

**CONTINUING CONSOLIDATION**  
**BY-LAW NO. 6843**

**AS AMENDED BY BY-LAW NOS. 6991, 7031, 7055, 7084, 7100 AND 7186.**

**BEING a by-law of the City of Brandon to establish and assign responsibilities to a Planning Commission.**

**WHEREAS Council is authorized under The Planning Act to establish a Planning Commission and assign certain responsibilities to the Commission;**

**AND WHEREAS it is deemed necessary and expedient to establish a Planning Commission and require the Commission to conduct hearings on certain matters under The Planning Act;**

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

**PART I: PURPOSE AND DEFINITIONS**

**Purpose**

1. The purpose of this by-law is to establish a Planning Commission, assign its responsibilities and set-out its rules of procedure for the Commission to conduct its business and govern its affairs.

**Definitions**

2. In this by-law, unless the context otherwise requires:
  - (a) **"Commission"** means The Planning Commission of the City of Brandon as established by the Council of the City of Brandon.
  - (b) **"Council"** means the Council of the City of Brandon.

**PART II: INTERPRETATION**

**Conforming to Provisions**

3. The Commission and its members shall in all respects conform to the provisions of this by-law save and except where provisions of this by-law are inconsistent with provisions of relevant Federal or Provincial Statutes, in particular The Planning Act, in which case the provisions of such statutes shall override the provisions of this by-law.

**Reference Source**

4. When any matter relating to proceedings arises which is not covered by a provision of this by-law, the matter shall be decided by reference to Robert's Rules of Order, where applicable.  
[AM. B/L 7031]

**Conflicting Provisions**

5. In the event of any conflict between the provisions set out in this by-law and those contained in the reference source set out in Section 4, the provisions of this by-law shall apply.
6. [REP. B/L 7031]

**Conflict of Interest**

7. In all matters and under all circumstances every member of the Commission shall be guided by and have regard to the statutory provisions of The Municipal Council Conflict of Interest Act.

### **PART III: ESTABLISHMENT AND RESPONSIBILITIES**

#### **Establishment**

8. There is hereby established a Planning Commission to be known as "The Planning Commission of the City of Brandon".

#### **Duties and Responsibilities**

9. The Commission shall, in accordance with the cited provisions of The Planning Act,:
- (a) hold hearings and make decisions on variances (Part 6);  
[AM. B/L 7031]
  - (b) hold hearings and make decisions on conditional uses (Part 7);
  - (c) hold hearings and make recommendations to Council on the City of Brandon Zoning By-law and amendments thereto (Part 5);
  - (d) hold hearings and make recommendations to Council on those subdivision applications which will result in the creation of a new public road (Part 8) and make recommendations to Council on the naming of parks and on assigning street names to municipal streets located within the jurisdiction of the City;  
[AM. B/L 7031]
  - (e) hold hearings and make recommendations to Council on by-laws to close public reserve land (Part 8);
  - (f) hold hearings and make recommendations to Council on declarations of obsolete plans of subdivision (Part 8);
  - (g) hold hearings and make recommendations to Council on by-laws to adopt secondary plans;  
[EN. B/L 6991]
  - (h) hold hearings and make decisions on appeals of Administration's decision on site, landscape and building elevation designs; and  
[EN. B/L 7100]
  - (i) Hold hearings and make decisions on appeals of Administration's decision on the imposition of a development charge.  
[EN. B/L 7186]

### **PART IV: MEMBERSHIP AND TERM OF OFFICE**

#### **Membership**

10. The Commission shall be composed of five (5) members who shall be appointed by the Council of the City of Brandon and such persons shall:
- (a) not be members of Council or the Brandon & Area Planning District Board; and
  - (b) be, on the date of their appointment,:
    - (i) at least 18 years of age; and
    - (ii) a resident of the City of Brandon for a period of at least one (1) year.
11. The Commission shall annually appoint a Chairperson and Vice-Chairperson from within its membership.

**Terms of Office**

12. (a) The term of office for members of the Commission shall be for three (3) years.
- (b) No member shall serve on the Planning Commission for more than two (2) consecutive terms. A member can re-apply for another term of three (3) years after serving the first term. If re-appointed, the second term will be the maximum term a member can serve on the Planning Commission.
- (c) If a member wishes to re-apply at the end of the second term, the member must wait for a twelve (12) month lapse prior to re-applying for membership;
- (d) If a member is unable to complete his term on the commission for any reason, Council shall by resolution appoint a new member to complete the unexpired term.
- (e) An unexpired term shall not be considered a term of office.  
[AM. B/L 7031, B/L 7055]

**PART V: MEETINGS – GENERAL****Open to the Public**

13. All meetings of the Commission shall be open to the public and no person shall be excluded or removed from any meeting, except for improper conduct.

**Public Conduct**

14. Members of the public who constitute the audience in the Council Chamber during a meeting of the Commission shall:
- (a) not address the Commission without permission from the Chairperson;
  - (b) maintain order and quiet during the proceedings of the Commission;
  - (c) not interrupt any person or action of the members of the Commission or any other person who may be addressing the Commission; and
  - (d) not bring into the Council Chamber any food or drink.

**Disorderly Public Conduct**

15. Any member of the public who conducts himself or herself improperly while in the Council Chamber and who disturbs the proceedings of the Commission by words or actions and who, when requested to do so by the Chairperson, refuses to stop and end such improper conduct or leave the Council Chamber if so requested, shall be guilty of disorderly and improper conduct and the Chairperson may cause such person to be removed from the Council Chamber.
16. In the Council Chamber:
- (a) all members shall dress appropriate to the public office of a member of the Commission; and
  - (b) any member or members of the Commission and the Administration may have a non-alcoholic beverage in a cup or glass at his or her desk, but no food shall be permitted in the Council Chamber during the proceedings of a regular meeting.
17. Without the prior approval of the Chairperson, no member of the Commission, the Administration or the public shall bring into the Council Chamber a cellular device unless the phone is programmed and remains programmed so as to prevent an audible tone or ring.

**Location**

18. Each inaugural meeting and all subsequent regular meetings of the Commission shall be held in the Council Chamber of the Civic Administration Building, unless otherwise provided for by resolution of the Commission.

**Organizational Meeting**

19. The Commission shall each year hold a meeting for the purpose of organizing itself for the following twelve months, including the appointment of a Chairperson and Vice-Chairperson, as well as the scheduling of meeting dates.  
[AM. B/L 7031]

**Regular Meetings**

20. Regular meetings of the Commission shall be held at 7:00 p.m. on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays of each month of the year during the existence of the Commission, the calendar dates of which shall be established annually by the Commission at its organizational meeting. A public notice setting out the adopted schedule of regular meetings shall be posted within the Civic Administration Building by the General Manager, Development Services or designee within seven (7) days of such organizational meeting.  
[AM. B/L 7031, B/L 7084]

**Altering Meetings**

21. Notwithstanding any of the foregoing, the date, hour or place of any regular meeting of the Commission may be altered, or any such meeting may be cancelled, by a resolution passed at any previous regular meeting, by a vote of a majority of the members who are present.

**Special Meetings**

- 21.1 A special meeting may be held by the Commission in addition to the regularly scheduled meetings set forth in Section 20. A request in writing, along with the required fees, shall be filed with the Administration at least four (4) weeks prior to scheduling a hearing.  
[EN. B/L 7100]

**Meeting Agenda**

22. The agenda of each regular meeting that normally includes all communication, reports and other supporting materials, shall be prepared under the direction of the General Manager, Development Services or designee and shall be provided to all members by the General Manager, Development Services or designee at least 48 hours prior to the meeting.  
[AM. B/L 7031]

**Agenda Committee**

23. The General Manager, Development Services or designee may cause to be established a special administrative committee to assist in the preparation of the agenda material, the membership of which may be the General Manager, Development Services, and such other departmental staff as may be necessary.  
[AM. B/L 7031]

**Order of Business**

24. The general order of business at every regular meeting of the Commission shall be as follows:
1. Roll Call
  2. Adoption of Agenda
  3. Confirmation of Minutes
  4. Public Hearings
  5. General Business
  6. Adjournment

**Attendance**

25. Every member shall attend all meetings of the Commission unless such absence is deemed to be necessary but, where a member fails to attend three consecutive regular meetings without being authorized to do so by a resolution passed by the Commission, such member thereby forfeits his or her seat on the Commission.

**Quorum**

26. At all meetings, a majority of the members required to constitute the Commission is necessary to form a quorum. A quorum of the Commission consists of three (3) members. Members may attend meetings by electronic technology acceptable to the Chair.

**Vacancy**

27. If a position on the Commission is vacant, a majority of the remaining members constitutes a quorum.

**Removal of Member**

- 27.1 City Council may remove a member(s) of the Planning Commission for cause, at any time. Any fact(s) which, in the discretion of 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 Planning Commission within a one (1) year period, may constitute cause. The existence of cause shall be reviewed and discussed by Council at an in-camera executive session. Removal of a member(s) for cause shall be by a majority vote of Council, in an open public session, and if majority of Council votes in support of removal of a member(s) of the Planning Commission, a vacancy for such position(s) shall be declared, without there being a statement of the reason(s) for cause.”  
[EN. B/L 7100]

**Reduced Quorum**

28. Where, by reason of withdrawals from a meeting under the provisions of The Municipal Council Conflict of Interest Act, the number of members remaining is not sufficient to constitute a quorum, the said Act provides that the number of members still remaining, if not fewer than two, is deemed to constitute a quorum which shall apply to the Commission.

**Recess**

29. The Commission may decide to recess at anytime during the meeting and a motion to recess shall be seconded, state the time of duration of the recess and be passed by a majority of the members present.

**Reconvening**

30. The Commission may reconvene sooner than the time mentioned in the motion of recess, but shall not reconvene later than 30 minutes after the time specified for reconvening or the meeting shall be deemed to be adjourned due to a lack of quorum.

**Dealing with Next Agenda Item**

31. Upon reconvening the meeting the Commission shall deal with the next listed agenda item following the item considered prior to the recess unless a motion to alter the agenda is passed.

**Adjournment**

32. A motion to adjourn the meeting may be made at any time and if seconded, the motion shall be put immediately without debate. If the motion is passed by a majority of the members present, the meeting shall stand adjourned.

**Minutes**

33. The General Manager, Development Services or designee shall cause minutes of all meetings of the Commission to be made and retained in accordance with the statutory provisions of any Act of the Legislature and, in preparing such minutes of the meetings, the General Manager, Development Services or designee shall include:
- (a) the names of all members present at and absent from the meeting;
  - (b) all decisions and other proceedings;
  - (c) if required, the name of all members voting for or against all motions;
  - (d) any declarations of pecuniary interest made under The Municipal Council Conflict of Interest Act;
  - (e) if required, under any statute or this by-law, the names of those members abstaining from voting and the reasons given; and
  - (f) the signatures of the Chairperson and General Manager, Development Services or designee.
- [AM. B/L 7031]

**Posting Minutes**

34. The minutes of all meetings shall be posted in the Civic Administration Building and circulated to all members of the Commission prior to the meeting at which they are to be adopted.

**Audio Recordings**

35. At all meetings of the Commission, the General Manager, Development Services or designee may cause to be made an audio recording of the proceedings and such recordings if made, shall be retained for a period of six (6) months from the date of the meeting.
- [AM. B/L 7031]

**PART VI: MEETINGS – RULES OF PROCEDURE****Exercising Powers**

36. The general powers of the Commission shall be exercised by a motion adopted by the Commission.

**Inconsistent Motion**

37. A motion that is inconsistent with any Act of the Manitoba Legislature, or with any regulations made pursuant to such an Act, has no validity.

**Intent of Motion**

38. All motions shall express fully and clearly the intent of the mover and should be worded in the affirmative.

**Lost Motion**

39. A question or motion shall be declared lost when it:
- (a) does not receive a majority vote;
  - (b) does not receive the required number of votes; or
  - (c) receives an equal division of votes.

**Motion for Discussion**

40. A motion shall be made on an agenda item before it is discussed at a meeting of the Commission and a recommendation included on the agenda or in a report shall not constitute a motion until a member has expressly moved it.

**Motion to be Seconded**

41. A motion is not properly before the Commission and shall not to be considered until it has been seconded.

**Withdrawing Motion**

42. After a motion has been moved and seconded, it shall not be withdrawn without the consent of the majority of members who are present.

**Debatable Motions**

43. Except as specifically provided elsewhere in this by-law, the following motions are debatable by the Commission:
- (a) a motion arising out of any matter included on the agenda for the meeting at which it is debated;
  - (b) a motion concerning any question, matter or subject tabled indefinitely from a previous meeting of the Commission at which it was discussed;
  - (c) a motion for concurrence in, rejection or further consideration of a report to the Commission;
  - (d) a motion to receive and file; and
  - (e) such other motions made upon routine proceedings as may be determined necessary by the Commission.

**Privileged Motion**

44. When a motion has been introduced and is before the Commission, no member shall make any other motion except a motion to:
- (a) amend the motion;
  - (b) refer the main question to some other person or group for consideration;
  - (c) table the main question; or
  - (d) adjourn the meeting.

**Motion to Table**

45. A member moving a motion to table any matter, whether the matter is contained in a petition, motion or other matter before the Commission shall include in the tabling motion the time at the present meeting or the date of a future regular meeting to which the matter is to be tabled. A motion to table shall not be debated except as to the time when the Commission will again consider the matter. A matter which has been tabled shall not again be considered by the Commission before the date set, except on a majority vote of all members.  
[AM. B/L 7031]

**Referral Motion**

46. A motion to refer a matter shall not be amended or debated, except with respect to the conditions of the referral or the time required to carry out the review. The substantive issue of the item being referred shall not be debated and a member making a referral motion generally should include in the motion:
- (a) the terms on which the motion is being referred; and
  - (b) the time when the matter is to be returned.

**Division of Motion**

47. A motion containing several distinct propositions shall not be out of order for that reason alone and where a member so requires or the Chairperson so orders, the Commission shall vote on each proposition separately.

**Amendment to Motion**

48. An amendment proposed to a motion shall be relevant to its subject matter and shall not propose a direct negative of the motion.

**Amendment to Amendment**

49. Only one amendment to a motion shall be before the Commission at any time, but an amendment to the amendment may be before the Commission at the same time. An amendment to an amendment shall be relevant to the amending motion and shall be voted on before the amendment to the main motion.

**Debate on Amendment**

50. A member shall only debate the merits of the amendment and not the merits of the motion it is amending.

**Majority to Decide**

51. Every disputed question shall be decided by a majority of the votes of the members of the Commission present at the meeting, except in cases where, under this by-law or by any Act of the Legislature, another number of votes is required to decide this matter.

**Voting Obligatory**

52. Every member of the Commission present when a question is put shall vote on the question, unless a majority of the other members present excuses him or her from so doing or if such member is prohibited from voting or allowed to abstain from voting by this by-law or any Act of the Legislature. If any member persists in refusing to vote for other than the reasons stated, he or she shall be recorded as voting in the negative on the question before the Commission.

**PART VII: RULES OF PROCEDURE – PUBLIC HEARINGS****Rules of Procedure**

53. The following rules of procedure shall be followed when the Commission receives representations and verbal submissions at public hearings:

(a) **Call to Order**

To begin a public hearing, the Chairperson shall call the hearing to order and ask if anyone is present in the Council Chamber to speak on the matter to be considered at the hearing.

(b) **Procedure When Speaker Present at Hearing**

If a person indicates their presence to speak to the issue under consideration at the hearing, then the following procedure shall apply:

- (1) The Administration, or the person if it is someone other than the Administration, introduces the matter and explains to the members of the Commission and others present in the Council Chamber the purpose of same.
- (2) If required, the Chairperson reads into the record and for the information of those present in the Council Chamber, the receipt of any representations received by the Commission in writing on the issue under consideration.
- (3) All persons wishing to address the Commission on the issue are then allowed five minutes to speak; those in favour speak first, followed by those opposed unless the sequence is altered by the Chairperson.
- (4) After a person has spoken, any member of the Commission may ask that speaker relevant questions concerning the issue ensuring that:
  - (a) questions are asked in a courteous and respectful manner;
  - (b) he/she does not engage in any debate or argument with the person.
  - (c) he/she refrains from making any derogatory, accusatory and/or inflammatory remarks to the person; and
  - (d) he/she does not make any statements, arguments or express an opinion that would disclose a bias and would be more appropriately dealt with subsequent to the public hearing.

- (5) Any member may ask the Administration relevant questions after all persons who wish to speak have been heard.
- (6) The Chairperson then allows an opportunity for all persons to respond to any information that has been introduced.
- (7) Following the conclusion of all questions and representations on the issue any member of the Commission may move that:  
  
"The public hearing on \_\_\_\_\_ be hereby concluded."
- (8) At times, the Commission may decide not to conclude the hearing until further information or representations are received. Any member may move a motion to adjourn the hearing to the next regular meeting.

**(c) Procedure When No Speaker is Present**

If no one is present to speak to a matter which requires a public hearing, the Commission may:

- (1) hear an introduction of the matter from the Administration, ask relevant questions on the issue and then vote to conclude the public hearing; or
- (2) decide not to conclude the public hearing due to the fact the person causing the hearing is not present. Any member may move a motion to adjourn the said hearing to a future day and time when such person can attend.

**(d) Public Hearings, Debate and Decision**

In those matters under The Planning Act relating to variances and conditional use applications as referred to in subsections 9. (a) and (b) above, the debate and decisions shall occur following the Order of Public Hearings on the agenda. The Commission may then decide to:

- (1) reject or approve such matters whereby the approval may be with or without conditions; or
- (2) refer such matters to another meeting for further consideration and final decision.

[AM. B/L 7031]

**(e) Public Hearing and Recommendation to City Council**

In those matters under The Planning Act relating to zoning by-laws and their amendments, subdivision applications, public reserve closures and obsolete plan of subdivision declarations as referred to in subsections 9. (c) to (f) above, the debate must occur under the Order of General Business directly following the Order of Public Hearings on the agenda. The Commission may then decide to:

- (1) recommend rejection or approval of such matters to City Council whereby recommendation for approval may include conditions which City Council may wish to impose; or
- (2) refer such matters to another meeting for further consideration and recommendation.

**PART VIII: DECISIONS AND APPEAL****Notice of Decision and Right to Appeal**

54. When a decision is made by the Commission, the notice of decision shall state that the decision may be appealed to Council and set out the process to be followed. A notice of appeal of a decision of the Commission shall:

- (1) be made in writing only by persons making representation;
- (2) identify the decision being appealed ; and
- (3) be filed with the Council by not later than 14 days after the decision was made.

If a decision of the Commission is not appealed by the deadline, the decision is final.

**PART IX: REMUNERATION AND EXPENSES****Remuneration and Travel Allowance**

55. Each member of the Commission shall receive payment of Fifty Dollars (\$50.00) per meeting, for attending regular or special meetings held during the day or evening.

**Effective Date**

56. This by-law shall come into full force and effect on October 1<sup>st</sup>, 2006.

DONE AND PASSED by the Council of the City of Brandon duly assembled this 12<sup>th</sup> day of June, A.D. 2006.

"D.K. Burgess"

MAYOR

"J. Swidnicki"

A/CITY CLERK

Read a first time this	29 <sup>th</sup>	day of	June	A.D. 2006
Read a second time this	12 <sup>th</sup>	day of	June	A.D. 2006
Read a third time this	12 <sup>th</sup>	day of	June	A.D. 2006

I, Heather Coreen Ewasiuk, A/Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No. 6843, as amended by By-law Nos. 6991, 7031, 7055, 7084, 7100, and 7186.

*Original Signed By*

H. Ewasiuk

H. Ewasiuk, City Clerk