



TITLE: BY-LAW NO. 6926 - TO AMEND HERITAGE CONSERVATION BY-LAW NO. 6644 (MUNICIPAL HERITAGE COMMITTEE MEMBERSHIP AND TO CLARIFY TERMS AND REGULATIONS)			
PRESENTER: H. Ewasiuk, Deputy City Clerk	AGENDA NO:		
DEPARTMENT: City Clerk's Department	DATE: October 23 rd , 2008		
CLEARANCES: Nil	ATTACHMENTS: 1. By-law (# of pages = 2) 2. By-law No. 6644 with proposed amendments (# of pages = 14)		
APPROVALS:			
_____	_____	_____	_____
Department Head	Date	City Manager	Date

SUMMARY OF HISTORY/DISCUSSION & FUNDING:

Attached for City Council's consideration is By-law No. 6926. The purpose of this by-law is to amend Heritage Conservation By-law No. 6644 with respect to the membership of the Brandon Municipal Heritage Committee and to clarify the terms and regulations contained within. This by-law was prepared on the recommendation of the Brandon Municipal Heritage Committee.

Amendments to the by-law include a revision of the membership of the Committee to replace several stakeholder organizations that are no longer in existence with membership that would be better suited to carrying out the duties and functions of the Committee. The Committee is also recommending that the appointments be made for a two year term, instead of one (with the exception of the members of Council).

Alterations have also been made to the technical and administrative support services provided to the Committee. Several changes have occurred in the City's Administration over the past year which require the list of ex-officio members that provide technical or administrative support to the Committee to be updated.

The other amendments to the by-law are minor in nature, and simply clarify some of the terms and regulations contained within the by-law.

RECOMMENDATION:

That By-law No. 6926, to amend Heritage Conservation By-law No. 6644 with respect to membership of the Brandon Municipal Heritage Committee and to clarify terms and regulations contained within, be read a first time.

(Read a first time November 3, 2008).

That By-law No. 6926, to amend Heritage Conservation By-law No. 6644 with respect to membership of the Brandon Municipal Heritage Committee and to clarify terms and regulations contained with, be read a second time.

That the by-law be read a third and final time.

BY-LAW NO. 6926

BEING A BY-LAW of The City of Brandon to amend Heritage Conservation By-law No. 6644.

WHEREAS Council has passed a by-law for the purpose of providing for the conservation of buildings, structures lands, and other resources deemed to be of special historic or architectural interest;

AND WHERE AS it is deemed necessary and expedient to amend the by-law for the purpose of clarifying terms and regulations contained therein;

NOW THEREFORE the Council of The City of Brandon in regular session assembled, enacts as follows:

1. Heritage Conservation By-law No. 6644 be amended as follows:

(a) adding in subsection 2. (b) (1), the title of PART TWO, Section 3, subsection 13. (a) (1), and subsection 18. (b), the word "Advisory" immediately following the words: "Brandon Municipal Heritage";

(b) deleting subsections 5. (a) and (b) in their entirety and substituting the following therefor:

"5. (a) Pursuant to Organizational By-law No. 6650, the Committee shall consist of the following members, to be appointed by resolution of Council:

(1) two (2) members of City Council, one of whom shall be appointed Chairman of the Committee;

(2) one (1) member appointed by Brandon University;

(3) one (1) member appointed by Assiniboine Community College;

(4) one (1) member appointed by Brandon Downtown Development Corporation Inc.;

(5) one (1) member appointed by the Rosser Ward Citizen Association;

(6) one (1) member who is an architect, architect technician, or licensed real estate professional;

(7) citizen-at-large representation of between two (2) and six (6) members as City Council may determine from time to time, one of whom shall be the owner or lessee of a designated heritage property.

(b) All members appointed to the Committee shall serve for the following terms of office:

(1) the appointed members of City Council shall be appointed annually at the organizational meeting of the Council held in November of each year;

(2) the remaining members shall be appointed for a two year term commencing on the 1st day of January in the year in which such appointments are made.";

(c) adding the following as subsection 5. (g):

"5. (g) In each year, applications from citizens of the City of Brandon interested in serving on the Committee shall be sought by the Brandon Municipal Heritage Advisory Committee, through public notice, and all applications received shall be presented to City Council for consideration. The Committee, may, when presenting all applications to City Council for consideration, provide Council with a list of recommended candidates from such applications for appointment to the Committee. Approval of the candidates applying to be appointed to the Committee shall be made by City Council."

BY-LAW NO. 6644

BEING A BY-LAW of The City of Brandon to provide for the conservation of buildings, structures, lands and other resources deemed to be of special historic or architectural interest.

WHEREAS The Heritage Resources Act and other Acts of the Manitoba Legislature authorize municipalities to:

- (a) establish an advisory body to assist City Council on matters that relate to local and regional heritage resources;
- (b) designate and protect local heritage resources which represent an important feature of the historical development of the municipality, of its natural history, or its people and their respective cultures;
- (c) develop initiatives which will encourage, support, educate, and promote the management and sustainability of historic resources which exist in the community and the region;

AND WHEREAS it is deemed desirable and in the best interests of the municipality to provide for the preservation and protection of our buildings, structures, lands and other resources that are of special historic or architectural interest to the community and the region;

NOW THEREFORE the Council of The City of Brandon, in regular session assembled, enacts as follows:

PART ONE: TITLE AND INTERPRETATION

1. INTERPRETATION

This by-law may be cited as the "Brandon Heritage Conservation By-law".

2. DEFINITIONS

- (a) Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-law have the same meaning as the same words and expressions in The Heritage Resources Act of Manitoba or, if not contained therein, to a standard dictionary.
- (b) In this By-law:
 - (1) "Brandon Municipal Heritage Advisory Committee" means the municipal heritage committee established in accordance with Section 34(1) of The Heritage Resources Act of Manitoba.
 - (2) "Certificate of Ordinary Maintenance" means a certificate issued in accordance with Section 21 of this by-law.
 - (3) "City Council" means the Municipal Council of the City of Brandon.
 - (4) "City Clerk" means the Clerk of the Council of the City of Brandon and any one acting or authorized to act on his behalf.
 - (5) "Heritage Resources" means sites, buildings, objects or works which may be of interest because of the archeological, prehistoric, historic, cultural, natural or aesthetic value, and whether or not designated as such under the provisions of this by-law.

2. (b) (6) “Inventory of Buildings” or “Inventory” means the inventory of buildings, erections, structures and lands which may be, or contain, a local heritage resource.
- (7) “Minister” means the member of the Executive Council of the Government of Manitoba who has been charged with the administration of The Heritage Resources Act.
- (8) “Municipality” means the municipal corporation known as The City of Brandon.
- (9) “Municipal Heritage Notice” means a written notice advising that a site has been designated as a municipal heritage site.
- (10) “Municipal Heritage Permit” means a permit issued under the authority of City Council to authorize the carrying out of any development, work, activity, or project upon or within a site that is subject to a existing municipal notice of intent or that is designated as a municipal heritage site.
- (11) “Municipal Heritage Site” means a municipal site within the City of Brandon that represents an important historical development of the locality, of its natural history, or its people and their culture, and has been designated as such by a by-law of the municipality.
- (12) “Municipal Notice of Intent” means a formal notice given by City Council of its intention to designate a municipal site that is located within the City of Brandon as a municipal heritage site.
- (13) “Municipal Site” means, as the case may require, an area or a parcel of land; or a building or structure or an exterior or interior portion or segment of a building or structure within the City of Brandon, whether it is privately owned or owned by the municipality.
- (14) “Owner” means the registered owner, under The Real Property Act of Manitoba, of land on which a building or structure is located, or the grantee thereof in a valid conveyance registered under The Registry Act of Manitoba, or an agent of such owner.

PART TWO: BRANDON MUNICIPAL HERITAGE **ADVISORY** COMMITTEE

3. Establishment

A Committee to be known as the “Brandon Municipal Heritage **Advisory** Committee” (hereinafter referred to as “the Committee”) is hereby established.

• 4. Duties & Functions of the Committee

- (a) City Council may refer to the Committee for its consideration and advice, and the Committee may on its own initiative consider and advise City Council on any matter relating to local and regional heritage resources, including:
 - (1) the preservation and protection of local heritage resources that represent an important feature of the historic development of the City of Brandon, its natural history, or its people and their respective cultures; and
 - (2) the development of policies, programs and other initiatives that will encourage, support, educate and promote the management and the sustainability of the heritage resources available within the community and the region.
4. (b) It shall be the responsibility and primary mandate of the Committee to prepare for the consideration of City Council a heritage resource management plan, and for recommending to Council such amendments to the plan as shall from time to time be required.

5. Membership

(a) Pursuant to Organizational By-law No. 6650, the Committee shall consist of the following members, to be appointed ~~annually~~ by resolution of Council:

- (1) two (2) members of City Council, one of whom shall be appointed Chairman of the Committee;
- (2) one (1) member appointed by Brandon University;
- ~~(3) one (1) member appointed by the Assiniboine Historical Society;~~
- ~~(4) one (1) member appointed by the Brandon Chamber of Commerce;~~
- ~~(5) one (1) member appointed by the Board of Management of the Downtown Brandon Business Improvement Area;~~
- ~~(6) one (1) member appointed by the Rosser Ward Citizen Association;~~
- ~~(7) two (2) members who are local building and landscape architects (currently in practice or retired); and~~
- ~~(8) citizen-at-large representation of between two (2) and six (6) members as City Council may determine from time to time.~~

(3) one (1) member appointed by Assiniboine Community College;

(4) one (1) member appointed by Brandon Downtown Development Corporation Inc.;

(5) one (1) member appointed by the Rosser Ward Citizen Association;

(6) one (1) member who is an architect, architect technician, or licensed real estate professional

(7) citizen-at-large representation of between two (2) and six (6) members as City Council may determine from time to time, one of whom shall be the owner or lessee of a designated heritage property.

(b) All members appointed to the Board shall serve for the following terms of office:

(1) the appointed members of City Council shall be appointed annually at the organizational meeting of the Council held in November of each year;

(2) the remaining members shall be appointed for a two year term commencing on the 1st day of January in the year in which such appointments are made.

Each member is eligible for reappointment on the expiration of his or her term of office.

(c) Where a vacancy in the membership occurs, from any cause during the term of its members, City Council shall appoint a person to fill such a vacancy on the Committee, and that person will serve for the unexpired term of office for which his or her predecessor was appointed.

(d) Where a member fails to attend three consecutive regular meetings of the Committee without being authorized to do so by resolution of the Committee, such member thereby forfeits his or her seat on the Committee.

5. (e) No member of the Committee, or any standing or special committee, shall receive compensation for his or her services other than reimbursement of actual expenses necessarily incurred in the discharge of his or her official duties.
- (f) City Council shall include in its annual budget estimates of such sums as are necessary to defray the actual expenses of the Committee and its various sub-committees.

(g) In each year, applications from citizens of the City of Brandon interested in serving on the Committee shall be sought by the Brandon Municipal Heritage Advisory Committee, through public notice, and all applications received shall be presented to City Council for consideration. The Committee, may, when presenting all applications to City Council for consideration, provide Council with a list of recommended candidates from such applications for appointment to the Committee. Approval of the candidates applying to be appointed to the Committee shall be made by City Council.

6. Technical & Administrative Support Services

- (a) ~~City Council shall also cause to be designated the following persons to serve the Committee, and its sub-committees, through the provision of technical and administrative support services:~~

The following persons shall also be called upon as required, to serve the Committee and its sub-committees, through the provision of technical and administrative support services, and shall serve as ex-officio members of the committee:

~~(1) the Senior Building Inspector of the Brandon & Area Planning District, or his designate;~~

(1) the Senior Planner of the City of Brandon Planning and Development Services, or his/her designate;

(2) the Senior Fire Prevention Officer of the Brandon Fire Department, or his/her designate;

~~(3) the General Manager of the Downtown Brandon Business Improvement Area, or his designate;~~

(3) the General Manager or his/her designate of the Brandon Neighbourhood Renewal Corporation;

~~(4) a representative from the Community Economic Regional Services Office of Manitoba Intergovernmental Affairs;~~

~~(4) (5) the City's Heritage Resources Officer,~~ **the Heritage Coordinator** who shall act as a consultant to the Committee and be responsible for coordinating the administrative and technical support services that are provided to the Committee. ~~;~~ **and**

~~(6) a representative from the City Clerk's Department, who shall provide administrative support services to the Committee and the Heritage Resources Officer.~~

- (b) Such designated persons will act in an advisory capacity only and shall not have any voting privileges in the decisions that are rendered by the Committee.

7. Annual Organizational Meeting

- (a) The Committee shall hold an annual organizational meeting in January of each year, ~~at which time it shall elect a chairperson and vice-chairperson;~~ and at such a meeting it shall **may** also appoint persons to sit as members of the following standing sub-committees:

7. (a) (1) Site Preservation Review Sub-Committee - to be responsible for the technical aspects of the heritage resource management plan that is approved by City Council and assigned to the Committee, including the provision of advice on the preservation and protection of local heritage sites and conservation districts;
- (2) Community Education & Tourism Sub-Committee - to increase the public's understanding and appreciation for this community's heritage resources and to promote the economic benefits that are available to this community through heritage tourism;
- (3) any other special or standing sub-committees that the members of the Committee may deem necessary.
- (b) The chairperson of any sub-committee established by the Committee must be an appointed member of the Committee, but other members who are selected for appointment to any sub-committee may be citizens-at-large.

8. Meetings of the Committee

- (a) The Committee shall meet at least once a month, **except during the months of July and August**, unless there is no business to be addressed, and shall also meet at the call of the Chairperson or at the request of one-third of its members.
- (b) Any standing or special committee of the Committee may meet as often as deemed necessary by the Chairperson of each respective committee and each committee shall devote its energies to their delegated area of responsibility.
- (c) The Committee may establish its own rules and procedures for the conduct of its meetings.
- (d) The Chairperson of the Committee, and each of its sub-committees, shall preserve order at all meetings and decide all points of order which may arise.
- (e) All questions before any meeting of the Committee, or sub-committee, shall be decided by a majority of the members present including the Chairperson, and the Chairperson shall, in addition, have a deciding vote in the event of an equality of votes.
- (f) ~~The representative from the City Clerk's Department~~ **Heritage Coordinator** shall act as the recording secretary to the Committee and whose duties and responsibilities shall be:
 - (1) to keep a record of all meetings and proceedings of the Committee;
 - (2) to ensure proper custody and care of all records and documents of the Committee and that such records are maintained in accordance with the provisions of The Municipal Act and in consultation with the City Clerk; and
 - (3) to ensure all administrative duties and decisions of the Committee are carried out.

PART THREE: INVENTORY OF LOCAL SITES OF INTEREST

9. List of Potential Heritage Resources

- (a) The Committee shall compile and maintain for future study and research a list of all buildings, erections, structures and lands which may contain local heritage resources and such sites may be entered on such inventory by resolution passed by its members at any meeting.

9. (b) Prior to any such listing of a site, the Committee shall notify the owner that the subject property is under review as a potential municipal heritage site and will be given temporary protection against demolition or major renovation pending a final determination by the Committee. If requested, the Committee shall meet with the owner of the site to discuss these temporary measures.
- (c) The inventory list of potential sites will be used on a continuing basis by the Committee in its evaluation of such sites for recommendation to City Council those sites which are deemed to be of special architectural or historical interest to this community and its residents.
- (d) The Committee shall be responsible for developing criteria for evaluating and determining:
- (1) those properties within the municipality which it feels should be designated as being of historical or architectural interest pursuant to Part III of The Heritage Resources Act of Manitoba;
 - (2) those areas within the municipality that it feels should be defined as areas to be examined for future designation as a Heritage Conservation District or Zone, pursuant to Part V of The Planning Act of Manitoba.
- (e) After further research is conducted on each of the potential sites listed on the inventory, the Committee will recommend for designation, commemorative recognition or zoning protection those sites which are deemed to be of special architectural or historical interest to this community and its local residents.
- (f) Municipal sites that are formally nominated for designation as municipal heritage sites by other groups or individuals, and which have not been listed previously on the inventory maintained by the Committee, must be added to such list of potential sites by a resolution upon receipt of the nomination application and before any research or evaluation of the site is conducted.
- (g) The municipal heritage site application form for nominating local buildings and structures and to which reference is made in subsection (f) shall be in a form as prescribed in Schedule "A" attached to and forming part of this by-law.
- (h) Any municipal site that is listed on the inventory of potential heritage resources may be deleted from such listing by the passing of a further resolution of the Committee if the site has received designation as a municipal heritage site, is designated as part of a heritage conservation district, or if it has been determined by further study and evaluation that the site does not have any special architectural or historic interest.
- (i) Where it has been determined through further research and study that a site listed on the inventory may qualify for designation as a provincial or national site, the Committee will immediately advise those authorities of its findings and it shall also recommend to City Council that the site should be designated as a municipal heritage site until such time in the future it is designated as a provincial or national heritage site.
- (j) City Council may, by the passage of a by-law, designate all or any of the sites entered on the inventory listing of potential heritage resources as a municipal heritage site in accordance with Part Four of this by-law.
10. Temporary Protection of Potential Heritage Sites
- (a) A copy of the inventory listing of potential sites that is maintained by the Committee shall be provided to the ~~Brandon and Area Planning District~~ **City of Brandon Planning and Development Services** for reference purposes and such listing of sites will be updated by the Committee each time the inventory of potential sites is amended or changed.

10. (b) ~~The Brandon and Area Planning District~~ **The City of Brandon Planning and Development Services** shall temporarily deny any permit for demolition or major renovation of a municipal site that is listed on the inventory of potential sites for a period not exceeding sixty (60) days from the date of receipt of the application thereof.
- (c) Upon notice that an application has been made for a permit to demolish or renovate a building or structure included on the inventory, the Committee shall forthwith proceed with the required research and evaluation of the site in question; and within sixty (60) days such action must result in:
- (1) a report being submitted to City Council recommending the site be given full consideration for designation as a municipal heritage site in accordance with Part Four of this by-law; or
 - (2) a resolution being passed to delete the site from the inventory list of potential heritage sites, with a copy of this decision being provided immediately to ~~the Brandon and Area Planning District.~~ **The City of Brandon Planning and Development Services.**
- (d) The application for demolition of a potential heritage property shall be in a form prescribed in Schedule "B" attached to and forming part of this by-law.

PART FOUR: DESIGNATION OF MUNICIPAL HERITAGE SITES

11. Local Sites of Heritage Significance

- (a) Any municipal site within the municipality may be designated as a heritage site if City Council is satisfied and of the opinion that the site:
- (1) represents an important feature of the historical development of Brandon, its natural history, or its people and their culture; or
 - (2) should be so designated by virtue of its proximity to and for the protection or enhancement of a municipal heritage site to which paragraph (1) applies.
- (b) an owner of a heritage site, or a site that is subject to a existing notice of intent to designate such property, who proposes to transfer or sell the site:
- (1) shall, prior to the transfer or sale, advise the transferee or proposed purchaser of the property that the site is a heritage site or is subject to the notice of intent, as the case may be; and
 - (2) shall, prior to the transfer or sale or, if that is not possible, as soon as possible after the transfer or sale, advise the Committee thereof and provide it with such particulars of the transfer or sale as the Committee may require.
- (c) The Committee may cause a sign, plaque or other marker to be placed on a municipal heritage site indicating the significance of that property.
- (d) Where it is deemed desirable to designate a municipal site as a local heritage site, City Council shall cause to be prepared a by-law to this effect and shall proceed to give it first reading.

12. Municipal Notice of Intent

- (a) After giving a proposed designation by-law first reading and before giving it second reading, the Council shall cause to be prepared a notice of its intention to designate the site as a municipal heritage site, and such notice:

12. (a) (1) shall state a day, time and place for a public hearing to be held by City Council to receive objections and other representations with respect to the proposed designation by-law;
- (2) may contain other information and particulars as may be deemed necessary; and
- (3) will ensure that the date of the said hearing shall be no earlier than twenty-one (21) days after the latest of the services made under paragraph (2) below.
- (b) Upon the designation by-law receiving first reading by the Council, the City Clerk shall forthwith arrange for:
- (1) the owner and any lessee of the municipal site, and the Minister of Culture, Heritage and Tourism, to be served with a copy of the municipal notice of intent and a certified true copy of the by-law;
- (2) publication of the municipal notice of intent in two (2) issues of a local newspaper, or one (1) issue of each of two (2) local newspapers; and
- (3) filing the municipal notice of intent in the Brandon Land Titles Office in the event the municipal site is contained in a certificate of title under The Real Property Act of Manitoba.
- (c) The municipal notice of intent shall be in a form prescribed in Schedule "C" attached to and forming part of this by-law.

13. Public Hearing on Designation of Municipal Site

- (a) City Council shall hold a public hearing at the time and place stated in the notice referred to in Section 12 of this by-law, and at the hearing shall hear or receive:
- (1) the recommendation of the Brandon Municipal Heritage **Advisory** Committee;
- (2) any representation received from the Minister of Culture, Heritage and Tourism, or other designated person or persons representing the Historic Resources Branch of Manitoba;
- (3) all written or verbal communications from persons served with the notice of intent and who wish to make representation concerning the manner in which any provision of the proposed by-law may affect property he or she may own or represent; and
- (4) any person, group, society, organization or agency who may have an interest or concern regarding the proposed designation of such site.
- (b) Notice of objection to any proposed designation of a municipal property as a local heritage site shall be in a form prescribed in Schedule "D" attached to and forming part of this by-law.

14. No Objections Raised

- (a) Where there are no objections to a proposed by-law at a public hearing, City Council may after the hearing is concluded:
- (1) resolve by resolution not to proceed further with the proposed by-law; or
- (2) adopt the proposed by-law and proceed to issue a municipal heritage notice of the site designation.

15. Objections Raised

- (a) Where there are objections to a proposed by-law at a public hearing, City Council may after the hearing is concluded:
 - (1) resolve by resolution not to proceed further with the proposed by-law; or
 - (2) amend the by-law in accordance with the objections or otherwise, adopt the by-law as amended, and proceed to issue a municipal heritage notice of the site designation; or
 - (3) submit the proposed by-law, along with the objections received by City Council, to the Municipal Board of Manitoba with a request that it proceed to hold a public hearing to receive objections and other representations with respect to the proposed designation of the municipal site, and thereafter report its recommendations, with reasons, to City Council.
- (b) Upon receipt and consideration of the report from the Municipal Board, City Council may:
 - (1) resolve by resolution not to proceed further with the proposed by-law; or
 - (2) amend the proposed by-law, adopt the by-law as amended, and proceed to issue a municipal heritage notice of the site designation; or
 - (3) adopt the proposed by-law without amendment and proceed to issue a municipal heritage notice of the site designation.

16. Service, Publication & Filing Requirements

- (a) Where it is resolved not to proceed further with the proposed by-law, or when it is agreed to adopt the original or amended by-law, City Council must comply with the following provisions:
 - (1) a copy of the resolution not to proceed, or the municipal heritage notice of site designation, whichever ever the case may be, shall be served upon any person who was previously served with a municipal notice of intent;
 - (2) a copy of the said resolution not to proceed, or the municipal heritage notice of site designation, whichever ever the case may be, shall be published in one (1) issue of a local newspaper; and
 - (3) a copy of the said resolution not to proceed, or the municipal heritage notice of site designation, whichever ever the case may be, shall be filed in the Brandon Land Titles Office in the event the municipal site is contained in a certificate of title under The Real Property Act of Manitoba.
- (b) The municipal heritage notice shall be in a form and shall contain such information as is prescribed in Schedule "E" attached to and forming part of this by-law.

17. Appeal of Site Designation

- (a) Any owner or lessee of a designated site, or any other person affected or likely to be affected by the site designation, or any person, group, society, organization or agency interested in the designation, may appeal such designation to City Council at any time after the adoption of the by-law, but only if the by-law, as originally proposed, has been varied or new facts or new circumstances have arisen or have been disclosed since the date the by-law was adopted.
- (b) An appeal in accordance with subsection (a) must be commenced by serving a notice of appeal to City Council and the Minister of Culture, Heritage and Tourism, or their designates, in a form prescribed in Schedule "F" attached to and forming part of this by-law.

17. (c) Upon being served with a notice of appeal and after receiving advice from its advisory Committee, City Council may, upon the expiry of thirty (30) days from the date of service:
- (1) adopt a by-law to repeal the by-law designating the heritage site in question; or
 - (2) refer the appeal to the Municipal Board of Manitoba requesting that it hold a public hearing and report back to City Council its recommendations.
- (d) Upon receipt and consideration of a report from the said Municipal Board, City Council may:
- (1) adopt a by-law to repeal the by-law under appeal or amend the by-law in accordance with the recommendations of the Municipal Board; or
 - (2) by resolution, confirm the by-law and dismiss the appeal.
- (e) Where it is resolved to confirm a by-law under appeal, or when it is agreed to amend or repeal the original designation by-law, City Council must comply with the following requirements:
- (1) a copy of the resolution or by-law shall be served on those persons previously served with the municipal heritage notice;
 - (2) a copy of the resolution or by-law shall be published in one (1) issue of a local newspaper; and
 - (3) a copy of the resolution or by-law shall be filed in the Brandon Land Titles Office in the event said office was originally served with a notice of intent.

18. Revocation of Designation - Not Under Appeal

- (a) City Council may at any time, on its own motive, and without a hearing, pass a further by-law to revoke the designation of a municipal heritage site.
- (b) Prior to any consideration being given to revoking the designation of a heritage site not under appeal, City Council may request advice from the Brandon Municipal Heritage **Advisory** Committee prior to the taking such action.
- (c) When it is decided to revoke the designation of a municipal heritage site, City Council must comply with the following requirements:
 - (1) a copy of the resolution or by-law shall be served on those persons previously served with the municipal heritage notice;
 - (2) a copy of the resolution or by-law shall be published in one (1) issue of a local newspaper; and
 - (3) a copy of the resolution or by-law shall be filed in the Brandon Land Titles Office the event said office was originally served with a notice of intent.

PART FIVE: PROTECTION OF DESIGNATED HERITAGE SITES

19. Protection of Municipal Sites

- (a) Notwithstanding the provisions of the City's Building By-law, any person proposing to:
 - (1) excavate, repair, alter, renovate, enlarge, construct an addition to, demolish, remove, destroy or damage;

19. (a) (2) erect, build or construct any erection, building or structure upon or within; or
- (3) carry out any development project including any commercial, industrial, agricultural, residential, construction or other similar activity, development or project, upon or within;

any site that is subject to an existing municipal notice of intent, or that is designated as a municipal heritage site, shall, before commencing the proposed work, activity, development or project described in paragraphs (1), (2) or (3), submit to the Committee, through the ~~Brandon and Area Planning District~~ **City of Brandon Planning and Development Services** an application for a municipal heritage permit authorizing the proposed work, activity, development or project.

- (b) The Committee may require the owner or lessee of a municipal heritage site, or such site under review to undertake such measures as the Committee may prescribe for the maintenance of the site, and may provide, if available, financial assistance or other assistance and advice of the municipality or otherwise, and may also recommend to City Council that it enter into an agreement with the owner or lessee of the site for those purposes.
- (c) The Chief Building Inspector of the ~~Brandon and Area Planning District~~, **the City of Brandon Planning and Development Services** or his designate, is hereby appointed as the Brandon Historical Buildings Officer, and under the authority of Sections 16 and 17 of The Heritage Resources Act of Manitoba, such person shall enforce the provisions as contained in Part Five of this by-law.

20. Application for Municipal Heritage Permit

- (a) An application for a municipal heritage permit must be filed with the designated Historical Buildings Officer at the ~~Brandon and Area Planning District~~ **the City of Brandon Planning and Development Services.**
- (b) The application must be made by the owner, or an agent on behalf of the owner of the property, for which the work, activity, development or project is proposed and it must be in a form prescribed in Schedule "G" attached to and forming part of this by-law.
- (c) If required by the Historical Buildings Officer or the Site Preservation Review Sub-Committee, the application must be accompanied by supporting material which may include site plans and specifications which describe in detail:
- (1) any proposed demolition, removal or other alterations to such building or structure and appurtenances thereto, including additions, deletions, design changes, repairs and replacements;
- (2) any proposed changes to the existing open spaces, landscaping and other site details. The applicant must provide a streetscape context drawing if required by the Historical Buildings Officer.
- (d) Upon receipt of a completed application, the Historical Buildings Officer and the Site Preservation Review Sub-Committee must, within ten (10) working days, refer the application together with recommendations to the Committee for consideration at its next meeting and the said officer shall give notice to the applicant of the date, time and place of the meeting at which the application will be considered by the Committee in order for that person to make representation on the application.

21. ~~22.~~ Approval by the Committee

- (a) After considering the application and any recommendations submitted by the Site Preservation Review Sub-Committee, the Committee may approve the work, activity, development or project in the form in which it is proposed or with such variations as the Committee deems necessary for the protection of the site.

21. (b) A municipal heritage permit issued by the Committee must be in a form prescribed in Schedule "I" attached to and forming part of this by-law.
- (c) No person shall undertake any work, activity, development or project, upon or within a site that is subject to a existing municipal notice of intent or that is a designated municipal heritage site, unless and until the Committee has issued a municipal heritage permit that authorizes the work, activity, development or project and unless the work, activity, development or project is carried out in accordance with such terms and conditions as the Committee may impose and as may be set out in or attached to the municipal heritage permit.

22. 24. Certificate of Ordinary Maintenance

- (a) Notwithstanding the provisions of Subsection 19(a), a municipal heritage permit is not required for ordinary maintenance or repair of a municipal heritage site, or a municipal site subject to an existing municipal notice of intent and if the Site Preservation Review Sub-Committee is of the opinion, and is satisfied after reviewing the heritage permit application, that such work will not involve a change in any element of design which affects its appearance or its special architectural or historical interest, the said Sub-Committee may:
- (1) authorize the Historical Buildings Officer to issue a Certificate of Ordinary Maintenance to the applicant and direct such officer to submit a duplicate signed copy of the Certificate of Ordinary Maintenance together with the application to the Committee for its information and retention; or
 - (2) refer the application together with a report to the Committee for their determination as to the type of permit or certificate that is required and the applicant must be given notice of the date, time and place of the meeting at which the application will be considered by the Committee in order that he or she may make representation on the application.
- (b) A Certificate of Ordinary Maintenance must be in a form prescribed in Schedule "H" attached to and forming part of this by-law.

PART SIX: INFORMATIONAL AND EDUCATION PROGRAMS

23. Public Register of Local Heritage Sites

- (a) The Committee shall maintain a register of all municipal heritage sites in the City of Brandon showing, in respect of each site:
- (1) the location of the site and a description sufficient to identify the boundaries thereof;
 - (2) particulars sufficient to explain the heritage significance of the site;
 - (3) the date of the designation of the site as a heritage site;
 - (4) the names and addresses of the owners and any lessees of the site; and
 - (5) such other particulars and information as the Minister deems advisable.
- (b) The public register of local heritage sites shall be available for public inspection at the Civic Administration Building during regular office hours.

24. Informational and Educational Programs

- (a) The Committee may cause to be prepared and produced informational material respecting the heritage resources of this community and make such material available to the public by means of printed circulars or pamphlets or other material, radio, television or newspaper advertising, or public lectures.
- (b) The Committee may undertake or, by means of grants if available or other assistance, support and encourage the undertaking of educational programs or courses in the public schools, colleges and universities within Brandon, or educational programs for the public-at-large, respecting the heritage resources of this community and the region.
- (c) The Committee may undertake or, by means of grants if available or other assistance, support and encourage the undertaking of programs of research into the heritage resources of this community.
- (d) The Committee may provide assistance, in the form of grants if funding is available or professional and technical services or otherwise, to any group, society, organization, agency or institution within Brandon dedicated to the discovery, maintenance, restoration, preservation, protection and study of the heritage resources of this community, either for the purposes of their work in general or for the purposes of any specific project relating to the heritage resources available in Brandon.

25. Receipt of Gifts, Etc.

- (a) City Council may receive, from any person or source, money by way of gift or bequest, and any real or personal property by way of gift, devise, bequest, loan, lease or otherwise, for the purposes of preserving and protecting buildings, structures or lands of a local architectural and historical interest, and shall use any money or property so received in such manner, subject to any directions, terms and conditions imposed by the donor, lender or lessor, as the Council deems best.
- (b) Any gift or bequest of money received shall be paid into and held in trust in a special reserve fund of the municipality.

PART SEVEN: OFFENCE AND PENALTY

26. (a) Any person who contravenes or fails to observe a provision of this by-law or an order, direction or requirement made or imposed thereunder is guilty of an offence and liable, on summary conviction, where the person is an individual, to a fine of not more than \$5,000 for each day that the offence continues and, where the person is a corporation, to a fine of not more than \$50,000 for each day that the offence continues as set out in Section 69(1) of The Heritage Resources Act.
- (b) A judge or justice convicting a person of an offence under subsection (a) may, where the offence committed resulted in damage to or the demolition or destruction of a heritage resource, order the person to pay, in addition to any penalty that may be imposed, the cost of the repair, restoration or reconstruction of the heritage resource as set out in subsection 69(2) of The Heritage Resources Act.

PART EIGHT: REPEAL AND ENACTMENT

27. By-law No. 5521, and all amendments thereto, to provide for the conservation of buildings, structures, lands and other resources deemed to be of special historic or architectural interest, be and the same are hereby repealed.

28. This by-law shall come into full force and take effect on the day following its passage.

DONE AND PASSED by the Council of The City of Brandon, duly assembled, this 7th day of May A.D. 2001.

"R. C. Chrest"

Deputy Mayor

"C. R. Arvisais"

City Clerk

Read a first time this 23rd day of April A.D. 2001

Read a second time this 23rd day of April A.D. 2001

Read a third time this 7th day of May A.D. 2001