C.S.E. 301 - 1 - 36
Act of 1st February 1977 consolidated

The Planning Amendment and City of Winnipeg Charter Amendment Act

Explanatory Note

This note is a rubric and is not part of the Act.

The Planning Act and the City of Winnipeg Charter Act (The City of Winnipeg Charter) provide for planning regions and to make local land use decisions subject to appeal to the Municipal Board.

Planning regions

Winnipeg Region is established for the Winnipeg metropolitan area. Other planning regions may be established by regulation.

A planning region must establish a regional planning by-law, which is to guide land use planning on a regional basis. Development plans, secondary plans and zoning by-laws must conform to the regional planning by-law and be consistent with provincial land use policies and provincial plans.

The composition of the board of a planning region is established by regulation. A board must include at least one representative of each municipality within the region.

Local land use decisions

The Municipal Board is given jurisdiction to hear appeals of land use decisions made by a planning district, municipality or planning commission.

Municipal by-laws and resolutions, including those made by a municipal council sitting as a planning district or municipality in a planning region.

Planning districts and municipalities may require a development agreement for certain development permits. The City of Winnipeg may require a development agreement as a condition of approving a conditional use or variance.

Consequential amendments are made to other Acts and The Capital Region Partnership Act is repealed.

(Assented to May 20, 2011)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

PART 1
THE PLANNING ACT

C.C.S.M. c. P80 amended

1 The Planning Act is amended by this Part.

2(1) Subsection 1(1) is amended

(a) in the definition "designated employee of a officer" by adding "planning region," *before* "planning district";

(b) by adding the following definitions:

"planning region" means the following area:

(a) the Capital Planning Region;

(b) any other prescribed planning region. *(Clause 8 (Jurisdiction) to territory.)*

"regional planning board" means the board of directors of a planning region. *(Clause 8 (Jurisdiction) to territory.)*

"regional planning by-law" means a by-law of a planning region that establishes or amends its regional plan under section 10.4. *(Jurisdiction to territory.)*

(2) Subsection 1(3) is repealed.

2 *Division 2 of Part 2 is replaced with the following:*

DIVISION 2
PLANNING REGIONS

Overview

3 This Division provides for planning regions.

DEFINITIONS AND APPLICATION

Definition of "regional member municipality"

4 In this Division, **"regional member municipality"** means one or more of the municipalities included in a planning region.

City of Winnipeg

5 For certainty, this Division applies to The City of Winnipeg.

FORMATION OF PLANNING REGION

Capital Planning Region

6(1) The Capital Planning Region is hereby established.

Included municipalities and boundaries

6(2) The Capital Planning Region consists of the territory within the boundaries of the following municipalities:

(a) the City of Winnipeg and the City of Selkirk;

(b) the Rural Municipality of the Town of Stonewall;

(c) the Town of Teulon;

(d) the Rural Municipalities of Carlton, East St. Paul, Headingley, Macdonald, Ritchot, Rockwood, Rosser, Springfield, St. Andrews, St. Clements, St. Francois Xavier, Tache and West St. Paul.

Regional member municipalities may be changed

6(3) Despite subsection (2), the composition of the Capital Planning Region may be varied by the minister by regulation.

Minister may establish planning region

6(4) The minister may by regulation, establish a planning region for any other region of the province

(a) to enhance economic and social development of the region; and

(b) to improve sustainable land use planning and coordination of planning within the region and across the province.

Considerations and consultations when forming planning region

6(5) In determining whether to establish a planning region, the minister must

(a) have regard to

(i) the economic and social integration of the region, and

(ii) the need to include at least one area that has sufficient population density, infrastructure and services to serve as the centre of the region; and

(b) consult with the council of each municipality proposed to be included in the planning region.

Contiguous municipalities

6(6) The municipalities to be included in the planning region must be contiguous.

Name and boundaries

6(7) A planning region regulation must include the name of the region and establish its boundaries.

Referral of proposal to Municipal Board

6(8) The minister may refer to the Municipal Board a proposal concerning the establishment of a planning region that the minister or two or more municipalities have proposed.

Content of proposal

6(9) Section (4) proposal must set out

(a) the municipalities that are to be included in the region;

(b) the proposed name and boundaries of the region;

(c) the reasons why the proposal meets the criteria under subsection 6(1);

Consultation and hearing

6(10) After a proposal has been referred, the Municipal Board must

(a) hold public hearings in at least two locations in the region to receive representations on the proposed planning region; and

(b) give public notice of the hearings in accordance with section 148.

Recommendation to minister

6(11) After the hearings are held, the Municipal Board must make a recommendation to the minister on the proposal.

MANDATE

Mandate of a planning region

6(12) The purpose of a planning region is to enhance economic and social development by improving and coordinating sustainable land use and development in the region through

(a) adopting a regional plan;

(b) facilitating and supporting regional considerations in providing infrastructure and services;

(c) leading the development of regional responses to the planning issues of the region municipalities; and

(d) identifying and promoting opportunities for the regional member municipalities to cooperate in the cost-effective development of infrastructure and the provision of services on a regional basis.

Related activities

6(13) In carrying out its mandate, a planning region may, with the agreement of a regional member municipality, do the following:

(a) provide services to the municipality that

(i) administer and enforce

(ii) any secondary plan by-law of the municipality;

(iii) the zoning by-law of the municipality;

(iv) the building by-laws of the municipality; or

(v) the by-laws of the municipality relating to with minimum standards of maintenance and occupancy of buildings.

Planning region powers

6(14) For the purpose of carrying out its mandate, a planning region has the capacity and powers of a natural person.

Limited powers

6(15) Subject to any restrictions specified in the regulations, a planning region may

(a) for the purpose of implementing its regional plan, acquire and hold any interest in real property;

(b) borrow money and give security;

(c) with mortgage, lease or otherwise dealt with or dispose of any interest in real or personal property;

(d) receive, acquire, loan and invest money;

(e) borrow money and give security for the repayment of money borrowed; and

(f) exercise any other powers that are necessary to carry out its mandate.

Real property may be acquired by expropriation

6(16) The acquisition of real property under clause (2)(a) may be by expropriation.

Agreements

6(17) Without limitation, a planning region may enter into an agreement with a person or organization respecting development of land within the region.

REGIONAL PLANS

Regional planning by-law

10(1) A regional planning board must prepare and adopt a regional plan within two years after the date the planning region is established.

Requirements for regional plan

10(2) A regional plan must contain plans and policies respecting

(a) the economic and social development of the region and the objectives for the region for at least a 30-year time span;

(b) sustainable land use and development in the region, having regard to the need

(i) for major commercial and industrial development,

(ii) to protect agricultural land and agricultural operations,

(iii) for residential development and housing,

(iv) for regional parks and other regional recreational opportunities,

(v) to protect against flooding, other hazards and nuisances, and

(vi) to respond to the effects of climate change;

(c) the provision of infrastructure, services and facilities within the region, including drinking water, wastewater, storm water, drainage, solid waste, recycling, transportation, telecommunications and emergency services;

(d) the protection, management and enhancement of the environment within the region, including the water sources, water quality and quantity, sensitive and natural lands, renewable resources, mineral resources and areas of natural, rare or historic significance;

(e) the coordination of planning and development by regional member municipalities;

(f) measures for implementing the plan; and

(g) any other prescribed matter.

Maps and statement of objectives

10(3) A regional plan must include maps and statements of objectives to provide direction concerning the plans and policies contained in the regional plan.

Consistency with provincial land use policies

10(4) A regional plan must be generally consistent with provincial land use policies.

Process for adopting and amending regional plans

10(5) The process for adopting and amending a regional plan or amendment is to regional plan by-law is in accordance with the regulations and the procedures of the planning region.

Process to be based on development plans of planning districts

10(6) The process for adopting or amending a regional plan or amendment to a planning by-law must be generally consistent with the process that applies in respect of a planning district adopting or amending its development plan by-law.

Ministerial assistance

10(7) A regional planning by-law is subject to the approval of the minister.

Initiating amendments to a regional planning by-law

10(8) In accordance with the regulations, the minister, a planning region or a regional member municipality may initiate an amendment to a regional planning by-law.

Regional plan will support

10(9) Once adopted, a regional planning by-law is binding on all persons and is not subject to appeal.

Compliance with plans

10(10) The adoption of a regional planning by-law does not require the regional planning board, the council of a regional member municipality or any other person or government agency or department to undertake a proposal contained in the by-law.

Review

10(11) A regional planning board must review its regional planning by-law at the times and in the manner set out in the regulations.

Preparation and review of regional plan

10(12) A regional planning board must employ the services of an individual who is a registered professional planner, as defined in The Registered Professional Planners Act, when preparing and reviewing the regional planning by-law.

Orders of minister in regional plans

10(13) After consulting with a planning region, the minister may order it to adopt or amend its regional planning by-law within a time specified in the order.

Minister may order, amend or replace plan by-law

10(14) The minister may prepare a regional planning by-law or an amendment to the by-law if the planning region

(a) fails to comply with an order under subsection (1); or

(b) fails to provide a revision of its regional plan as requested under this section.

Referral to Municipal Board

10(15) The minister may refer to the Municipal Board a regional planning by-law or an amendment to the by-law that the minister has prepared.

Consultation and hearing

10(16) After a by-law or amendment is a by-law has been referred, the Municipal Board must

(a) hold a public hearing to receive representations on the by-law or amendment; and

(b) give notice of the hearing in accordance with section 148.

Recommendation to minister

10(17) After holding the hearing, the Municipal Board must make a recommendation to the minister on the matter referred.

LG in C may order adoption

10(18) On recommendation of the minister, the Lieutenant Governor in Council may by order

(a) adopt the regional planning by-law for a planning region;

(b) adopt an amendment to the regional planning by-law for a planning region.

Effect of order

10(19) An order made under subsection (8) has the effect of enacting the regional planning by-law for a planning region or amending the existing regional planning by-law as if it were enacted or amended by the planning region.

Effect of regional plan

10(20) A regional member municipality must ensure that the following are not inconsistent with the regional planning by-law for its region:

(a) its development plan by-law;

(b) any secondary plan by-law it has adopted;

(c) its zoning by-law;

(d) in the case of a regional member municipality of the Capital Planning Region, its drinking water and wastewater management plan prepared under section 62.3.

Three-year transition for by-laws

10(21) If a regional member municipality's planning region has adopted a regional planning by-law, each regional member municipality must review its by-laws to ensure that they are not inconsistent with the applicable regional planning by-law.

Exception for bringing plans into alignment

10(22) Section 58 (exception for minor amendments) applies, with necessary changes, in respect of an amendment to a development plan by-law that is made to ensure that it is not inconsistent with a regional planning by-law.

Limitation on regional member municipalities

10(23) The council of a regional member municipality must not

(a) adopt a secondary development plan by-law, secondary plan by-law or zoning by-law that is inconsistent with a regional planning by-law; or

(b) amend a secondary development plan by-law or zoning by-law of a development plan by-law or zoning by-law that is inconsistent with a regional plan.

Regional planning by-law is effective immediately

10(24) On or after the day the planning region adopts its regional planning by-law, any application that has been made to or is pending before a designated employee or officer or board, a council or a planning commission, but not finally disposed of, before the day the by-law comes into force is subject to subsection (11).

Regional planning board may require compliance

10(25) If a regional planning board determines that a regional member municipality is proposing to take, or has taken, an action described in clause 10.8(1)(a) that is inconsistent with the regional planning by-law, the regional planning board may, by written notice to the municipality, require the municipality to take the action which it has set out in the notice.

Injunction or other order

10(26) If a regional member municipality fails or refuses to comply with a notice under subsection (1), the regional planning board may apply to the Court of Queen's Bench for an injunction or other order.

Decision of the Court

10(27) The Court of Queen's Bench may grant or refuse the injunction or other order or may make any order that in the opinion of the Court is just in the circumstances.

ADMINISTRATIVE MATTERS

Planning region is a corporation

10.1(1) A planning region is a corporation without share capital consisting of the members of its board of directors from time to time.

Application of Corporations Act

10.1(2) Subject to the regulations, The Corporations Act does not apply to a planning region.

Board of directors

10.2 The regional planning board is responsible for managing, or supervising the management of the business and affairs of the planning region in accordance with its mandate.

Composition of board

10.3(1) The composition of a regional planning board is to be determined by regulation and is to include at least one director from each of the regional member municipalities.

Appointments continue

10.3(2) A director continues to hold office until they are re-appointed, the appointment is revoked or their successor is appointed.

Vacancy does not impair board's powers

10.3(3) A vacancy in the membership of a regional planning board does not impair the capacity of the remaining members of the board to act.

FINANCIAL MATTERS

Financial contributions

10.4(1) The regional member municipalities must agree on the amount or proportion of funding that each member municipality is to contribute to meet the expenses of the planning region.

If no agreement

10.4(2) The minister must prescribe the amount or proportion of funding that each member municipality must contribute to meet the expenses of the planning region if the municipalities do not make a determination under subsection (1) or fail to establish the formula specified by the minister.

Annual budget for operations

10.4(3) A regional planning board must prepare an annual budget with respect to its operations and submit a copy of its budget to each regional member municipality and the minister.

Fiscal year

10.4(4) The fiscal year of a planning region is the calendar year.

Financial records and systems

10.4(5) A planning region must establish financial management and information systems to enable it to prepare financial statements in accordance with generally accepted accounting principles as set out in the CPA Canada Handbook and Statement of Accounts Collected (CPA Canada Handbook) published by Chartered Professional Accountants of Canada.

Auditor

10.4(6) The regional planning board must appoint an independent auditor to audit the records, accounts and financial transactions of the planning region each year.

Records to be publicly available

10.4(7) The regional planning board must make its annual budget and annual audit available by publishing them on a publicly accessible website.

Annual report

10.4(8) The regional planning board must prepare an annual report on its operations within six months after the end of each fiscal year, and must provide a copy of the annual report to each regional member municipality and the minister.

BY-LAWS

By-laws — administrative matters

10.5(1) A regional planning board must make by-laws

(a) respecting procedures of the board and the conduct of its affairs, including

(i) the calling of meetings, including notice of meetings,

(ii) the conduct of meetings and hearings, including rules of procedure, and

(iii) the appointment of officers and the recording of by-laws,

(b) establishing a code of conduct and a conflict of interest policy for the directors, officers and employees of the planning region.

By-laws — additional matters

10.5(2) The regional planning board may make by-laws

(a) establishing fees and charges for services it provides;

(b) providing for the remuneration of directors;

(c) providing for the indemnification of its directors and officers;

(d) respecting any other matter the board considers advisable for the convenient and efficient carrying out of the mandate of the planning region.

By-laws inconsistent with Act

10.5(3) A by-law of a planning region that is inconsistent with an enactment of Manitoba is to be of no effect to the extent of the inconsistency.

AMENDMENT OR DISSOLUTION OF PLANNING REGION BOUNDARIES

Dissolving or amending boundaries

10.6(1) The minister may by regulation,

(a) change the boundaries of a planning region so that a municipality becomes or is no longer a regional member municipality; or

(b) dissolve a planning region.

Distribution of assets and liabilities

10.6(2) If the minister dissolves a planning region or changes the boundaries of a planning region to allow a regional member municipality to withdraw from the planning region, the minister may, after consulting with the regional planning board and regional member municipalities, also determine the manner in which the assets and liabilities of the planning region are to be distributed among

ROLE OF PLANNING DISTRICTS

Application

10.7(1) This section applies to a planning district if a municipality that is a member of the planning district is also a regional member municipality.

Effect of regional plan

10.7(2) A planning district must ensure that the following are not inconsistent with the regional planning by-law that applies in respect of the regional member municipality:

(a) its development plan by-law;

(b) any secondary plan by-law it has adopted;

(c) the districts zoning by-law, if it has adopted a district-wide zoning by-law under section 60;

(d) in the case of a planning district that includes one or more regional member municipalities of the Capital Planning Region, its drinking water and wastewater management plan prepared under section 62.3.

Subsections 10.6(2) and (3) and sections 10.9 and 10.10 apply, with necessary changes, to the planning district.

Administration and enforcement of by-laws

10.7(3) A planning region and a planning district may enter into an agreement for the planning region to perform the planning districts role in administering and enforcing

(a) the development plan by-law for the entire district under clause 14(a); or

(b) the by-laws referenced in clause 14(b).

Costs

10.7(4) Any costs incurred by the planning region in respect of an agreement under subsection (3) must be paid by the planning district and are not to be included in the amounts determined under subsection 10.10(1).

Amendments to a regional plan

10.7(5) In addition to these powers or entities referenced in subsection 10.4(4), a planning district may initiate an amendment to an applicable regional plan.

REGULATIONS

Regulations

10.8(1) The minister may make regulations

(a) prescribing the number, or the method of determining the number, of members to be appointed to a regional planning board, the manner in which they may be appointed and any eligibility criteria and qualifications to be met by them;

(b) prescribing the time and manner in which a member of a regional planning board are to be filled;

(c) prescribing term limits for members of a regional planning board;

(d) prescribing the manner in which a director ceases to be a director of the corporation of a regional planning board, or the manner in which the chair or vice-chair may be appointed;

(e) establishing the voting structure for the planning region, including providing that the votes of the respective regional member municipalities be weighted in approximate proportion to their respective populations, land values, degree of development activities or any other factors considered relevant by the minister;

(f) prescribing quorum for the purposes of a regional planning board;

(g) prescribing the manner in which a regional planning board may conduct its business;

(h) prescribing the time and manner in which the regional planning board is to review its regional planning by-law;

(i) requiring the process to be followed by the regional planning board in adopting, reviewing or repealing its regional planning by-law;

(j) requiring the making of applications to a regional planning board or agencies, including the process to be followed in considering applications and approving, refusing or rejecting applications;

(k) requiring specified decisions made in respect of the matters described in clause (j) or (p), including designating the Municipal Board or another entity to hear appeals of those decisions;

(l) requiring the form and manner in which an appeal must be made, the time within which an appeal must be made and the consequences of not making an appeal in accordance with the regulations;

(m) requiring procedures and notice requirements for the hearing of appeals and other matters if a planning region enters into an agreement under section 10.9 with the Municipal Board;

(n) prescribing the amount or the period of the amount required for the operation of a planning region that is to be paid by each regional member municipality, in the manner in which the portion may be determined;

(o) requiring information a planning region must make public, and the manner in which the information is to be made public;

(p) requesting the extent to which The Corporations Act applies to a planning region;

(q) requiring municipal matters which land in an area of a municipality is prescribed to be in a planning region;

(r) requiring any other matter the minister considers necessary or advisable for effective and efficient land use planning region.

Application of regulations

10.8(2) A regulation under this Division may be general or particular in its application.

(3) The following is added after subsection (2):

Impact of regional plans

10.8(3) Despite anything in any other by-law or policy of a planning region, the minister must take reasonable measures to ensure that land use planning for the special planning area is consistent with the regional planning of the planning region.

(4) Section 10.9 is amended by adding "Division C of Part 2 and" before "the Part".

10.9(1) Subsection 46(1) is amended by adding (a) "Between first and second" and subdividing "Before or after a decision of council gives first".

10.9(2) Subsection 46(2) is amended

(a) by replacing the section heading with "Second reading";

(b) by adding "Subject to section 46.1" at the beginning of it.

10.9(3) Subsection 46(3) is amended by adding "Subject to section 46.1" at the end of it.

10.9(4) Subsection 47(1) is replaced with the following:

Submissions to minister

47(1) Within 30 days after reasonably practicable after the development plan by-law is given second reading, the board or council must submit the following to the minister, in the form and manner directed by the minister:

(a) a certified copy of the by-law;

(b) a copy of the minutes of the hearing held under subsection 46(1) and each written submission filed at the hearing.

10.9(5) Subsection 47(2) is repealed.

(6) Clause 48.0(1)(a) is amended by adding the following after subclause (i):

(i.1) a regional planning board, if any land within its region is subject to the development plan;

10.9(7) Clause 48(c) is amended by striking out "board" at the end of subclause (i), adding "board" at the end of subclause (ii) and adding the following after subclause (ii):

(iii) the regional planning board, if any land within its region is subject to the development plan;

(8) Section 48 is amended by adding the following after clause (a):

(a.1) a regional planning board, if any land within its region is subject to the development plan;

(9) The following is added after subsection 48(1):

Consultation with minister and region

10.9(10) As part of a review of its development plan, a board or council must consult with any applicable planning region, the minister and any other person or organization designated by the minister.

(10) The following is added after subsection 60.0(5):

Interpretation — "capital region"

10.9(11) In this section, a municipality is considered to be in the capital region only if it is a regional member municipality of the Capital Planning Region.

(11) Clause 60.0(1)(d) is amended by striking out "subdivision, design" and substituting "subdivision design".

(12) Section 60 is replaced with the following:

Adoption and amendment process

60 A secondary plan by-law and an amendment to a secondary plan by-law are subject to

(a) the same hearing and approval process required to adopt a zoning by-law under Part 5; and

(b) the same appeals process that applies to a zoning by-law or an amendment to a zoning by-law.

(13) Subsection 74(1) is amended by striking out "Between first and second reading of a zoning by-law, a board, council or" and substituting "Before or after a board or council gives first reading of a zoning by-law, a board or council or".

(14) Clause 74(2) is amended by striking "proposed" before "plan".

10.9(15) Section 76(3) is replaced with the following:

Hearing if sufficient objections

76(3) If a board or council receives sufficient objections by the deadline set out in the notice under subsection (3), it must as soon as reasonably practicable, refer the objections to the Municipal Board.

10.9(16) Section 76(6) is repealed.

10.9(17) Subsection 77(5) is replaced with the following:

Referring objections

77(5) If a council receives sufficient objections by the deadline set out in the notice under subsection (3), it must, as soon as reasonably practicable, refer the objections to the Municipal Board.

10.9(18) Subsection 77(6) to (11) are repealed.

(19) The following is added after section 77 and before the centred heading that follows it:

MUNICIPAL BOARD

Requirement for third reading

77.1(1) If the board or council refers an objection under subsection 76(3) or 77(5), it must not give the by-law third reading unless

(a) the Municipal Board makes an order under clause (c)(ii) confirming the parts of the by-law that were the subject of the objection;

(b) the objections to the Municipal Board are withdrawn.

(20) Section 78(6) is repealed.

10.9(21) Subsection 77(5) is replaced with the following:

Referring objections

77(5) If a council receives sufficient objections by the deadline set out in the notice under subsection (3), it must, as soon as reasonably practicable, refer the objections to the Municipal Board.

10.9(22) Subsection 77(6) to (11) are repealed.

(23) The following is added after section 77 and before the centred heading that follows it:

MUNICIPAL BOARD

Requirement for third reading

77.1(1) If the board or council refers an objection under subsection 76(3) or 77(5), it must not give the by-law third reading unless

(a) the Municipal Board makes an order under clause (c)(ii) confirming the parts of the by-law that were the subject of the objection;

(b) the objections to the Municipal Board are withdrawn.

(20) Section 78(6) is repealed.

10.9(21) Subsection 77(5) is replaced with the following:

Referring objections

77(5) If a council receives sufficient objections by the deadline set out in the notice under subsection (3), it must, as soon as reasonably practicable, refer the objections to the Municipal Board.

10.9(22) Subsection 77(6) to (11) are repealed.

(23) The following is added after section 77 and before the centred heading that follows it:

MUNICIPAL BOARD

Notice of hearing

[1] [1.19] Within 150 days after receiving an objection, the Municipal Board must hold a public hearing to receive representations from any person in respect of the objection.

Notice of hearing

[1.1] [1.20] - A hearin by the hearing, the Municipal Board must

(a) send notice of the hearing to

(i) the applicant,

(ii) the board in council that referred the objection,

(iii) the regional planning board, if any land within its region is subject to the by-law,

(iv) every person who made a representation at the hearing held under subsection 1(1), and

(v) any other person the Municipal Board considers appropriate, and

(b) give public notice of the hearing by publishing a notice on a website available to the public.

Order

[2] [1.21] The Municipal Board must make an order

(a) confirming or refusing to confirm, in whole or in part, the by-law that was the subject of the objection, or

(b) directing the board in council to alter the by-law in the manner the Municipal Board specifies to address any representations the objection made at the hearing.

The order may be subject to any terms or conditions the Municipal Board considers advisable.

Effect of decision

[3] [1.22] A board in council must not require the owner of the affected property to enter into a development agreement under section 101 unless the Municipal Board requires a development agreement as a condition under subsection (2).

Notice of decision

[4] [1.23] The Municipal Board must make an order within 60 days after the hearing is concluded and must send a copy of the order to the board in council that referred the objection, the applicant and any other party to the appeal.

Deferred decision

[5] [1.24] If the minister is reviewing a development plan by-law or an amendment to a development plan by-law at the same time as an objection is arising by-law for the same area is being considered under this section, the Municipal Board may delay making an order until the minister has made their decision.

Order not subject to appeal

[6] [1.25] The order of the Municipal Board is final and not subject to appeal.

[7] [1.26] *Subsection 190(1) is amended by*

(a) in the part before clause (a), by striking out "subsections 17(8) to (8.2)" *and substituting* "section 17.1"; *and*

(b) by striking out clause (b).

[8] *The following is added after section 190(1):*

[9] *The following is added after section 190:*

APPEALS CONCERNING ZONING

Appeal of refusal or conditions

[10] [1.27] - A board in council or a person who is zoning by-law initiated under clause 86(1)(d), the applicant may appeal to the Municipal Board

(a) if a board in council resolves not to proceed with the by-law amendment, or

(b) as a condition of proceeding the zoning by-law, the owner of the affected property is required to enter into a development agreement under section 100.

Right to appeal if failure to proceed

[11] [1.28] - A request of an application for an amendment to a zoning by-law initiated under clause 86(1)(d), the applicant may appeal to the Municipal Board

(a) if the board, council or planning commission fails to hold the public hearing or hearings required under section 74 within 60 days after the application is made,

(b) if section 75 applies and the board in council fails to take one of the following actions within 60 days after the hearing or hearings are held under section 74:

(i) give the by-law third reading,

(ii) exercise its power to proceed with the by-law,

(iii) refer the objections to the Municipal Board, or

(d) if section 77 applies and the board in council fails to take one of the following actions within 60 days after the hearing or hearings are held under section 76:

(i) give the by-law third reading,

(ii) exercise its power to proceed with the by-law,

(iii) refer the objections to the Municipal Board.

Hearing

[12] [1.29] - An appeal may be commenced by sending a notice of appeal to the Municipal Board

(a) in the case of an appeal under subsection (1), within 14 days after the board in council

(i) gives notice under subsection 10(2), or

(ii) imposes a condition under subsection 100; or

(b) in the case of an appeal under subsection (2), within 14 days after the board, council or planning commission fails to take an action described in clause (2)(a) or (d) within the specified time period.

Notice of appeal

[13] [1.30] - A notice of appeal must include the following information:

(a) the name and address of the board that is subject to the application and the name of the municipality in which the land is located,

(b) the name and address of the appellant,

(c) a description of the decision or conditions imposed or a constructive approval, a description of the conditions being appealed.

Appeal fee

[14] [1.31] The Municipal Board must hold a hearing to consider the appeal within 120 days after the notice of appeal is received.

Notice of hearing

[15] [1.32] - At least 14 days before the hearing, the Municipal Board must

(a) send notice of the hearing to

(i) the appellant,

(ii) the applicable board, council or planning commission,

(iii) the regional planning board, if any land within its region is subject to the by-law, and

(iv) any other person the Municipal Board considers appropriate; and

(b) give public notice of the hearing by publishing a notice on a publicly accessible website.

Decision of Municipal Board

[16] [1.33] - The Municipal Board must make an order

(a) rejecting the proposed amendment to the zoning by-law,

(b) confirming the proposed by-law or any part of it, or

(c) directing the board in council to alter the by-law in the manner it specifies.

The order may be subject to any terms or conditions the Municipal Board considers advisable.

Effect of decision

[17] [1.34] - The board in council must not require the owner of the affected property to enter into a development agreement under section 100 unless the Municipal Board requires a development agreement as a condition under subsection (2).

Notice of decision

[18] [1.35] The Municipal Board must make its order within 60 days after the hearing is concluded and must send a copy of the order to the appellant, the board, council or planning commission and any other party to the appeal.

Decision is final

[19] [1.36] - A decision of the Municipal Board on an appeal is final and not subject to further appeal.

Costs on appeal is limiting to prescribed

[20] [1.37] - It is in respect of an appeal under subsection 10.1(1) or 1.2(1), the approving authority must consider the application and do one of the following:

(a) the costs incurred by the Board in hearing the appeal; and

(b) the appellant's reasonable costs related to the appeal.

Board retains discretion as to costs

[21] [1.38] - For certainly, nothing in this section limits the discretion of the Municipal Board under section 96 of *The Municipal Board Act*.

[22] *Clause 1(1)(a) is amended by adding the following after subclause (i):*

(ii) a requesting time periods for proceedings by approving authorities under section 1(4);

[23] *The following is added after subsection 1(1)(b):*

Determination on application to be made in 20 days

[24] [1.39] - Within 20 days after an application for a development permit is submitted, a designated employee or officer of a planning district or municipality must determine whether the application is complete.

When application is complete

[25] [1.40] - An application is complete if, in the opinion of the designated employee or officer, the application contains the documents and other information necessary to review the application.

Extension by agreement

[26] [1.41] - The time period referred to in clauses (1.39) may be extended by an agreement in writing between the applicant and the planning district or municipality.

Applications to be forwarded

[27] [1.42] - The designated employee or officer must ensure that a completed application is forwarded to the board in council as soon as reasonably practicable.

The following is added after section 1(4) and before the centered heading that follows it:

Obligation to enter development agreement

[28] [1.43] - In the exercise of zoning a development permit, a board in council may require the owner of the affected property to enter into a development agreement under section 100 with the planning district or municipality in respect of the affected property and any contiguous land owned or leased by the owner.

Application

[29] [1.44] - This section applies only in respect of the following:

(a) a development permit for a prescribed major development;

(b) a development permit for a development that requires new construction or expansions of existing sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks and traffic control works.

Requirements

[30] [1.45] - The minister may make regulations prescribing a development to be a major development for the purpose of clause (2)(a).

Appeals to development permits

[31] [1.46] - In respect of an application for a development permit, the applicant may appeal the following decisions of a board in council to the Municipal Board:

(a) a decision to reject the application;

(b) a decision to impose conditions on the issuance of a development permit.

Right to appeal if board fails to act

[32] [1.47] - If the board in council fails to make a decision on an application in the applicable time period described under section 1(4), the applicant may consider the application to have been rejected and may appeal the matter to the Municipal Board.

Application

[33] [1.48] - Subsections 60.1(3) to (10) apply, with necessary changes, to an appeal under this section.

Costs on appeal is limiting to prescribed

[34] [1.49] - It is in respect of an appeal under subsection (2), the Municipal Board is satisfied that there was an unreasonable delay by the planning district or municipality in dealing with the application application, the Board may make an order requiring the planning district or municipality 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.

Board retains discretion as to costs

[35] [1.50] - For certainly, nothing in this section limits the discretion of the Municipal Board under section 96 of *The Municipal Board Act*.

[36] *The following is added after section 101 and before the centered heading that follows it:*

Failure to complete development agreement

[37] [1.51] - If a board, council or planning commission and the owner of the affected property are unable to agree to the terms or conditions of a development agreement within 60 days after the agreement is required under section 100, the owner may appeal the matter to the Municipal Board under clause 101.1(1)(b).

Application to amend a development agreement

[38] [1.52] - The owner of property that is subject to a development agreement may apply to the planning district or municipality to amend the agreement.

Right to appeal if failure to decide

[39] [1.53] - On receiving an application, a planning district or municipality may agree to vary the conditions of a development agreement, require new conditions or reject the application.

Appeals to development agreement

[40] [1.54] - An applicant may appeal the following to the Municipal Board:

(a) in respect of a development agreement required under section 100, the terms and conditions to be included in such an agreement;

(b) in respect of an application to amend a development agreement made under subsection 101.2(1),

(i) a decision of a board in council to reject the application, or

(ii) a decision of a board in council to impose a new or varied condition in a development agreement.

Right to appeal if failure to decide

[41] [1.55] - If a board in council fails to make a decision on an application to amend a development agreement within 60 days, the applicant may consider their application to have been rejected and may appeal the matter to the Municipal Board.

Hire to appeal

[42] [1.56] - An appeal may be commenced by sending a notice of appeal to the Municipal Board

(a) in the case of an appeal under clause (1)(a), within 14 days after the board in council gives the person the decision or the prescribed notice under section 101.0.1;

(b) in the case of an appeal under clause (1)(b), within 14 days after the board, council or planning commission fails to make a decision on the application within the time period specified;

(c) in the case of an appeal under subsection (2), within 14 days after the board, council or planning commission fails to make a decision on the application within the time period specified.

Notice of appeal

[43] [1.57] - The notice of appeal must include the following information:

(a) the legal description of the land that is subject to the application and the name of the municipality in which the land is located,

(b) the name and address of the appellant,

(c) the decision relative to conditions imposed in a development application, a description of the conditions being appealed.

Appeal hearing

[44] [1.58] - The Municipal Board must hold a hearing to consider the appeal within 120 days after the notice of appeal is received.

Notice of hearing

[45] [1.59] - At least 14 days before the hearing, the Municipal Board must

(a) send notice of the hearing to

(i) the appellant,

(ii) the applicable board, council or planning commission,

(iii) the regional planning board, if any land within its region is subject to the by-law, and

(iv) any other person the Municipal Board considers appropriate; and

(b) give public notice of the hearing by publishing a notice on a website available to the public.

Decision of Municipal Board

[46] [1.60] - The Municipal Board must make an order

(a) rejecting the proposed that the applicant sees a development agreement; or

(b) specifying or confirming the content of the development agreement.

The order may be subject any terms or conditions the Municipal Board considers advisable.

Notice of decision

[47] [1.61] The Municipal Board must make the order within 60 days after the hearing is concluded and must send a copy of the order to the appellant, the board, council or planning commission and any other party to the appeal.

Decision not subject to appeal

[48] [1.62] - A decision of the Municipal Board on an appeal is final and not subject to further appeal.

Costs on appeal is limiting to prescribed

[49] [1.63] - It is respect of an appeal under section 101.0.1 or subsection 101.0.2(2), the Municipal Board is satisfied that there was an unreasonable delay by the planning district or municipality in dealing with the application application or matter, the Board may make an order requiring the planning district or municipality 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.

[50] *Section 2(1) is amended by adding the following in alphabetical order:*

[51] *The following is added after section 101 and before the centered heading that follows it:*

Failure to complete development agreement

[52] [1.64] - If a board, council or planning commission and the owner of the affected property are unable to agree to the terms or conditions of a development agreement within 60 days after the agreement is required under section 100, the owner may appeal the matter to the Municipal Board under clause 101.0.1(1)(a).

Application to amend a development agreement

[53] [1.65] - The owner of property that is subject to a development agreement may apply to the planning district or municipality to amend the agreement.

Right to appeal if failure to decide

[54] [1.66] - On receiving an application, a planning district or municipality may agree to vary the conditions of a development agreement, require new conditions or reject the application.

Appeals to development agreement

[55] [1.67] - An applicant may appeal the following to the Municipal Board:

(a) in respect of a development agreement required under section 100, the terms and conditions to be included in such an agreement;

(b) in respect of an application to amend a development agreement made under subsection 101.2(1),

(i) a decision of a board in council to reject the application, or

(ii) a decision of a board in council to impose a new or varied condition in a development agreement.

Right to appeal if failure to decide

[56] [1.68] - If a board in council fails to make a decision on an application to amend a development agreement within 60 days, the applicant may consider their application to have been rejected and may appeal the matter to the Municipal Board.

Hire to appeal

[57] [1.69] - An appeal may be commenced by sending a notice of appeal to the Municipal Board

(a) in the case of an appeal under clause (1)(a), within 14 days after the board in council gives the person the decision or the prescribed notice under section 101.0.1;

(b) in the case of an appeal under clause (1)(b), within 14 days after the board, council or planning commission fails to make a decision on the application within the time period specified;

(c) in the case of an appeal under subsection (2), within 14 days after the board, council or planning commission fails to make a decision on the application within the time period specified.

Notice of appeal

[58] [1.70] - The notice of appeal must include the following information:

(a) the legal description of the land that is subject to the application and the name of the municipality in which the land is located,

(b) the name and address of the appellant,

(c) the decision relative to conditions imposed in a development application, a description of the conditions being appealed.

Appeal hearing

[59] [1.71] - The Municipal Board must hold a hearing to consider the appeal within 120 days after the notice of appeal is received.

Notice of hearing

[60] [1.72] - At least 14 days before the hearing, the Municipal Board must

(a) send notice of the hearing to

(i) the appellant,

(ii) the applicable board, council or planning commission,

(iii) the regional planning board, if any land within its region is subject to the by-law, and

(iv) any other person the Municipal Board considers appropriate; and

(b) give public notice of the hearing by publishing a notice on a website available to the public.

Decision of Municipal Board

[61] [1.73] - The Municipal Board must make an order

(a) rejecting the requirement that the applicant sees a development agreement; or

(b) specifying or confirming the content of the development agreement.

The order may be subject any terms or conditions the Municipal Board considers advisable.

Notice of decision

[62] [1.74] The Municipal Board must make the order within 60 days after the hearing is concluded and must send a copy of the order to the appellant, the board, council or planning commission and any other party to the appeal.

Decision not subject to appeal

[63] [1.75] - A decision of the Municipal Board on an appeal is final and not subject to further appeal.

Costs on appeal is limiting to prescribed

[64] [1.76] - It is respect of an appeal under section 101.0.1 or subsection 101.0.2(2), the Municipal Board is satisfied that there was an unreasonable delay by the planning district or municipality in dealing with the application application or matter, the Board may make an order requiring the planning district or municipality 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.

[65] *The heading "Part 1" is replaced with* "NOTICES, HEARINGS AND DECISIONS"

[66] *Subsection 190(1) is amended by adding the following after clause (d):*

(e) a hearing on a proposal to establish a planning district under section 1(1);

(f) a hearing on the adoption of a regional planning by-law under subsection 16.1(4);

[67] *Subsection 190(2) is amended by striking out* "section 74.1" *and substituting* "Subsection 1(1) of *The Wines and Minerals Act*"

[68] *The following is added after subsection 190(2):*

Effect of continued hearing

[69] [1.77] - If a hearing is being held or has been held in a decision not made within the longer time period applicable under subsection 60.1(3) or (10.2) or 1.2(1) or section 1.69, 1.70, 1.71 or 1.72, the applicant may consider that application to have been rejected and may appeal the matter to the Municipal Board, and subsections 60.1(3) to (9) apply, with necessary changes, to the appeal.

[70] *The following is added after section 1.74 as part of Part 1:*

DIVISION 1
DECISIONS

Reasons to be provided

[71] [1.78] - A board in council, a board, a council, a planning commission or a designated employee or officer must ensure that written reasons accompany the following decisions:

(a) a decision to resolve not to adopt a development plan by-law, secondary plan by-law or a zoning by-law, including a decision not to adopt an amendment to any of them, or application to adopt or amend them;

(b) a decision to impose conditions on a conditional use;

(c) a decision to reject an application for subdivision approval.

[72] *Subsection 1(1) is amended*

(a) in the part before clause (a), by striking "planning region," *before* "planning district"; *and*

(b) in subclause (a)(i), by striking "region," *before* "district".

[73] *Subsection 1(1)(b) is amended by striking* "planning region," *before* "planning district".

[74] *Clause 1(1)(c) is amended by striking* "planning region," *before* "planning district".

[75] *Subsection 1(1)(d) is amended by striking* "the regional planning board or" *before* "the board"; *whenever it occurs.*

[76] *Subsection 1(1)(e) is amended*

(a) by striking "planning region," *before* "planning district"; *and*

(b) in clause (e), by striking out "the board in council is also the district of the municipality" *and substituting* "the regional planning board or the board in council was is also the region, district or municipality".

[77] *Subsection 1(1)(f) is amended*

(a) by striking "planning region," *before* "planning district"; *and*

(b) by striking out "the district" *and substituting* "the region, district".

[78] *The centered heading before section 30 is replaced with the following Part heading:*

PART 13.1
OFFENCES AND PENALTIES

[79] *Section 190 is replaced with the following:*

Designated employees and officers

[80] [1.79] - Despite section 190, if an area is a designated employee or officer, a regional planning board, the board of a planning district or the council of a municipality may by by-law, designate an employee or officer of the regional board, district or municipality, at the case may be, to carry out the power or responsibility.

[81] *Section 190 is amended*

(a) by replacing the section heading with "Records of planning regions and planning districts"; *and*

(b) by striking out everything after "board" *and substituting:* "a planning region or planning district that has been certified to be a true copy of the original record by a designated employee or officer of the region or district."

[82] *Section 190.1 is renumbered as Subsection 190.1(1) and the following is added as subsection 190(2):*

Attention of boundaries — regions

[83] - Subsection (1) applies, with necessary changes, to a regional planning by-law if land located in one planning region becomes part of another planning region because of an annexation or other alteration of municipal boundaries.

[84] *Section 190.1 is amended, in the part before clause (a), by striking* "regional planning board," *before* "board".

PART 2
THE CITY OF WINNIPEG CHARTER

S.M. 2002, c. 39 amended

[85] *The City of Winnipeg Charter is amended by this Part.*

[86] *Division 1 of Part 4 is renumbered as Division 1.1 and the following is added as Division 1:*

DIVISION 1
CAPITAL PLANNING REGION

Application

[87] - This Part is subject to Division 2 of Part 8 of *The Planning Act*.

[88] *The following is added after subsection 2(1):*

Consultation with minister and region

[89] [1.80] - The Lieutenant Governor in Council may, council must consult with the Capital Planning Region, the minister and any other person or organization designated by the minister.

[90] *Subsection 2(2)(1) is amended*

(a) in clause (a), by striking out "the executive policy" *and substituting* "a development"; *and*

(b) in clause (b), by striking out "executive policy" *and substituting* "development".

[91] *Subsection 2(2)(2) is amended, in the part before clause (a), by striking out* "executive policy" *and substituting* "development".

[92] *Section 2(4) is amended by striking out* "executive policy" *wherever it occurs and substituting* "development".

[93] *Subsection 2(5)(1) is amended*

(a) in clause (a), by striking out "executive policy" *and substituting* "development".

(b) in clause (b), by striking "within 180 days after the minister is received," *before* "council".

(c) in clause (c), by striking "within 60 days after completing the hearing," *before* "council".

[94] *The following is added after subsection 2(5):*

Notice on non-adoption

[95] - The city, as soon as reasonably practicable, give the minister written notice if council does not pass the proposed Plan Winnipeg by-law, as approved under subsection (2).

[96] *Subsection 2(6) is replaced with the following:*

Adoption and amendment process

[97] - A secondary plan by-law and an amendment to a secondary plan by-law are subject to the same approval process required for a zoning by-law or an amendment to a zoning by-law under this Part.

[98] *Subsection 2(6)(2) is amended, in the part before clause (a), by striking out* "or after"

[99] *Subsection 2(6)(2) is further amended by renumbering it as subsection 2(6.1)(2) and adding the following as subsection 2(6.1)(1):*

Interpretation: when are objections sufficient?

[100] [1.81] - 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.

[101] *The following is added as subsections 2(6.1)(3) to (8):*

Allocation in zoning by-law

[102] [1.82] - Despite section 2(6), council proposes to alter the by-law, a second hearing must be held in accordance with subsection (2) to receive representations on the alterations to the by-law.

No hearing for minor alteration

[103] [1.83] - A second hearing is not required if the alteration is a minor one that does not change the intent of the by-law.

Effect of objections

[104] [1.84] - 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) refer the by-law back either in whole or in part, or

(b) if there are sufficient objections,

(i) proceed to give first reading to the by-law,

(ii) reject the by-law either in whole or in part.

Notice of first reading, adjournment

[105] [1.85] - As soon as practicable after a proposed zoning by-law is given first reading under subsection (5)(b)(i), the city must give notice by ordinary mail to every person who made submissions at the hearing respecting the designated committee of council respecting the proposed by-law, stating that

(a) council has given first reading to the proposed by-law, and

(b) council will hold a second hearing respecting the proposed by-law may be an objection, with stated reasons, with the city within 10 days after the by-law is given first reading.

Referral to Municipal Board

[106] [1.86] - If the city receives sufficient objections within 10 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.

Hearing by Municipal Board

[107] [1.87] - If a proposed zoning by-law is referred to The Municipal Board, the Board must

(a) conduct a hearing respecting the proposed by-law within 120 days after the by-law being referred to it;

(b) at least 14 days before the hearing, give notice of a hearing respecting the proposed by-law in accordance with clause 2(5)(1)(a) (hearing by Municipal Board), and give notice of the hearing by publishing a notice on a website available to the public; and

(c) after considering the zoning by-law, hearing, submit a report, with recommendations, to council in respect of the proposed by-law.

Restrictions on adoption of by-law

[108] [1.88] - 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.

[109] *Subsection 2(6)(7) replaced with the following:*

Authority for development agreements

[110] - The city may require a person to enter into a development agreement with the city respecting the development of their land and any contiguous land owned or leased by the person in accordance with an appropriate under subsection 2(7)(1) for any of the following:

(a) the use of the land and any existing or proposed building;

(b) the approval of a conditional use in advance;

Content of development agreement

[111] - A development agreement under subsection (1) may provide for any of the following:

(a) the use of the land and any existing or proposed building;

(b) the approval of a conditional use in advance;

(c) the siting and design of a proposed building, including the materials to be used for the building exterior;

(d) the provision of affordable housing, if the application is in respect of a new residential development that is subject to a requirement under clause 2(8)(2)(b) (a) traffic control and parking facilities;

(f) landscaping, open space and parking of land;

(g) the provision of amenities, or of a payment in lieu of amenities, or a zoning by-law, any condition described in subsection 2(6);

[112] *Subsection 2(6)(8) is replaced with the following:*

Timing of agreements

[113] - The city may authorize the execution of a development agreement before passing a zoning by-law or approving a plan of subdivision, conditional use or variance, but such a development agreement shall not be the subject of council and is the subject of a zoning by-law or the approval of a plan of subdivision, conditional use or variance.

[114] *Section 2(6) is amended, in the part before clause (a), by striking out* "clause 2(6)(1)(c)" *and substituting* "clause 2(6)(1)(d)".

[115] *The following is added after section 2(6) and before the centered heading that follows it:*

Development agreement for a permit

[116] - 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 an development agreement with the city respecting the development on 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 and traffic control works.

Limitation

[117] [1.89] - Despite subsection (1), a development agreement under this section must not impose a condition under clause 2(6)(1)(a) or (b).

Regulations

[118] [1.90] - The minister may make regulations prescribing a development to be a major development for the purpose of clause (1)(a).

[119] *The centered heading* "PERMITS" *is added after section 2(6).*

[120] *Section 2(7)(1) is amended*

Application for permit

[121] - In respect of an application for a permit to which this section relates,

(a) the city must give the owner of real property written confirmation of the date their application was received by the city; and

(b) a designated employee must, within 30 days after the application is received, determine if the application is complete.

When application is complete

[122] - An application is complete if, in the opinion of the designated employee, the application contains the documents and other information necessary to review the application.

Extension by agreement

[123] - The time period referred to in clause (1.1(b) may be extended by an agreement in writing between the applicant and the city.

Application to be forwarded

[124] - The designated employee must ensure that a completed application is forwarded to council as soon as reasonably practicable.

[125] *Section 2(6)(2)(b) is amended by striking out* "subsection 2(6)(3)" *and substituting* "Subsection 2(6)(1)(c)".

[126] *The following is added after section 2(6) and before the centered heading that follows it:*

Notice of decision to be served and

[127] - The designated employee must ensure that a completed application is forwarded to council as soon as reasonably practicable.

[128] *Section 2(6)(2)(b) is amended by striking out* "subsection 2(6)(3)" *and substituting* "Subsection 2(6)(1)(c)".

[129] *The following is added after section 2(6) and before the centered heading that follows it:*

246.1 If a permit that is subject to section 246 is withheld for longer than 60 days, the owner of the land is entitled to compensation for damages resulting from the withholding of the permit — except as provided in clauses 246(2)(b) and (c) — and subsections 245(2) and (3) apply, with necessary changes, in respect of the withholding.

62 *Subsection 251(2) is replaced with the following:*

Appeals to committee of council

251(2) An appeal under subsection (1) must be heard by a designated committee of council.

63(1) *Clause 270(1)(b) is amended by adding* "planning region or" *before* "planning district".

63(2) *Subsection 270(3) of the French version is amended by striking out* "règlement municipal" *and substituting* "projet de règlement municipal portant".

64(1) *Clause 274(2)(a) is amended by striking out* ", but only in relation to an amendment to Plan Winnipeg initiated by an application made under clause 225(1)(b)" *and substituting* "(hearing on Plan Winnipeg)".

64(2) *Clause 274(2)(c) is amended by striking out* "subsection 236(3)" *and substituting* "subsection 236.1(2)".

65(1) *Subsection 275(1) is replaced with the following:*

Initiation of development proposals

275(1) An application for the following may be made by the owner of the real property to which the application refers:

(a) an amendment to a secondary plan;

(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.

65(2) *Clause 275(2)(a) is amended by adding* "the regional planning by-law of the Capital Planning Region," *before* "Plan Winnipeg".

65(3) *The following is added after subsection 275(2):*

Appeal of rejection

275(3) A refusal of an application under subsection (2) may be appealed by the owner in accordance with section 282.1.

66 *Section 277 is amended*

(a) in the part before clause (a), by adding "or an appeal under section 282.1 or 282.2 (appeals to Municipal Board)" *before* ", the notice"; *and*

(b) in subclause (b)(ii), by striking out "on any municipality" *and substituting* "the Capital Planning Region and any municipality".

67(1) *Subsection 278(2) is repealed.*

67(2) *Subsection 278(3) is amended by striking out* "under subsection (2)".

68 *The following is added after subsection 280(2):*

Reasons for rejection

280(2.1) A hearing body that rejects an application must provide written reasons for the rejection.

69 *Section 281 is renumbered as subsection 281(1) and the following is added as subsection 281(2):*

Reasons for rejection

281(2) Council must provide written reasons if council rejects a by-law under clause (1)(b).

70 *The following is added after section 282 as part of Part 6:*

APPEALS TO THE MUNICIPAL BOARD

Appeal of decisions

282.1(1) The owner of real property to which an application under subsection 275(1) relates may appeal the following decisions to The Municipal Board:

(a) the refusal or 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 refusal of an application to amend a development agreement;

(c) the refusal to 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);

(e) a decision to reject an application for a permit for a proposed development as not conforming to the regional planning by-law of the Capital Planning Region, a Plan Winnipeg by-law or a secondary plan by-law;

(f) a decision of a designated employee that an application is incomplete.

No appeal if conformance with Municipal Board recommendations

282.1(2) Despite subsection (1), no appeal may be made in respect of a zoning by-law, or a condition that is imposed in respect of a zoning by-law, that conforms with the requirements under subsection 236.1(9).

Time limit for appeal

282.1(3) An appeal may be commenced by sending a notice of appeal to The Municipal Board within 14 days after the notice of decision is received.

Notice of appeal

282.1(4) A notice of appeal must include the following information:

(a) the legal description of the land that is subject to the application;

(b) the name and address of the appellant;

(c) if the decision relates to conditions imposed on an approval, a description of the conditions being appealed.

Notice and appeal hearing

282.1(5) On receiving an appeal, The Municipal Board must

(a) give notice of a hearing respecting the appeal by ordinary mail to

(i) the city,

(ii) every person who made submissions at a public hearing conducted by a committee of council respecting the application,

(iii) every person who filed an objection to the application, and

(iv) any other person as the Board considers advisable,

and give such other notice of the hearing and in such other manner as the Board considers advisable; and

(b) within 120 days after receiving the appeal, conduct a hearing respecting the appeal.

Additional notice: airport vicinity protection area

282.1(6) If an appeal concerns real property within the airport vicinity protection area,

(a) The Municipal Board must give notice of the hearing to each of the parties described in clause 270(1)(b); and

(b) a notice of objection filed under clause 270(1)(b) or section 272 by a party who receives such a notice is of no force and effect.

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.

Conditions

282.1(8) An order may be made subject to any terms or conditions The Municipal Board considers advisable, including any condition that council, the committee of council, the planning commission or the employee designated to deal with the matter could have imposed.

Notice of decision

282.1(9) The Municipal Board must make its order within 60 days after the hearing is concluded and must send a copy of the order to council, the appellant and any other party to the appeal.

Decision not subject to appeal

282.1(10) Subject to section 495, a decision of The Municipal Board on an appeal is final and not subject to further appeal.

Effect of decision: plans of subdivision

282.1(11) Council continues to have jurisdiction under subsection 266(1) in respect of a plan of subdivision that is subject to an order made under this section.

Effect of decision: development agreements

282.1(12) The city must not require the owner of property that is affected by an order made under this section to enter into a development agreement unless The Municipal Board requires a development agreement as a condition under subsection (8).

Appeals concerning failing to proceed

282.2(1) For the following matters that are not decided within the period that is specified, an applicant may consider their application to have been rejected and may appeal the rejection to The Municipal Board under section 282.1:

(a) an application for an amendment to a secondary plan or a zoning by-law within 150 days after the completed application is received by the city;

(b) an application for the approval of a plan of subdivision, within

(i) 60 days after the completed 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, in any other case;

(c) an application for the approval of an amendment to a development agreement within 90 days after the completed application is received by the city;

(d) an application for consent to registration or filing of a conveyance within 90 days after the completed 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) for a development agreement required under section 240.1.1 within the longer of 90 days after the issuance of the permit or the expiry of the time period that applies under section 246.

No decision from combined hearing

282.2(2) The applicant may consider their application to have been rejected and may make an appeal under this section if

(a) a combined hearing is held under section 278 in respect of a proposed development; and

(b) the longest applicable time period in subsection (1) expires without a decision.

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 set out in clauses (1)(a) to (g), and section 282.1, except subsection 282.1(3), applies to an appeal.

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.

Board retains discretion as to costs

282.2(5) For certainty, nothing in subsection (4) limits the discretion of The Municipal Board under section 58 of *The Municipal Board Act.*

PART 3

TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS

Transitional — prior applications under Planning Act

71(1) *An application made but not completed under* ***The Planning Act*** *before the coming into force of this section is to be dealt with under* ***The Planning Act*** *as if this section had not come into force.*

Transitional — regional planning by-laws

71(2) *Subsection (1) does not apply in respect of subsection 10.9(2) (regional planning by-law is effective immediately) of* ***The Planning Act****, as enacted by section 3 of this Act.*

Transitional — prior applications under Winnipeg Charter

72(1) *An application made but not completed under Part 6 of* ***The City of Winnipeg Charter*** *before the coming into force of this section is to be dealt with under that Part as if this section had not come into force.*

Transitional — regional planning by-laws

72(2) *Subsection (1) does not apply in respect of subsection 10.9(2) (regional planning by-law is effective immediately) of* ***The Planning Act****, as enacted by section 3 of this Act.*

C.C.S.M. c. A132 amended

73 *The definition "local authority" in section 1 of* ***The Archives and Recordkeeping Act*** *is amended in clause (d) by adding* "planning region or" *before* "planning district".

C.C.S.M. c. C44 amended

74(1) ***The CentrePort Canada Act*** *is amended by this section.*

74(2) *Clause 8(a) is amended by striking out* "referred to in *The Capital Region Partnership Act*" *and substituting* "a regional member municipality of the Capital Planning Region, as established under section 8 of *The Planning Act*".

74(3) *The following is added after subsection 21(1):*

Regional plan

21(1.1) The comprehensive plan developed under subsection (1) must be generally consistent with the regional planning by-law of the Capital Planning Region.

C.C.S.M. c. E125 amended

75 *Clause 40.3(1)(b) of* ***The Environment Act*** *is amended, in the part before subclause (i), by striking out* "a municipality named in clauses 3(1)(a) to (o) of *The Capital Region Partnership Act*" *and substituting* "the City of Selkirk, the Town of Stonewall or the Rural Municipalities of Cartier, East St. Paul, Headingley, Macdonald, Ritchot, Rockwood, Rosser, Springfield, St. Andrews, St. Clements, St. Francois Xavier, Taché or West St. Paul".

C.C.S.M. c. F175 amended

76 *The definition "local government body" in subsection 1(1) of* ***The Freedom of Information and Protection of Privacy Act*** *is amended in clause (e) by adding* "planning region or" *before* "planning district".

C.C.S.M. c. H175 amended

77 *The definition "local authority" in section 1 of* ***The Human Rights Code*** *is amended in clause (d) by adding* "planning region or" *before* "planning district".

C.C.S.M. c. M225 amended

78 *The definition "local authority" in subsection 1(1) of* ***The Municipal Act*** *is amended in clause (a) by adding* "planning region or" *before* "planning district".

C.C.S.M. c. N100 amended

79 *The definition "local authority" in section 1 of* ***The Northern Affairs Act*** *is amended in clause (a) by adding* "planning region or" *before* "planning district".

C.C.S.M. c. R38 amended

80 *Subsection 10(4) of* ***The Regional Waste Management Authorities Act*** *is amended by striking out* "the council of a municipality or planning district board in which the land is situated regarding any and all matters as to which the council or planning district board" *and substituting* "the council of a municipality, planning district board or board of a planning region in which the land is situated regarding any and all matters as to which the council or board".

C.C.S.M. c. S207 amended

81 *The definition "local authority" in subsection 8(3) of* ***The Statutes and Regulations Act*** *is amended in clause (a) by adding* "planning region or" *before* "planning district".

PART 4

REVIEW, REPEAL AND COMING INTO FORCE

Review

82(1) *Within three years after the coming into force of this section, the minister must undertake a comprehensive review of the amendments made by this Act that includes public representations.*

Tabling report in Assembly

82(2) *Within one year after the review is undertaken or within any longer period that the Legislative Assembly allows, the minister must table a report on the review in the Assembly.*

Repeal

83 ***The Capital Region Partnership Act****, S.M. 2005, c. 32, is repealed.*

Coming into force

84 *This Act comes into force on a day to be fixed by proclamation.*