by the Downtown Winnipeg Zoning By-law, the Standing Policy Committee on Downtown Development shall be the hearing committee, and shall make the order(s) in accordance with this By-law and The City of Winnipeg Charter, and any appeal(s) against the order(s) shall be heard and decided by the committee designated under subsection 13.1(1) of the Organization By-law, in accordance with The City of Winnipeg Charter; and

amended 42/2004

(b) in any other case, the Standing Policy Committee on Property and Development, which must hear any appeal, shall not be the hearing committee, and the hearing committee shall make the order(s) in accordance with this By-law and The City of Winnipeg Charter, and any appeal(s) against the order(s) shall be heard and decided by the Standing Policy Committee on Property and Development, in accordance with The City of Winnipeg Charter.

amended 42/2004