

**BY-LAW NO. 7146**

**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) “Act” means The Heritage Resources Act, C.C.S.M. c. H39.1, and amendments thereto.
  - (2) “Brandon Municipal Heritage Advisory Committee” means the municipal heritage committee established in accordance with Section 34(1) of The Act of Manitoba.
  - (3) “Character-Defining Element” means the material, form, location, spatial configuration, use and cultural association or meaning that contributes to the heritage value of a site, which must be retained to preserve the site’s heritage value.
  - (4) “City Council” means the Council of the City of Brandon.
  - (5) “City Clerk” means the Clerk of the Council of the City of Brandon and any one acting or authorized to act on his behalf.
  - (6) “Director” means the Director of the Planning, Property & Buildings Department, and any of his or her delegates.
  - (7) “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.
  - (8) “Minister” means the member of the Executive Council of the Government of Manitoba who has been charged with the administration of The Act, and any of his or her designates.
  - (9) “Municipality” means the municipal corporation known as The City of Brandon.
  - (10) “Municipal Board” means The Municipal Board of Manitoba established under The Municipal Board Act, C.C.S.M. c. M240, and amendments thereto.

- (11) **“Municipal Commemorative Site”** means a site within the municipality that is of significant historical or architectural interest, but not to the extent that such a site be designated as a Municipal Heritage Site. Identification of a building, structure or site as a Municipal Commemorative Site is intended solely to recognize a significant historical or architectural resource and to encourage its conservation.
- (12) **“Municipal Heritage Notice”** means a written notice advising that a site has been designated as a municipal heritage site.
- (13) **“Municipal Heritage Permit”** means a permit issued under the authority of City Council to authorize any development, work, activity, or project upon or within a site that is subject to an existing Municipal Notice of Intent or is designated as a Municipal Heritage Site.
- (14) **“Municipal Heritage Site”** means a 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.
- (15) **“Municipal Notice of Intent”** means a formal notice given by City Council of its intention to designate a site that is located within the City of Brandon as a municipal heritage site.
- (16) **“Owner”** means the owner as defined in The Real Property Act of Manitoba RSM 1988, c. R30 and amendments thereto (“The Real Property Act”), which states that owner of land or of a mortgage, encumbrance, or lease, whether entitled thereto in his own right or in his representative capacity and in the case of a title, includes without specific mention, an owner of an estate in fee simple in possession, and for these purposes includes an owner of a site for which The Registry Act RSM 1987, c. R50 (“The Registry Act”) is applicable.
- (17) **“Site”** means an area or a parcel of land within the municipality, including but not limited to an area or parcel of land that is privately owned or owned by the municipality.

## 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 and 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 the 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.
- (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.
- (c) The Committee shall evaluate in accordance with the criteria and standards recommended by the Manitoba Historic Resources Branch to determine if any building, structure or site has historical or architectural significance worthy of designation as a Municipal Heritage Site.
- (d) If the building, structure or site is determined to be of historical or architectural significance, the Committee may recommend Municipal Heritage Site designation to City Council pursuant to Part III of the Act.
- (e) All decisions and recommendations of the Committee or, if applicable, any of its sub-committees that have financial or budgetary implications must first be approved by City Council.

**5. Membership**

- (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 Co-Chair of the Committee; and
  - (2) no less than five (5) and no more than eleven (11) citizen members, one of whom shall be appointed Co-Chair of the Committee.
- (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 staggered two year terms

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) City Council may remove a member of the Committee or, if applicable, any of its sub-committees for cause, at any time, subject to a resolution by the Committee. Any facts which, in the discretion of City Council, is deemed to adversely affect the public interest, including but not limited to gross misconduct, neglect of duty, conflict of interest, ineligibility or disqualification from office, or continuous unexcused absence from more than three (3) regular meetings of the Committee within a one (1) year period, may constitute cause. The existence of cause shall be reviewed and discussed by City Council at an in-camera executive session. Removal of a member for cause shall be by a majority vote of Council, in an open public session, and if a majority of Council votes in support of removal of a member of the Committee, a vacancy for such position shall be declared, without there being a statement of the reasons for cause.
- (e) No member of the Committee, or any sub-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, if applicable, its various sub-committees.

**6. Technical & Administrative Support Services**

The Director shall also be called upon as required to serve the Committee and, if applicable, its sub-committees, through the provision of technical, administrative support and liaison, and advisory services, and shall serve as a non-voting ex-officio member of the Committee.

- 7. (a) The Committee may appoint persons to sit as members of sub-committees that the Committee may deem necessary, including but not limited to the following:
  - (1) Site Preservation Review Sub-Committee - to address the preservation and protection of local heritage sites and conservation districts; and
  - (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 Co-Chairs or at the request of one-third of its members.
- (b) Any sub-committee of the Committee may meet as often as deemed necessary by the Chairperson of each respective sub-committee and each sub-committee shall devote its energies to their delegated area of responsibility.
- (c) The Co-Chairs of the Committee, and the Chairperson of each of its sub-committees, shall preserve order at all meetings and decide all points of order which may arise.
- (d) All questions before any meeting of the Committee, or sub-committee, shall be decided by a majority of the members present including the Co-Chairs or Chairperson, and the Co-Chairs or Chairperson, shall, in addition, have a deciding vote in the event of an equality of votes.
- (e) The Director 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 SM 1996 c. 58 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 maintain a list of buildings, structures and sites which:
  - (1) may contain architectural or historical significance to the municipality and its citizens; and
  - (2) may be considered for designation as Municipal Heritage Sites upon meeting the evaluation criteria established by the Manitoba Historic Resources Branch.

The Committee may use this list as a guide to determine areas of focus to conduct evaluations of such buildings, structures and sites on the Potential Heritage Resources List.

- (b) Upon evaluation of a building, structure or site on the Potential Heritage Resources list, the Committee shall, by resolution:
  - (1) delete the building, structure or site from the Potential Heritage Resources list, as the subject site is determined not be of significant architectural or historical interest;
  - (2) identify the building, structure or site as a Municipal Commemorative Site; or
  - (3) recommend to City Council for designation as a Municipal Heritage Site.
- (c) A building, structure or site identified as a Municipal Commemorative Site or designated as a Municipal Heritage Site shall be automatically deleted from the Potential Heritage Resources list.
- (d) No demolition or development restriction under this by-law should be placed on a building, structure or site identified on the Potential Heritage Resources list.

**10. Municipal Commemorative Sites**

- (a) The Committee may identify a building, structure or site as a Municipal Commemorative Site if:
  - (1) the Committee, upon evaluation of the building, structure or site in accordance with the criteria set forth in subsection 9(a)(2), determined that there is some significant historical or architectural interest, but not to the extent that designation as a Municipal Heritage Site is recommended; or
  - (2) the Committee recommended the building, structure or site for designation as a Municipal Heritage Site, but said designation was not successful.

- (b) No demolition or development restriction under this by-law should be placed on a building, structure or site identified as a Municipal Commemorative Site.
- (c) A Municipal Commemorative Site shall not be eligible for any municipal heritage incentive programs.

**11. Nomination of Site for Designation**

- (a) Only the Committee may recommend to City Council a building, structure or site for designation as a Municipal Heritage Site.
- (b) Any person or group of persons may nominate a building, structure or site as a Municipal Heritage Site by submitting an application to the Committee.
- (c) A Municipal Heritage Site application form for nominating a local building, structure or site must be submitted, along with applicable fees in accordance with the City of Brandon Fee Schedule By-law, to the Committee for consideration. Upon evaluation of the site in accordance with the criteria set forth in paragraph 9(a)(2), the Committee will make a decision on the subject site as set out in subsection 9(b).
- (d) Where it has been determined through evaluation that a building, structure or site may qualify for designation as a provincial heritage site or national historic site, the Committee shall advise the authorities having jurisdiction of its findings in addition to recommending designation as a Municipal Heritage Site.

**PART FOUR: DESIGNATION OF MUNICIPAL HERITAGE SITES**

**12. Municipal Heritage Sites**

- (a) Any building, structure or site within the municipality may be designated as a Municipal Heritage Site if City Council is satisfied and of the opinion that the site:
  - (1) has character-defining elements that represent 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 another Municipal Heritage Site to which paragraph (1) applies.
- (b) An owner of a Municipal Heritage Site, or a site that is subject to an existing Municipal Notice of Intent to designate as a Municipal Heritage Site, who proposes to transfer or sell the site:
  - (1) shall, prior to the transfer or sale, advise the transferee or proposed purchaser of the subject site that the site is a Municipal Heritage Site or is subject to the Municipal 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 the Committee 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 building, structure or site.
- (d) Where it is deemed desirable to designate a site as a Municipal Heritage Site, City Council shall cause to be prepared a by-law to this effect and shall proceed to give it first reading.
- (e) Unless specified otherwise in the by-law designating a building, structure or site as a Municipal Heritage Site, the designation shall not apply to the interior of a building or structure affected by such designation.

**13. Municipal Notice of Intent**

- (a) After giving a proposed designation by-law first reading and before giving the by-law second reading, City Council shall cause to be prepared a Municipal Notice of Intent to designate the site as a Municipal Heritage Site, and such notice:
  - (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 subsection 13(b)(1) below.

13. (b) Upon the designation by-law receiving first reading by City Council, the City Clerk shall forthwith arrange for:
- (1) the owner, and if applicable, any lessee of the subject site, and the Minister, 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 in one (1) issue of two (2) local newspapers if then applicable; and
  - (3) registering the Municipal Notice of Intent in the Property Registry (Brandon Land Titles Office) in the event the subject site is contained in a Status of Title issued under The Real Property Act or a Deed pursuant to The Registry Act.
14. Public Hearing on Designation of Municipal Site
- (a) City Council shall hold a public hearing at the time and place stated in the Municipal Notice of Intent referred to in Section 13 of this by-law, and at the hearing shall hear or receive:
- (1) the recommendation of the Committee;
  - (2) any representation received from the Minister;
  - (3) all written or verbal communications from persons served with the Municipal Notice of Intent and who wish to make representation concerning the manner in which any provision of the proposed by-law may affect the site 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 the subject site.
- (b) Notice of objection to any proposed designation of a site as a Municipal Heritage Site shall be in a form prescribed by the municipality.
15. 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.
16. 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 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 subject site, and thereafter report its recommendations, with reasons, to City Council.
- (b) Upon receipt and consideration of the report from the Municipal Board under subsection 16. (a)(3), 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.

**17. Service, Publication & Filing Requirements**

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:

- (a) a copy of the resolution not to proceed, or the Municipal Heritage Notice of site designation, whichever the case may be, shall be served upon any person who was previously served with a Municipal Notice of Intent;
- (b) a copy of the said resolution not to proceed, or the Municipal Heritage Notice of site designation, whichever the case may be, shall be published in one (1) issue of a local newspaper; and
- (c) a copy of the said resolution not to proceed, or the Municipal Heritage Notice of site designation, whichever the case may be, shall be registered in the Property Registry (Brandon Land Titles Office) in the event the subject site is contained in a Status of Title under The Real Property Act or a Deed pursuant to The Registry Act.

**18. Appeal of Site Designation**

- (a) Any owner or lessee of a site designated as a Municipal Heritage Site, or any other person affected or likely to be affected by the 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 site designation 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 in a form prescribed by the municipality.
- (c) Upon being served with a notice of appeal and after receiving advice from the 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 Municipal Heritage Site in question; or
  - (2) refer the appeal to the Municipal Board 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 Municipal Board as set out in subsection 18. (c)(2), City Council may:
  - (1) adopt a by-law to repeal the by-law under appeal or amend the by-law under appeal 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 by-law under appeal, 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 registered in The Property Registry (Brandon Land Titles Office) in the event said office was originally served with a Municipal Notice of Intent.

**19. 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 Municipal Heritage Site not under appeal, City Council may request advice from the Committee prior to the taking such action.

19. (c) When a by-law to revoke the designation of a Municipal Heritage Site is considered, City Council must comply with the following requirements:
- (1) a copy of the revocation by-law, or a resolution to not proceed with the revocation by-law, shall be served on those persons previously served with the Municipal Heritage Notice;
  - (2) a copy of the revocation by-law, or a resolution to not proceed with the revocation by-law, shall be published in one (1) issue of a local newspaper; and
  - (3) a copy of the revocation by-law, or a resolution to not proceed with the revocation by-law, shall be filed in The Property Registry (Brandon Land Titles Office) in the event said office was originally served with a Municipal Notice of Intent.

#### PART FIVE: PROTECTION OF MUNICIPAL HERITAGE SITES

#### 20. Protection of Municipal Heritage Sites

- (a) Notwithstanding the provisions of the City of Brandon Building By-law and the City of Brandon Zoning By-law, no person may:
- (1) excavate, repair, alter, renovate, enlarge, construct an addition to, demolish, remove, destroy or damage,
  - (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 building, structure or site that is subject to an existing Municipal Notice of Intent, or that is designated as a Municipal Heritage Site, except in accordance with a Municipal Heritage Permit, as well as such terms and conditions as the Committee may impose and as may be set out in or attached to the Municipal Heritage Permit.
- (b) The City of Brandon Planning, Property & Buildings Department shall temporarily deny any development or building permit application, for a period not exceeding sixty (60) days from the date of receipt of the application thereof, to enlarge, alter, convert, relocate, remove or demolish any building, structure or site that is subject to an existing Municipal Notice of Intent, or that is designated as a Municipal Heritage Site, until:
- (1) a Municipal Heritage Permit has been issued for the proposed work associated with said development or building permit application, or
  - (2) a Municipal Heritage Permit is confirmed to be not required as set out in subsection 23. (a).
- (c) Where a Municipal Heritage Permit is required for a site and the application for the Municipal Heritage Permit is rejected, or no complete application for the Municipal Heritage Permit is received within thirty (30) days from the date of receipt of the associated development or building permit application for the site withheld under subsection 20. (b), said development or building permit application shall be denied.
- (d) The Committee may require the owner or lessee of a Municipal Heritage Site, or a site subject to an existing Municipal Notice of Intent, 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 for those purposes.
- (e) All proposed work as set out in subsection 20. (a) shall be in accordance with the latest edition of Canadian Register of Historic Places' "Standards and Guidelines for the Conservation of Historic Places in Canada".
- (f) The Director is, for the purposes this by-law, the inspector in accordance with subsections 16(1) and 34(2) of the Act, and under the authority of Sections 16, 17 and 34 of the Act, the Director shall enforce the provisions as contained in Parts Five and Seven of this by-law.

#### 21. Application for Municipal Heritage Permit

- (a) An application for a Municipal Heritage Permit must be filed at the City of Brandon Planning, Property & Buildings Department.
- (b) The application must be made by the owner, or a person with written authorization of the owner, for which the work is proposed, and the application must be in a form prescribed by the municipality.



21. (c) 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; and
  - (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 municipality.
- (d) Upon receipt of a complete application, along with applicable fees in accordance with the City of Brandon Fee Schedule By-law, the Director must, within thirty (30) days, refer the application together with recommendations to the Committee for consideration at its next meeting, and the Director 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.
- (e) Further to subsection 21. (d), an application shall not be considered complete where the proposal will result in a violation of this by-law, any other City by-law or any other law or regulation.
- (f) After considering the application and any recommendations submitted by the Director, 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 building, structure or site.
- (g) The Committee may impose terms and conditions to a Municipal Heritage Permit the Committee deems necessary for the protection of the building, structure or site.
- (h) The applicant may appeal a decision of the Committee as set out under subsections 21. (f) and (g) within fourteen (14) days of said decision by submitting to the City Clerk a form prescribed by the municipality and paying all applicable fees in accordance with the City of Brandon Fee Schedule By-law.
- (i) An appeal filed in accordance with subsection 21. (h) shall be considered by City Council, and Council can make any decision that the Committee could have made under subsections 21. (f) and (g).

22. Work on Sites with Multiple Designations

Notwithstanding subsection 20. (a), where a Municipal Heritage Site is also designated as

- (a) a provincial heritage site in accordance with the Act,
- (b) a national historic site in accordance with The Historic Sites and Monuments Act (Canada),
- (c) a heritage railway station in accordance with The Heritage Railway Stations Protection Act (Canada), or
- (d) a classified federal heritage building or a recognized federal heritage building in accordance with the Treasury Board Policy on Management of Real Property (Canada),

a municipal heritage permit is not required if the municipality receives written confirmation of approval from the provincial or federal authority having jurisdiction for any work as set out in subsection 20. (a).

23. Ordinary Maintenance of Municipal Heritage Sites

- (a) Notwithstanding subsection 20. (a), a municipal heritage permit is not required for the following:
- (1) ordinary maintenance or repair of a building, structure or site designated as a Municipal Heritage Site, or subject to an existing Municipal Notice of Intent, where such maintenance or repair will not alter, demolish, remove, destroy or damage any character-defining elements on the building, structure or site; and
  - (2) any work in the interior of a building or structure unless the interior is specified otherwise in the by-law designating a building, structure or site as a Municipal Heritage Site.
- (b) Nothing in this section prohibits the Committee or the Director from requiring a municipal heritage permit for work listed in subsection 23. (a) if the Committee or the Director receives new information that such work no longer fits the criteria under subsection 23. (a).

## PART SIX: INFORMATIONAL AND EDUCATION PROGRAMS

### 24. Public Register of Municipal Heritage Sites

- (a) The Committee shall maintain a register of all Municipal Heritage Sites in the municipality showing, in respect of each site:
  - (1) The location of the site and a description sufficient to identify the boundaries thereof;
  - (2) Character-defining elements to explain the heritage significance of the site;
  - (3) The date of the designation of the site as a Municipal 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 Municipal Heritage Sites shall be available for public inspection at the Planning, Property & Buildings Department during regular office hours.

### 25. Public Register of Municipal Commemorative Sites

- (a) The Committee shall maintain a register of all Municipal Commemorative Sites in the municipality showing, in respect of each site:
  - (1) The location of the site and a description sufficient to identify the boundaries thereof; and
  - (2) Character-defining elements to explain the heritage significance of the site.
- (b) The public register of Municipal Commemorative Sites shall be available for public inspection at the Planning, Property & Buildings Department during regular office hours.

### 26. Informational and Educational Programs

- (a) The Committee may cause to be prepared and produced informational material respecting the heritage resources of the municipality and make such material available to the public by means of printed circulars or pamphlets or other material, radio, television or newspaper advertising, information being posted online, 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 the municipality, or educational programs for the public-at-large, respecting the heritage resources of the municipality 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 the municipality.
- (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 the municipality dedicated to the discovery, maintenance, restoration, preservation, protection and study of the heritage resources of the municipality, either for the purposes of their work in general or for the purposes of any specific project relating to the heritage resources available in the municipality.

### 27. 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

### 28. Surveys, Examinations, Entry to Ascertain Non-Compliance

- (a) The Committee or the Director may, at any reasonable hour, enter any site within the municipality, with the consent of the owner or lessee thereof, for the purpose of making any study, survey, inspection or examination in the course of the administration of this by-law.
- (b) Subject to subsection 28. (d), the Director may enter the premises, on the authority of a warrant issued under subsection 34(6) of the Act, to conduct such search, examination or inspection as deemed necessary where the Committee or the Director determines the following has been committed or is about to be committed:
  - (1) a breach of this by-law;
  - (2) a breach of the Act; or
  - (3) a breach of any term or condition of a Municipal Heritage Permit, agreement or order entered into or made under this by-law or the Act;
- (c) Should the Director determine, pursuant to subsection 28. (b), that a breach has been committed or is about to be committed based on reasonable and probable grounds, there will be the seizure of any object, document, or record as evidence before the court in accordance with applicable laws.
- (d) An entry under subsection 28. (b) of a site that is occupied as a private residence shall not be made except at a reasonable hour.

### 29. Stop Order

- (a) Where a person is in breach of a provision of this by-law or the Act, or the terms or conditions of a municipal heritage permit or an agreement entered into with a municipality under this by-law and the Act, the Director may, by order in writing served upon the person,
  - (1) require the person to remedy the breach within a period of time stated in the order, or
  - (2) where the Director has reason to believe that irreparable or costly damage is likely to result if the breach continues for any period of time, require the person to remedy the breach immediately upon the service of the order.
- (b) Where a person required by an order made under subsection 29. (a) to remedy a breach fails to obey the order, the municipality may, upon notice to the person, apply to the court for an order authorizing the municipality to enter or cause to be entered the affected site to bring the site into compliance.
- (c) Where the Committee or the Director determines that any delay will likely result in irreparable or costly damage to heritage resources or human remains, the Director may enter or cause to be entered the site and take or cause to be taken such steps to which reference is made in subsection 35(2) of the Act to halt the damage. No further steps may be taken unless in pursuant to the order of the court obtained as set forth in subsection 29. (b) of this by-law.
- (d) Where the Director takes steps under this section to remedy a breach committed by any person, the municipality may recover from the person, by action in any court of competent jurisdiction but subject always to any order of such court made under subsection 35(2) of the Act in respect thereof:
  - (1) the costs and expenses necessarily incurred by the municipality in taking those steps; and
  - (2) the amount of any grant or incentive made to the person by the municipality in accordance with the Act by way of assistance.
- (e) A person who feels aggrieved by an order made or action taken by the municipality under this section may appeal to the Court of Queen's Bench within thirty (30) days from the making of the order or the taking of the action in accordance with subsection 35(5) of the Act.

**30. Offence and Penalty**

- (a) Any person who is in breach of a provision of this by-law or the Act, or the terms or conditions of a municipal heritage permit, agreement or order entered into or made under this by-law or the Act, is guilty of an offence and liable, on summary conviction as set out in subsection 69(1) of the Act:
  - (1) Where the person is an individual, to a fine of not more than \$5,000.00 for each day that the offence continues; and
  - (2) Where the person is a corporation, to a fine of not more than \$50,000.00 for each day that the offence continues.
- (b) The court 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 Act.

**PART EIGHT: REPEAL AND ENACTMENT**

- 31. By-law No. 6644, 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.
- 32. 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 18<sup>th</sup> day of April A.D. 2017.

\_\_\_\_\_  
"R. Chrest"  
MAYOR

\_\_\_\_\_  
"H. Ewasiuk"  
CITY CLERK

Read a first time this	3 <sup>rd</sup>	day of	April	A.D. 2017
Read a second time this	18 <sup>th</sup>	day of	April	A.D. 2017
Read a third time this	18 <sup>th</sup>	day of	April	A.D. 2017

I, Heather Coreen Ewasiuk, Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No. 7146.

*Original Signed By*  
*H. Ewasiuk*  
\_\_\_\_\_  
H. Ewasiuk, City Clerk