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S.M. 2002, c. 39
Bill 39, 3rd Session, 37th Legislature

The City of Winnipeg Charter Act

Table of Contents	Schedule		
Sections: 1 - 127 128 - 282 283 - 450 451 - 539			

PART 1

INTERPRETATION, PURPOSES AND GENERAL AUTHORITY

Definitions

1 In this Act,

"affiliated body" means a committee, commission, board, association or other body, whether incorporated or unincorporated,

(a) that is established by council,

(b) the majority of the members of which, or the majority of the members of the board of management or board of directors of which,

(i) are appointed by council, or

(ii) if not appointed by council, are in the discharge of their duties, employees of the city or are, directly or indirectly, responsible to the city, or

(c) that is controlled by the city through direct or indirect ownership of

(i) 50% or more of the shares in its capital stock that carry the right to vote at all times, if the body is a corporation, or

(ii) 50% or more of the interests in the body that carry the right to vote at all meetings of the owners of such interests, if the body is not incorporated; (« organisme affilié »)

"back lane" means a back lane as defined in subsection 1(1) of *The Highway Traffic Act*; (« ruelle »)

"board of revision" means the Board of Revision of the city, appointed under Part 8 (Revision and Appeal) of *The Municipal Assessment Act*; (« comité de révision »)

"boulevard" means the portion of a street, on either side or in the centre of the street,

(a) that is adjacent to the travelled portion of the street,

(b) that is maintained for the purpose of improving the appearance or safety of the street, and

(c) that is not intended to be used to carry vehicular traffic; (« terre-plein »)

"building" includes a well, pipe line, conduit, cut, excavation, fill, transmission line and any structure or erection, and any part of any of those things, and also includes an addition to or extension of any building or any of those things and a chattel that is attached to, or installed in or on, any building or any of those things; (« bâtiment »)

"business" means

(a) a commercial, merchandising or industrial activity or undertaking,

(b) a profession, trade, occupation, calling or employment,

(c) keeping or operating a device or thing, or

(d) an activity providing goods or services,

whether or not carried on continuously or on an intermittent basis and whether or not for gain or profit, and however formed or organized, and includes a co-operative and an association of persons; (« enterprise »)

"business tax" means the business tax imposed under

- (a) Part 8 (Assessment, Taxation and Other Levies on Property) on the business assessment of premises, or
- (b) section 32 (business tax on cable television service) of *The Municipal Assessment Act*; (« taxe d'entreprise »)

"by-law" means a by-law of the city; (« règlement municipal »)

"carry on", in relation to a business, means to operate the business, to perform any service or function in respect of the business, to keep, hold, deal in or use any property in respect of the business or to occupy any premises in respect of the business, whether as principal or agent; (« exploiter »)

"chartered bus service" means service by means of a bus that is engaged solely to transport the individuals who engage it on one occasion or for one trip to a stated destination and, if required, to return to the point of origin; (« service d'autobus nolisé »)

"citizen" means an inhabitant of the city; (« citoyen »)

"city" means, as the case requires,

- (a) the corporation known as "The City of Winnipeg", or
- (b) the area of the City of Winnipeg as determined under this Act; (« ville »)

"city assessor" means the employee designated by council as the city assessor; (« évaluateur municipal »)

"city securities" means securities issued and payable by the city; (« valeurs municipales »)

"committee of council" means a committee of members of council established by this Act or by council for the purpose of carrying out responsibilities as provided in this Act or as directed by council; (« comité du conseil »)

"common-law partner" of a person means a person who, not being married to the other person, is cohabiting with him or her in a conjugal relationship of some permanence; (« conjoint de fait »)

"construction" includes

- (a) excavating, removing, filling and backfilling for the purpose of preparing or maintaining a site in respect of a building or a proposed building,
- (b) erecting, extending, enlarging, placing, removing, relocating and demolishing a building,
- (c) altering, repairing, renovating, reconstructing and maintaining a building,
- (d) moving a building from one site to another,
- (e) underpinning the foundation of a building, and
- (f) installing equipment and materials in a building; (« travaux de construction »)

"council" means the council of the city, and where a delegation of authority is permitted, includes its designate; (« conseil »)

"councillor" means a member of the council other than the mayor; (« conseiller municipal »)

"Crown" means Her Majesty both in right of Manitoba and in right of Canada; (« Couronne »)

"declaration", in relation to a declaration of office, means an oath, affirmation or statutory declaration; (« déclaration »)

"designated committee of council", when used in a provision of this Act, means a committee of council designated by council to carry out

- (a) a responsibility under that provision, or
- (b) a responsibility in respect of a by-law to which reference is made in that provision; (« comité désigné »)

"designated employee", when used in a provision of this Act, means an employee designated by council to carry out

- (a) a responsibility under that provision, or
- (b) a responsibility in respect of a by-law to which reference is made in that provision; (« employé désigné »)

"designated floodway area" means an area designated as such in regulations made under subsection 158(1); (« zone désignée du canal de dérivation »)

"designated floodway fringe area" means an area designated as such in regulations made under subsection 158(1); (« zone limite désignée du canal de dérivation »)

"designated parking space" means a parking space that is on a street or in a parking facility and that has been designated, and identified by signs or pavement markings as being, for the sole use of motor vehicles displaying a physically disabled person's parking permit issued under section 124.3 (permit issuance) of *The Highway Traffic Act*; (« aire de stationnement désignée »)

"development" means the construction of a building on, over or under land, a change in the use or intensity of use of a building or land, the removal of soil or vegetation from land, the deposit or stockpiling of soil or material on land, and the excavation of land; (« aménagement »)

"district registrar" means the district registrar for the Winnipeg Land Titles Office; (« registraire de district »)

"elector" means an individual qualified under *The Local Authorities Election Act* to vote at an election of members of council; (« électeur »)

"employee" means an individual employed by the city, and includes a statutory officer; (« employé »)

"equipment" includes plumbing pipes, electrical wiring, fire alarms, sprinklers, air conditioning and other services, meters, appliances, devices, machines, apparatuses and fixtures, and installations related to any of them; (« équipement »)

"family" includes a common-law partner; (« famille »)

"floodproofing criteria" means the floodproofing criteria established in regulations made under subsection 158(1); (« critères de prévention des inondations »)

"general election" means an election of the mayor and councillors for all wards required to be held in October in every fourth year; (« élection générale »)

"health hazard" means a condition of property, a plant, an animal other than a human being, a solid, liquid or gaseous substance, a combination of substances or a combination of different states of a substance, a condition, state, process or thing that

- (a) is or may become harmful or dangerous to health of an individual,
- (b) hinders in any manner the suppression of disease or the prevention of injury,
- (c) contaminates or pollutes, or may contaminate or pollute, food, water, soil or air,
- (d) might render food, water, soil or air injurious to health of an individual, or
- (e) is prescribed as a health hazard under this or any other Act; (« risque sanitaire »)

"hearing body" means any body, including a committee of council, that is required under this Act or a by-law to hold or conduct a hearing, and where The Municipal Board is required under this Act to hold or conduct a hearing, includes The Municipal Board in respect of the hearing; (« organisme d'audience »)

"heritage resource" means a heritage resource as defined in section 1 of *The Heritage Resources Act*; (« richesses du patrimoine »)

"highway" means a highway as defined in subsection 1(1) of *The Highway Traffic Act*; (« route »)

"in", when used in respect of a street or watercourse, includes "on", "along", "under" and "over"; (« dans »)

"land" means land, messuages, tenements and hereditaments, corporeal or incorporeal, of every kind and description, whatever the estate or interest therein, whether legal or equitable, and includes a unit specified in a plan to which *The Condominium Act* applies; (« bien-fonds »)

"land titles office" means the Winnipeg Land Titles Office; (« Bureau des titres fonciers »)

"list of electors" means a list of electors prepared under *The Local Authorities Election Act*; (« liste électorale »)

"mayor" means the mayor of the city; (« maire »)

"medical officer of health" means a duly qualified medical practitioner who, under *The Public Health Act*, is appointed as a medical officer of health; (« médecin hygiéniste »)

"member", when referring to a member of council, includes a councillor and the mayor; (« membre »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"motor vehicle" means a motor vehicle as defined in subsection 1(1) of *The Highway Traffic Act*; (« véhicule automobile »)

"off-road vehicle" means an off-road vehicle as defined in subsection 1(1) of *The Off-Road Vehicles Act*; (« véhicule à caractère non routier »)

"ombudsman" means the Ombudsman appointed under *The Ombudsman Act*; (« ombudsman »)

"open", when referring to **"opening"** a street, includes not only the opening of a new street but also the extending, widening, diverting or otherwise altering of an existing street whereby land that was previously not part of the street is added to or made a part of the street; (« ouvrir »)

"owner", in relation to real property, means a person who is the owner of a freehold estate in the real property, and includes

- (a) a person who is an owner, with another person as joint tenant or tenant in common, of a freehold estate,
- (b) a person who is registered under *The Condominium Act* as the owner, as defined in that Act, of a unit under that Act, and
- (c) a real owner, as defined in subsection 1(1) of *The Municipal Assessment Act*; (« propriétaire »)

"parcel" means the total of all contiguous land described in a single certificate of title; (« parcelle ou parcelle de terrain »)

"person" includes a firm, partnership, association or other body, whether incorporated or unincorporated; (« personne »)

"personal property" includes all goods, chattels, shares in corporations, interests in partnerships and syndicates, money, notes, accounts, debts, patents, copyrights, any rights, licences or privileges that are transferable or assignable, and other personal property, but does not include real property; (« bien personnel »)

"plan of subdivision" means a plan of subdivision prepared in accordance with *The Real Property Act*; (« plan de lotissement »)

"Plan Winnipeg by-law" means a by-law passed under Part 6

- (a) to adopt, re-adopt, replace or amend Plan Winnipeg, or
- (b) to amend a by-law adopting, re-adopting, replacing or amending Plan Winnipeg; (« Règlement municipal sur le plan de la ville de Winnipeg »)

"planning commission" means a planning commission established under section 273(1) (establishment of planning commission); (« commission de planification »)

"private works" means works constructed in a street for the use or benefit of owners or occupants of land adjoining or connected with the street; (« ouvrages privés »)

"property" means personal property and real property; (« bien »)

"proprietor" of a business means

- (a) where the business is entered on the city's business assessment roll, the person in whose name the premises are assessed, and
- (b) where the business is not entered on the city's business assessment roll,
 - (i) if the business is carried on in premises, the person who is found in charge of the business in the premises, and
 - (ii) if the business is not carried on in premises, the person who is actively carrying on the business; (« propriétaire d'une entreprise »)

"public service works" includes

- (a) water control works, bank stabilization works, docks, publicly owned open-air structures used for recreational purposes,
- (b) works used to provide services or commodities to the public by the Crown or the city, and
- (c) works used for or incidental to the operation of a public utility as defined in section 1 of *The Public Utilities Board Act*; (« ouvrages publics »)

"rate", in relation to a rate of taxation, means

- (a) a percentage of the assessed value of property, or a specified number of mills for each dollar of the assessed value of property, or a percentage of the annual rental value of premises, or
- (b) a specified amount in dollars or cents, or both, in respect of
 - (i) each unit of frontage or flankage of designated subdivided lands, or
 - (ii) each unit of area of designated unsubdivided lands; (« taux »)

"real property" means land and improvements on land, and includes

- (a) an interest in land or an improvement, and
- (b) air, surface and subsurface rights and interests in respect of land,

but in Part 8 (Assessment, Taxation and Other Levies on Property), does not include mines and minerals, sand, gravel, stone and rock; (« bien réel »)

"real property tax" means tax imposed under Part 8 (Assessment, Taxation and Other Levies on Property) on real property assessment; (« taxe foncière »)

"registered owner", in relation to land, means a person who

- (a) is registered under *The Real Property Act* as the owner of an estate in fee simple in land that is subject to that Act,
- (b) is the owner of an estate in fee simple in land that is not subject to *The Real Property Act* and who is the grantee named in a valid conveyance of land that is registered under *The Registry Act*, or
- (c) is registered under *The Condominium Act* as the owner, as defined in that Act, of a unit under that Act; (« propriétaire inscrit »)

"registered plan of subdivision" means a plan of subdivision registered in the Winnipeg Land Titles Office under *The Real Property Act*, but does not include a plan of survey filed under section 127 (requirement for plan of survey) of that Act; (« plan de lotissement enregistré »)

"resolution" means a resolution passed by council or a committee of council or a subcommittee thereof; (« résolution »)

"returning officer" means the returning officer of the city appointed under *The Local Authorities Election Act*; (« directeur du scrutin »)

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

"securities" means bonds, debentures, promissory notes, treasury bills, commercial paper or other documents evidencing debt and shares and includes documents commonly known as securities; (« valeurs mobilières »)

"sensitive land" includes

- (a) land that is susceptible to flooding or erosion or that has unstable slopes or poor drainage,
- (b) areas of special significance for animal, bird or plant life, including wetlands, forests and nesting areas,
- (c) land on which any development is likely to harm ecological diversity; (« bien-fonds sensible »)

"sidewalk" means sidewalk as defined in subsection 1(1) of *The Highway Traffic Act*; (« trottoir »)

"statutory officer" means an individual appointed to a position under section 96 (appointment of statutory officers); (« titulaire d'une charge créée par la loi »)

"street" means a highway or sidewalk; (« rue »)

"subdivision" means the division of land by an instrument, including

- (a) a plan of subdivision, conveyance, deed, mortgage or grant, or
- (b) an agreement granting or extending a use of or right in land, directly or indirectly or by an entitlement to renewal, for a period of 21 years or more,

but not including a lease respecting only floor space in a building; (« lotissement »)

"tax collector" means the chief financial officer of the city or the designate of the chief financial officer; (« percepteur »)

"taxes" means

- (a) the following taxes imposed under Part 8 (Assessment, Taxation and Other Levies on Property):
 - (i) real property taxes,
 - (ii) business taxes, licence fees for licences in lieu of business tax, and licence fees for mobile home licences,
 - (iii) personal property taxes,
 - (iv) local improvement taxes,
 - (v) frontage taxes,

(vi) business improvement zone taxes,

(vii) electricity and gas taxes,

(b) any other taxes, levies and charges imposed under this Act which may be added to or collected in the same manner as real or personal property taxes or business taxes, and

(c) any taxes, levies or charges imposed under another Act which the city is required to collect and which may be added to or collected in the same manner as real or personal property taxes or business taxes; (« taxes »)

"waste" means waste as defined in subsection 1(2) of *The Environment Act*; (« déchets »)

"watercourse" means a drain, ditch, drainage ditch, culvert, water channel, retention pond or waterway, whether natural, constructed or altered; (« fossé »)

"waterway" means a river, stream, creek or canal, whether natural, constructed or altered, and includes the frozen surface or bed of a waterway; (« cours d'eau »)

"waterworks" includes water supply, treatment and distribution facilities; (« installations d'alimentation en eau »)

"works" includes buildings, walls, bridges, trestlework, dams, waterworks, water control works, canals, locks, tunnels, subways, railways, tramways, wharfs, piers, ferries, viaducts, aqueducts, conduits, watercourses, embankments of watercourses, vaults, mines, wells, streets, pavements, pedestrian decks or tunnels, street railways, harbours, docks, booms, excavations, fabrics and the towers, poles, lines, and equipment of transportation or transit systems or the construction of any of them; (« ouvrages » ou « travaux »)

"zoning by-law" means a by-law passed under section 236 (zoning by-laws), and includes

(a) a by-law amending a by-law passed under that section, and

(b) a by-law that under *The City of Winnipeg Act*, S.M. 1989-90, c. 10, was a development by-law and a by-law amending such a development by-law. (« règlement de zonage »)

Determination of person responsible

2 Where this Act or a by-law provides that

(a) anything must be done by a person responsible for something;

(b) a fee, rate, deposit or other charge is to be paid by a person responsible; or

(c) remedial action, including prosecution, may be taken against a person responsible for something;

council may by by-law

(d) determine who will be deemed to be the person responsible; or

(e) provide rules for determining who is the person responsible.

Geographic application of by-laws

3(1) Every by-law of the city applies only within the city's boundaries unless

(a) this or another Act provides that the by-law applies or may apply outside those boundaries; or

(b) the city agrees with another municipality that the by-law has effect within the boundaries of the other municipality.

Application of by-law of another municipality

3(2) The city may agree with another municipality that a by-law of the municipality applies and has effect within all or part of the city.

By-laws or resolution inconsistent with Acts

4 A by-law or resolution of council that is inconsistent with an enactment in force in the province is of no effect to the extent of the inconsistency.

Purposes of city

5(1) The purposes of the city are

(a) to provide good government for the city;

(b) to provide services, facilities or other things that council considers to be necessary or desirable for all or part of the city;

- (c) to develop and maintain safe, orderly, viable and sustainable communities; and
- (d) to promote and maintain the health, safety, and welfare of the inhabitants.

City is responsible and accountable

5(2) The city is created to be a responsible and accountable government with respect to matters within its jurisdiction.

Broad authority

6(1) The powers given to council under this Act are stated in general terms

- (a) to give broad authority to council to govern the city in whatever way council considers appropriate within the jurisdiction given to it under this or any other Act; and
- (b) to enhance the ability of council to respond to present and future issues in the city.

General powers not limited by specific

6(2) If this Act confers a specific power on the city in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power.

Natural person powers

7(1) The city has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

Specific powers

7(2) When the city has the power to act under subsection (1) and also under a specific provision of this or another Act, the power conferred by subsection (1) is subject to any procedural requirements, including conditions, approvals and appeals, that apply to the power and any limits on the power contained in the specific provisions.

PART 2

CITY BOUNDARIES

CONTINUATION

City continued

8 The City of Winnipeg, as constituted immediately before the coming into force of this Act, is continued as a body corporate.

AREA

Boundaries and area

9(1) The Lieutenant Governor in Council may, by regulation,

- (a) subject to *The Municipal Act*, alter the area or boundaries of the city;
- (b) correct or clarify the description of the area or boundaries of the city if the Lieutenant Governor in Council determines that there is an error or ambiguity in the description; and
- (c) determine rights and liabilities in respect of any matter or thing arising from an error or ambiguity in the description of the area or boundaries of the city that is corrected or clarified under clause (b) and, if considered advisable, provide a manner or procedure to give effect to that determination.

Reference to maps

9(2) The area or boundaries of the city described in a regulation made under subsection (1) is sufficiently described if it is indicated on, or described by reference to, a map adopted, incorporated or referred to in the regulation.

Time of effect of regulation

9(3) A regulation made under clause (1)(b) or (c) may be made retroactive to the day when the error occurred or the ambiguity arose.

WARDS

Number of wards

10 Subject to a by-law passed under section 17, for electoral purposes, the city is divided into 15 wards, each of which is, in this Act, referred to as a "ward".

Establishment of wards commission

11(1) There is hereby established "The Winnipeg Wards Boundaries Commission", in this Part referred to as the "commission", consisting of

- (a) the Chief Justice of the Queen's Bench or a judge of the Court of Queen's Bench designated by the Chief Justice;
- (b) the president of The University of Winnipeg; and
- (c) the returning officer of the city.

Substitute members of commission

11(2) Subject to subsection (3), if the commission is required to perform any duties under this Act

- (a) when the president of The University of Winnipeg is unable to act for any reason or the office is vacant, the vice-president (academic) of The University of Winnipeg must act in place of the president; and
- (b) when the returning officer of the city is unable to act for any reason or the office is vacant, the enumerator of the city must act in place of the returning officer.

Appointment of other acting members

11(3) Where an individual designated under subsection (2) to act in place of a member of the commission is unable for any reason to act, council must appoint another individual to act in place of the member.

Duty of acting member

11(4) An individual who, because of subsection (2) or (3), begins to act in place of a member of the commission, is the member until the commission makes its next report under this Part.

Remuneration and assistance for commission

11(5) Council must

- (a) remunerate or grant honoraria to members of the commission;
- (b) provide advisers, clerks and assistants to the commission as may be required by the commission to discharge its duties; and
- (c) pay all expenses reasonably incurred by the commission.

Report of commission

12 The commission must prepare a report establishing boundaries and the name of each ward at the following times:

- (a) in 2009;
- (b) as soon as practicable after any alteration is made in the boundaries or area of the city;
- (c) at such times as council may require, which shall be at least once every 10 years after the preceding report was prepared.

Population of city

13(1) For the purpose of preparing a report under this Part, the commission must determine the population of the city by using the most recent census taken under the *Statistics Act* (Canada).

Criteria for boundaries

13(2) Subject to subsection (3), each ward must have, as nearly as is reasonable, the same population and, in fixing the boundaries of a ward, the commission must consider

- (a) the community or diversity of interests of the residents of the ward;
- (b) the means of communication between the various parts of the ward;

(c) the physical features of the ward; and

(d) all other similar and relevant factors;

and, to the extent possible, must include the whole area of a historic community or neighbourhood in the same ward.

Variation in population base

13(3) The commission may allow a variation of up to 25% more or less in the population of a ward where in its opinion the considerations mentioned in subsection (2) make the variation desirable.

Initial hearing

14(1) Prior to preparing a draft report, the commission must give public notice of, and hold, a hearing at which it will hear submissions regarding the boundaries and names of the wards.

Preparation of draft report

14(2) After holding the hearing under subsection (1), the commission must prepare and send to the city clerk a draft report respecting boundaries and names of the wards.

Notice of hearing on draft report

14(3) Upon receiving a draft report under subsection (2), the city clerk must give public notice of a hearing at which the commission will hear submissions in respect of the report.

Publication of notices

14(4) The public notices required under subsections (1) and (3) must each be published not less than twice in two newspapers.

Final report

14(5) After completion of the hearing referred to in subsection (3), the commission must

(a) prepare its final report establishing the boundaries and the names of the wards; and

(b) send the report to the city clerk, who shall ensure that it is placed before council at its next meeting for its information.

Effect of report

14(6) The boundaries and names of the wards as established in the final report prepared under subsection (5) become effective on the day before the last day for filing nominations for the first general election after the report is sent to the city clerk.

Changing names of wards

15(1) Council may by by-law change the name of a ward.

Effect of alteration of wards on councillors

15(2) Alteration of the boundaries of a ward or a change in the name of a ward does not affect the membership on, or the right to sit on or vote in, council of a councillor elected to represent the ward before its alteration.

PART 3

COUNCIL

DIVISION 1

COMPOSITION AND TERM OF OFFICE

Composition of council

16(1) Council consists of an elected mayor and elected councillors.

Council a continuing body

16(2) Council is deemed to continue to exist at all times despite any change in its membership and the council after an election may take up and carry on to completion all by-laws, reports, proceedings and matters begun, or under consideration, by the council before the election.

Changing number of wards

17(1) Council may by by-law increase the number of wards specified in section 10 to an odd number greater than 15.

By-law applying to next general election

17(2) If the by-law is passed 18 months or more before the next general election, it takes effect at the election.

By-law applying after next general election

17(3) If the by-law is passed fewer than 18 months before the next general election, it takes effect at the second general election after the by-law is passed.

Public hearing required

17(4) After council gives first reading to a proposed by-law under subsection (1), and before second reading,

- (a) the city must give public notice that the executive policy committee of council will conduct a hearing respecting the proposed by-law; and
- (b) the executive policy committee must conduct a hearing and submit its report respecting the proposed by-law to council.

Second reading of proposed by-law

17(5) After receiving the report from the executive policy committee, council may

- (a) proceed to give second reading to the by-law as originally proposed or with amendments; or
- (b) reject the by-law.

By-law to be read at different meetings

17(6) Second and third readings of a by-law changing the number of wards may not be given at any one meeting of council.

Requirement re ward boundaries commission

17(7) A by-law passed under this section must require the ward boundaries commission to prepare a report establishing the boundaries and the names for the number of wards established in the by-law.

Term of office

18(1) The mayor and each councillor elected at a general election hold office for a term of four years, commencing at 12 noon on the first Tuesday in November that follows the election and ending at 12 noon on the first Tuesday in November that follows the next general election.

Term after by-election

18(2) An individual elected as mayor or as a councillor to fill a vacancy holds office from the day the returning officer declares the result of the election for the unexpired term of the mayor or councillor in whose office the vacancy occurred.

DIVISION 2

ELECTIONS

General elections

19 A general election of members of council must be held on the fourth Wednesday of October, in 2002 and in each fourth year thereafter.

Election of mayor

20 The mayor must be elected by the electors of the city.

Election of councillors

21 One councillor must be elected by the electors of each ward.

Nomination to two offices invalid

22 At an election, no individual may be nominated for or elected as

- (a) both mayor and a councillor; or
- (b) a councillor in more than one ward.

QUALIFICATIONS

Qualifications of candidates

23(1) An individual is eligible to be nominated for, and elected as, a member of council at an election if the individual is

- (a) a Canadian citizen;
- (b) at least 18 years of age on the day of the election;
- (c) a resident of the province;
- (d) an elector; and
- (e) not disqualified under this or any other Act.

Individuals disqualified

23(2) The following individuals are disqualified from being nominated for, elected as or remaining as a member of council:

- (a) a judge of the Court of Queen's Bench or The Court of Appeal;
- (b) a provincial judge, magistrate or justice of the peace;
- (c) a member of the council of another municipality;
- (d) a member of the Senate or House of Commons of Canada;
- (e) an individual who has been convicted of an offence under this or any other Act and who has not paid any fine imposed on the individual for the offence.

EMPLOYEES' RIGHTS IN ELECTIONS

Definitions

24(1) In this section,

"affiliated body" does not include a committee, commission, board, association or other body described in clause (c) of the definition of "affiliated body" in section 1; (« organisme affilié »)

"employee" means an individual employed

- (a) by the city; or
- (b) by an affiliated body. (« employé »)

Employees rights in elections

24(2) Subject to subsection (3), an employee may

- (a) seek nomination as, and be, a candidate in a municipal, provincial or federal election and, if elected, serve; or
- (b) support, speak or write on behalf of a candidate or a political party in an election, if in doing so the employee does not reveal any information or matter concerning the city or an affiliated body, or any information that the employee procures or that comes to the employee's knowledge solely because of the employment.

Statutory officers and certain employees excepted

24(3) Subsection (2) does not apply to a statutory officer or to any other class or group of employees that may be designated by by-law.

Leave of absence for city election

24(4) An employee who proposes to become a candidate for election as a member of council may apply to the chief administrative officer for the city, on or before the last day for the nomination of candidates in the election, for a leave of absence, and every such application must be granted.

Period of leave

24(5) The leave of absence granted under subsection (4) to an employee in respect of an election must be

(a) for the period starting on the last day on which nomination papers may be filed in the election and ending not later than 90 days after the day when results of the election are officially declared; or

(b) for a part of that period;

as requested by the employee.

Candidate in other elections

24(6) An employee who proposes to become a candidate for election as a member of the Legislative Assembly or the House of Commons may apply to the chief administrative officer for the city for a leave of absence for a period starting on the day the writ for the election is issued and ending

(a) where the employee is nominated as a candidate, not later than 90 days after the day when the results of the election are officially declared; and

(b) where the employee is not nominated as a candidate, not earlier than the day fixed by law for the nomination of candidates in the election;

or a part of that period, as requested by the employee, and every such application must be granted.

Nature of leave of absence

24(7) A leave of absence applied for under subsection (4) or (6) must be granted

(a) where the employee is entitled to vacation with pay, and the employee so requests, as vacation leave with pay until the vacation leave with pay expires and thereafter as leave without pay; or

(b) as leave without pay.

Election to council

24(8) An employee who is elected as a member of council must be placed on leave of absence without pay for a period starting on the day of the election and ending on the earlier of

(a) the day that is eight years and three months after the day of the election; and

(b) the day that is three months after the day the employee ceases to be a member of council.

Election as M.L.A. or M.P.

24(9) An employee who is elected to the Legislative Assembly or the House of Commons may apply for a leave of absence without pay for a period starting on the day of the election and ending on the earlier of

(a) the day that is five years and four months after the day of the election; and

(b) the day that is three months after the employee ceases to be a member of the Legislative Assembly or House of Commons, as the case may be;

and every such application must be granted.

Reinstatement of defeated candidate

24(10) An employee who has been granted a leave of absence under subsection (4) or (6) and who is not elected must, on application made to the chief administrative officer for the city before the leave ends, be reinstated in the position held by the employee immediately before the leave started.

Reinstatement of elected employee

24(11) An employee who has been placed on or granted leave of absence under subsection (8) or (9) may, before the leave ends, apply to the chief administrative officer for the city to be reinstated and, if the employee is not a member of council, the employee must, within 60 days, be reinstated

- (a) in the position held by the employee immediately before the leave started; or
- (b) in a reasonably equivalent position.

Where no notice before end of leave

24(12) Unless an employee who has been placed on or granted leave under subsection (8) or (9) notifies the chief administrative officer for the city in writing before the leave ends that the employee wishes to return to work at the end of the leave, the city is under no obligation to reinstate the employee at the end of the leave.

Rights during leave of absence

24(13) Where an employee is placed on or granted a leave of absence under this section,

- (a) the period of service before the leave starts, and the period of service after the leave ends, is deemed to be unbroken for all purposes; and
- (b) for the purpose of determining seniority of the employee in relation to other employees, the period of the leave is deemed to be a period of service in the employment of the city.

Other benefits

24(14) The rights of an employee to employee benefits during the period of a leave of absence under this section must be determined in accordance with the terms of the collective agreement or other agreement, or the policy of the city, under which the benefits are provided, and the period of the leave must be treated, for the purposes of qualification for a benefit, in accordance with the agreement or policy.

NOMINATIONS AND VOTING

Local Authorities Election Act to apply

25 Subject to this Act, *The Local Authorities Election Act* applies to the city and to elections of members of council.

Nominations

26 The returning officer must accept a nomination of a candidate in an election except

- (a) where the nomination is for a candidate in a general election, it is not received by the returning officer before 2:00 p.m. on the last Wednesday in September of the year in which the election is to be held;
- (b) where the nomination is for a candidate in an election to fill a vacancy on council, it is not received by the returning officer before 2:00 p.m. on the day that is three weeks before the day appointed for the election;
- (c) where the nomination is for a candidate for the office of mayor, it is not signed by at least 250 electors of the city; or
- (d) where it is not otherwise in compliance with this Act and *The Local Authorities Election Act*.

Computerized list of electors

27 Council may, by by-law, provide for the enumeration of voters and the preparation and use of lists of electors by computers, including, subject to clause 31(5)(b) (disposal of surplus copies) of *The Local Authorities Election Act*, the sale of the lists.

Electors lists for polling subdivisions

28 The returning officer may divide a ward into two or more polling subdivisions and a list of electors for each polling subdivision must be prepared in accordance with *The Local Authorities Election Act*.

Advance polls

29(1) For the purpose of accommodating electors at an election, the returning officer must

- (a) establish an advance poll at the location where council holds its regular meetings; and

(b) ensure that it is open for at least four days between the last day when a candidate may withdraw from the election under section 51 of *The Local Authorities Election Act*, and the day before the election day.

Additional advance polls

29(2) The returning officer may establish additional advance polls at the location and time he or she determines.

Ease of access

29(3) An advance poll place must be located so as to provide ease of access to voters who are physically disabled.

Publication of dates and places of advance polls

29(4) The returning officer must ensure that public notice is given of the dates, times and locations for voting at the advance poll or polls.

Use of devices for voting and counting votes

30(1) The council may pass by-laws respecting the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other devices, and such by-laws may include provisions

- (a) prescribing the form of ballot;
- (b) respecting the procedure for voting and for the counting of votes; and
- (c) respecting any other matter that the council considers necessary or advisable.

Regulation respecting use of devices at elections

30(2) If the council passes a by-law under subsection (1), the Lieutenant Governor in Council may by regulation provide for any matter that the Lieutenant Governor in Council considers necessary or advisable for the purpose of conducting an election with devices referred to in subsection (1), including any matter referred to in the by-law, and where there is a conflict between the regulation and the by-law, or between the regulation and *The Local Authorities Election Act*, the regulation prevails.

Recount

30(3) Subject to a regulation made under subsection (2), a judge who determines under subsection 102(1) (time and place of recount) of *The Local Authorities Election Act* that a recount is required of ballots counted by a device authorized by a by-law passed under subsection (1) shall determine whether the recount shall be conducted manually or by use of such a device, or both.

CAMPAIGN EXPENSES AND CONTRIBUTIONS

Definitions

31(1) In this section and in sections 32 to 46,

"campaign expense" means

- (a) money spent or liabilities incurred, and
- (b) the value of donations in kind accepted,

in respect of goods used or services provided, by or on behalf of, and with the knowledge and consent of, a registered candidate during a campaign period, for the purpose of an election, but does not include audit fees, or expenses relating to a recount in respect of the election; (« dépenses électorales »)

"campaign period" for an election means the period

- (a) in a general election
 - (i) in the case of a candidate for mayor, beginning on May 1 in the year of the election and ending on March 31 of the year after the election, and
 - (ii) in the case of other candidates, beginning on June 30 in the year of the election and ending on March 31 of the year after the election, and
- (b) in an election to fill a vacancy, beginning on the day when the returning officer receives the direction from the city clerk to hold the election and ending on the day that is 90 days after the election; (« période de campagne électorale »)

"contribution" means money paid or a donation in kind provided by a contributor to or for the benefit of a registered candidate, without compensation from the candidate; (« contribution »)

"donation in kind" means goods or services provided to or for the benefit of a registered candidate without compensation from the candidate, and includes

- (a) services of an employee provided by an employer,
- (b) goods produced or donated voluntarily by a contributor who is a commercial supplier of the goods, and
- (c) services provided voluntarily by a contributor who is a commercial or occupational supplier of the services,

but does not include

- (d) money,
- (e) goods produced or donated voluntarily, other than in clause (b), or
- (f) services provided voluntarily, other than in clause (c); (« don en nature »)

"registered candidate" means a candidate registered under section 32. (« candidat inscrit »)

Value of donation in kind

31(2) The value of a donation in kind is

- (a) the fair market value of the goods or services at the time of the donation; or
- (b) where the donation in kind is services of an employee provided by an employer, the cost to the employer of the salary or wages of the employee whose services are provided for the period during which the services are provided.

Registration of prospective candidates

32(1) The returning officer shall register an individual who proposes to be a candidate in an election if

- (a) during the campaign period for the election and before nominations close, the individual applies for registration in a form approved by the returning officer
 - (i) containing the name and address of the candidate, the candidate's official agent, the candidate's auditor and any financial institution in which accounts are to be used by or on behalf of the candidate for the purpose of the election campaign, and the numbers of every such account,
 - (ii) accompanied by statements signed by the candidate's official agent and the candidate's auditor in which they consent to act in those capacities, and
 - (iii) containing any other information required by the returning officer; and
- (b) the returning officer is satisfied that the individual is eligible to be nominated in the election.

Report of change in information

32(2) Where any of the information provided by a registered candidate on an application under subsection (1) changes for any reason, the candidate must immediately notify the returning officer in writing of the change.

No contribution until registration

33 Unless an individual is registered under subsection 32(1) as a candidate in an election, neither the individual, nor any other person acting on behalf of the individual, shall accept a contribution or incur an expense for the purpose of the election of the individual.

By-law on expenses and contributions

34 Council must pass a by-law, not inconsistent with *The Municipal Council Conflict of Interest Act*,

- (a) prescribing the limit to the contribution that a contributor may make to a registered candidate for mayor or councillor;
- (b) prescribing the limit to campaign expenses that may be incurred by a registered candidate for mayor and by a registered candidate for councillor;
- (c) setting the value of a contribution in respect of which the name and address of the contributor need not be recorded under clause 35(1)(b);

- (d) prescribing the manner in which registered candidates must keep records of contributions received and campaign expenses incurred by them;
- (e) prescribing the content, in addition to the information required under subsection 35(1), of audited statements required to be filed by registered candidates under that subsection;
- (f) designating an individual
 - (i) to assist registered candidates to comply with the by-law and provisions of this Act relating to campaign expenses and contributions,
 - (ii) to examine audited statements filed by candidates, and
 - (iii) to obtain such information as the individual considers necessary for the purpose of making a report to council on matters set out in the by-law and on any apparent failure of a candidate to comply with the by-law or the provisions of this Act relating to campaign expenses and contributions;
- (g) prescribing forms for the purposes of the by-law;
- (h) prescribing the portion of income from a fund-raising event that is deemed to be a contribution, and the portion that is deemed to be campaign expenses; and
- (i) providing that, if the individual designated under clause (f) finds an audited statement filed by a candidate to be incorrect or incomplete and notifies the candidate in writing of the finding, the candidate is required, not later than a day prescribed in the by-law and specified in the notice, to file with that individual a further audited statement containing the information required under subsection 35(1) or by a provision, authorized under clause (e), of the by-law.

Candidate to file audited statement

35(1) Each registered candidate in an election must file with the individual designated in a by-law passed under clause 34(f) an audited statement that contains the following information in respect of the campaign period of the election:

- (a) all contributions received and expenses incurred by the candidate;
- (b) the name, address and the contribution of each contributor who makes to the candidate a contribution of more than the amount specified in a by-law passed under clause 34(c);
- (c) an itemized list of campaign expenses incurred by the candidate;
- (d) the contributions and expenses relating to each fund-raising event, in accordance with apportioning prescribed in a by-law passed under clause 34(h);
- (e) particulars of any loan made to the candidate for the purpose of the election campaign, including the name of the lender, the principal amount of the loan, the interest rate on the loan and the terms of repayment.

Time for filing statement

35(2) An audited statement required under subsection (1) to be filed by a registered candidate in an election must be filed,

- (a) if the candidate is nominated in the election and does not withdraw, not later than May 31 of the year following the election; and
- (b) if the candidate is not nominated in the election or is nominated and withdraws, not later than the day that is 60 days after the election.

Appointment and qualifications of auditor

36 An audited statement required under subsection 35(1) must be prepared by an auditor

- (a) who is appointed by the candidate as his or her auditor;
- (b) who is entitled to practise as an accountant under *The Chartered Accountants Act*, *The Certified General Accountants Act* or *The Society of Management Accountants of Manitoba Incorporation Act*; and
- (c) who is not involved in the election as a returning officer, deputy returning officer, election clerk, candidate or official agent, or in raising funds for a registered candidate, and who certifies to that effect.

Duties of official agent

37 The official agent named in the application for registration of a candidate in an election is responsible for receiving all contributions made to or for the benefit of the candidate and authorizing all campaign expenses of the candidate, and for ensuring that

- (a) proper records are kept of the contributions and campaign expenses;
- (b) the contributions that are not donations in kind are deposited in an account that is
 - (i) listed in the application of the candidate for registration, and
 - (ii) used only for the purpose of the election campaign of the candidate;
- (c) proper receipts for all the contributions are issued and given or sent to the contributors who made them;
- (d) the audited statement required under subsection 35(1) to be filed by the candidate is prepared;
- (e) all financial records relating to the election campaign of the candidate are retained for not less than two years after the election and made available on request to the individual designated in the by-law passed under section 34;
- (f) all payments relating to or arising out of the campaign are made only by cheque drawn on such an account;
- (g) all contributions that are made anonymously are not used or spent in the campaign but are paid over to the returning officer to become part of the general funds of the city; and
- (h) the portion of every contribution that exceeds the limit prescribed under a provision, authorized under clause 34(a), of a by-law is returned to the contributor of the contribution.

Candidate to issue receipts

38 A registered candidate shall issue a receipt for each contribution accepted by or for the benefit of the candidate.

Candidate's own funds

39 Any money out of a candidate's own funds, or those of the candidate's spouse or common-law partner, used by the candidate for the election campaign of the candidate shall be considered for the purpose of this Act and the by-law passed under section 34 to be a contribution received by the candidate for the purpose of the election campaign of the candidate, but the limit on the amount of contributions established in the by-law does not apply in respect of that money.

Contributions by organizations

40 An organization, other than a trade union, that makes a contribution to or for the benefit of a registered candidate shall provide the candidate with a statement that indicates the individuals who paid, and the amount paid by each, into the funds from which the contribution is made, and the candidate must include with the audited statement filed under subsection 35(1) (filing audited statement) the name of any person whose payment into those funds exceeds the amount established in a provision, authorized under clause 34(c), of a by-law.

Claims for election expenses

41 A person who has a claim against a registered candidate in an election for payment in relation to the election must submit the claim in writing to the candidate within 30 days after the election day in the election.

Prohibitions

42 A registered candidate in an election shall not

- (a) solicit or accept a contribution that exceeds the limit prescribed in a provision, authorized under clause 34(a), of a by-law;
- (b) incur expenses in respect of the election in excess of the limit prescribed in a provision, authorized under clause 34(b), of a by-law;
- or
- (c) accept a contribution from
 - (i) a political party registered under the *Canada Elections Act*, or a constituency association of such a party, or
 - (ii) a political party registered under *The Elections Finances Act*, or a constituency association of such a party.

Surplus payable to city

43(1) Where the audited statement filed under subsection 35(1) by a registered candidate in an election shows a surplus of funds, the official agent of the candidate must immediately pay the surplus to the city which must hold it in trust on behalf of the candidate for use by the candidate in the next general election.

Release of surplus

43(2) The city must not release money held under subsection (1) in trust on behalf of an individual who was a registered candidate in an election until the individual is registered under subsection 32(1) (registration of candidates) for the next general election, and if the individual

- (a) advises the returning officer in writing that the individual will not seek nomination;
- (b) is not nominated; or
- (c) is not registered under subsection 32(1) as a candidate;

in the next general election, the money must be paid into the general funds of the city.

Failure by elected candidate to file statement

44(1) Where a registered candidate who is elected in an election fails to file an audited statement before May 31 of the year following the election as required under section 35, the individual designated in a by-law passed under section 34 shall send a written report of the failure to the presiding officer of council, who must place the report before council at its next meeting and, until the audited statement is filed with the individual so designated, the candidate must not sit on council.

Forfeiture of seat

44(2) Every registered candidate elected in an election forfeits his or her seat on council if the candidate fails to file the audited statement required under section 35 before July 31 of the year following the election.

Failure of other registered candidates to file

44(3) Where an individual who is registered as a candidate in an election and who fails to be nominated, withdraws, or is not elected in the election, fails to file an audited statement in compliance with section 35, the individual is disqualified from being nominated for or elected as a member of council until after the next general election.

Offence and penalty

45(1) Every person who contravenes or fails to comply with any of sections 33 and 35 to 43, or the by-law passed under section 34, is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000.

Time limits on prosecution

45(2) Despite *The Summary Convictions Act*, a prosecution under this section may be commenced at any time within six months after the day the individual designated in the by-law passed under section 34 becomes aware of the failure, but such a prosecution may not be commenced more than two years after the day of the alleged offence was committed.

TAX CREDIT AND REBATE PROGRAM

By-law establishing program

46(1) The council may by by-law establish a program that, subject to regulations made under subsection (3), entitles a contributor of a contribution made to a registered candidate during a campaign period

- (a) to a credit, of an amount equal to part of the contribution, against taxes that are imposed by the city and that are payable by the contributor; or
- (b) to a rebate of part of the contribution.

Contents of by-law

46(2) A by-law under subsection (1) may, without limiting the generality of that subsection,

- (a) specify the taxes against which there may be a credit;
- (b) provide for the amount, or the means of determining the amount, of the credit or rebate of contribution;

- (c) establish a maximum credit for contributions, or a maximum rebate of contributions, made by a contributor to all candidates in an election;
- (d) impose terms and conditions on the entitlement to the credit or rebate; and
- (e) provide for any other matter respecting the credits and rebates that the council considers necessary or advisable.

Regulations by L.G. in C.

46(3) The Lieutenant Governor in Council may make regulations respecting a program established by by-law under subsection (1).

FORFEITURE OF SEAT

Forfeiture of seat

47(1) A member of council forfeits the member's seat on council if the member

- (a) is convicted of an offence
 - (i) punishable by imprisonment for five or more years,
 - (ii) under section 122 (breach of trust by public officer), 123 (municipal corruption), 124 (selling or purchasing office), or 125 (influencing or negotiating appointments or dealing in offices) of the *Criminal Code* (Canada),
 - (iii) under section 496 (unauthorized expenditures), or
 - (iv) under a by-law passed under clause 74(a), if the by-law provides that the penalty for being convicted of the offence is forfeiture of the member's seat on council;
- (b) is nominated to be elected as a member of the Legislative Assembly;
- (c) fails to attend three consecutive regular meetings of council, unless the absences are authorized by a resolution of council passed before or at one of those meetings;
- (d) becomes, under this Act or *The Municipal Council Conflict of Interest Act*, disqualified from being elected as, or from being or remaining, a member of council;
- (e) when nominated for, or elected as, a member of council, was not eligible, because of this or any other Act, to be a candidate for election as a member;
- (f) ceases to meet the qualifications set out in subsection 23(1) (qualifications of candidates); or
- (g) acts as a barrister or solicitor, or is a partner or associate of an individual who is acting as a barrister or solicitor, in any proceeding against the city.

Nomination of M.L.A. to council

47(2) A member of the Legislative Assembly who is nominated to be elected as a member of council forfeits his or her seat in the Assembly.

Vacating seat

47(3) Where, under subsection (1) or subsection 44(2), a member of council forfeits a seat on council, the member must vacate the seat and promptly notify the city clerk in writing of the forfeiture and the reason.

Proceedings to unseat member

47(4) Where a member of council forfeits a seat on council and does not immediately comply with subsection (3), an application for a declaration that the member's seat has been forfeited and is vacant may be made to the Court of Queen's Bench by the city, at the direction of council, or by 10 or more inhabitants, and the court may

- (a) declare the member to be disqualified and the member's seat on council to be vacant; or
- (b) dismiss the application.

Eligibility at next election

48(1) Where a member of council forfeits a seat on council for any reason, the member is not eligible to be nominated for, or elected as, a member of council before the next general election.

No stay

48(2) Where a disqualification under subsection 47(4) is appealed, no stay of the decision pending the determination of the appeal may be granted.

Reinstatement on appeal

48(3) Where a disqualification under subsection 47(4) is set aside on appeal, the court hearing the appeal may reinstate the individual as a member of council for any unexpired portion of the term of office for which the individual was elected and order that any other individual who has been elected to fill the balance of the term must vacate the office.

RESIGNATIONS AND FILLING VACANCIES

Resignation

49 A member of council may resign from council by delivering a written resignation, dated and signed by the member, to the city clerk, and the resignation takes effect when it is received by the clerk, unless a later effective day is specified in the resignation.

Direction to returning officer to hold election

50(1) Subject to subsections (2) and (3), when the office of a member of council becomes vacant for any reason, the city clerk must immediately direct the returning officer to hold an election to fill the vacancy.

Vacancy near end of term of councillor

50(2) Where the office of a councillor becomes vacant in the last 12 months of the councillor's term of office, council may resolve not to hold an election to fill the vacancy for the balance of the term.

Vacancy near end of term of mayor

50(3) Where the office of the mayor becomes vacant in the last 12 months of the mayor's term of office, no election shall be held to fill the vacancy for the balance of the term, but the deputy mayor, or in the absence of the deputy mayor, the acting deputy mayor, must perform the duties and functions, and exercise the power and authority, of the mayor.

Election to fill vacancy

51 Where the returning officer is directed to hold an election to fill a vacancy on council,

- (a) the returning officer must appoint a day when the election will be held, which day must be not more than six weeks after the day the returning officer receives the direction; and
- (b) except as otherwise provided in this Act, the election must, in respect of notices and other matters, be conducted in the same manner as a general election.

DIVISION 3

DUTIES AND POWERS

DECLARATION OF OFFICE

Declaration to be made and filed

52 Before entering the duties of their offices, the mayor and each councillor must make, and file with the city clerk, a declaration as follows:

I, (name) , do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office to which I have been elected, and that I have not received and will not receive any payment or reward, or promise of payment or reward, for the exercise of partiality, corruption or other improper execution of the office.

DELEGATION

Restriction on delegation by council

53(1) Council must not delegate

- (a) its authority to enact a by-law or to exercise or perform any power, duty or function that by this or any other Act it is required to exercise or perform by by-law;
- (b) its authority to approve an operating or capital budget;
- (c) its authority to appoint, suspend or dismiss a statutory officer; or
- (d) its authority to enter into a collective agreement in respect of employees.

Authority of council after delegation

53(2) Where council delegates a power, duty or function, council may continue to exercise the power or perform the duty or function.

BY-LAWS AND RESOLUTIONS

How council may act

54(1) Council may act only by by-law or resolution.

Where by-law required

54(2) Where council is expressly required or authorized, whether under this or any other Act or under a by-law, to do something by by-law, it may do it only by by-law.

Where resolution authorized

54(3) Where council is required or authorized under this or any other Act or under a by-law to do something without specifying that it be done by by-law, council may do it by resolution.

Where by-law used instead of resolution

54(4) Anything council does by by-law that may be done by resolution is not invalid because council does it by by-law.

Three readings of by-laws

55(1) Except as otherwise provided in this Act,

- (a) each by-law of the city must have three separate readings at meetings of council;
- (b) each reading must be put to a vote before it becomes effective; and
- (c) a by-law may be amended at any of the readings.

Readings at one meeting

55(2) Not more than two readings of any by-law may be given at any one meeting of council unless, by a vote of 2/3 of all members of council, this requirement is suspended in respect of the by-law.

Text of proposed by-law before first reading

55(3) Each member of council present at a meeting of council at which first reading of a proposed by-law is to occur must be given, or have had, the opportunity to review the full text of the by-law before it receives first reading.

Text available before third reading

55(4) Each member of council present at a meeting of council at which third reading of a proposed by-law is to occur must be given, or have had, the opportunity to review the full text of the by-law and any amendments to it passed after first reading, before it receives third reading.

Procedure at readings

55(5) Only the title to a proposed by-law or an identifying number must be read at each reading of a proposed by-law.

CONSOLIDATION OF BY-LAWS

Authority for consolidation of by-laws

56(1) Council may authorize a designated employee to consolidate a by-law.

Duties and powers of designated employee

- 56(2) In consolidating a by-law the designated employee shall
- (a) incorporate all amendments to the by-law; and
 - (b) omit any provision that has been repealed, is spent or has expired.

Adoption of consolidated by-law

- 56(3) Council may by resolution adopt a by-law consolidated under this section.

Judicial notice provision applies

- 56(4) Subsection 501(5) (judicial notice) applies to a by-law consolidated under this section.

MAYOR

Mayor as head of council

- 57 The mayor is the head of council and chief officer of the city.

Mayor as *ex officio* member of committees

- 58 The mayor is *ex officio* a member of every committee of council.

Mayor's appointments

- 59(1) At the first meeting of council after a general election, the mayor must appoint
- (a) a deputy mayor;
 - (b) an acting deputy mayor;
 - (c) the chairpersons for the standing committees of council, if such committees are established by council; and
 - (d) members of the executive policy committee of council under clause 61(1)(c), if any.

Other appointments

- 59(2) The mayor or the mayor's designate must appoint members of council to serve as chairpersons or members of
- (a) subcommittees of standing committees if such subcommittees are established by council; and
 - (b) committees of council other than standing committees.

Vacancy in executive policy committee

- 59(3) Where a vacancy in the membership of executive policy committee occurs, the mayor must fill the vacancy as soon as is practicable.

Terminating or altering appointments

- 59(4) If the mayor appoints a councillor to a position, the mayor may at any time terminate the appointment or replace the councillor with another.

Duties of deputy mayor

- 59(5) Where the mayor is absent or unavailable for any reason, the deputy mayor must perform the duties and functions, and may exercise the powers, of the mayor, including those under section 58 (*ex officio* member of committees).

Duties of acting deputy mayor

- 59(6) Where the mayor and the deputy mayor are both absent or unavailable for any reason, the acting deputy mayor shall perform the duties and functions, and may exercise the powers, of the mayor, including those under section 58 (*ex officio* member of committees).

Suspension of by-law or resolution

- 60 Where, at a meeting of council,
- (a) the rules of council are suspended for the purpose of giving both second and third readings to a by-law at that meeting;

(b) a resolution is adopted or passed by council without notice of the resolution having been given in accordance with the by-law governing procedures of council; or

(c) council adopts or passes a by-law or resolution in which, in the mayor's opinion, there is an error or omission;

the mayor may, at any time within 48 hours after the end of the meeting, suspend the implementation of the by-law or resolution by giving written notice to the clerk, and thereupon the by-law or resolution has no force or effect unless a majority of the members of council present at a later meeting of council overrules the suspension.

EXECUTIVE POLICY COMMITTEE AND OTHER COMMITTEES

Executive policy committee established

61(1) There shall be an executive policy committee of council composed of

- (a) the mayor, who is the chairperson of the committee;
- (b) the chairpersons of the standing committees of council, if any such committees are established; and
- (c) any other members of council appointed by the mayor.

Size of executive policy committee

61(2) The mayor shall determine the number of members of the executive policy committee of council, but the number of members must be less than 50% of the total number of members of council.

Duties of executive policy committee

62(1) The executive policy committee of council must

- (a) formulate and present recommendations to council respecting policies, plans, budgets, by-laws and other matters that affect the city as a whole;
- (b) ensure the implementation of policies adopted by council;
- (c) recommend to council
 - (i) individuals for appointment as statutory officers, and
 - (ii) where necessary or appropriate, the suspension or dismissal of statutory officers;
- (d) supervise the chief administrative officer;
- (e) except as otherwise determined by council, co-ordinate the work of committees of council; and
- (f) except as otherwise determined by council, receive the reports of other committees of council and forward them to council with its own recommendations.

Subcommittees of executive policy committee

62(2) The executive policy committee of council may establish a subcommittee to investigate and report on a matter within its responsibility, and if such a subcommittee is established, the mayor must appoint its members and chairperson.

Establishment of standing committees

63(1) Council may by by-law establish standing committees of council and determine their respective duties and powers.

Members of standing committee

63(2) Where a standing committee of council is established,

- (a) the number of its members must be determined by council; and
- (b) subject to subsection 59(1) (appointments by mayor), its members must be appointed by council
 - (i) at the first or second meeting of council after a general election, and
 - (ii) at a meeting in November of each year in which there is no general election.

Subcommittees of standing committees

63(3) Council or a standing committee of council may establish a subcommittee of the standing committee to investigate and report on a matter within the responsibility of the standing committee.

Composition of subcommittee

63(4) The members and chairperson of a subcommittee of a standing committee of council must be appointed

- (a) by the standing committee, where the subcommittee is established by the standing committee; and
- (b) by the mayor or the mayor's designate, where the subcommittee is established by council.

Establishing other committees

64 Council may establish other committees of council.

Delegation to committees

65 Subject to subsection 53(1) (restriction on delegation), council may delegate a power, duty or function of council to a committee of council.

Committee process

66 Subject to the by-law governing procedures of council and committees of council, a committee of council may establish such processes as it considers necessary and advisable

- (a) to conduct or perform the power, duty or function delegated to it under section 65; and
- (b) to facilitate public consultation in the matters referred to it.

PRESIDING OFFICER

Appointment of presiding officer

67(1) At the first meeting of council after a general election, and in November of each year in which there is no general election, council must appoint councillors who are not members of the executive policy committee to be the presiding officer and the deputy presiding officer.

Mayor to chair first meeting

67(2) The mayor must chair the first meeting of council after a general election until a presiding officer is appointed.

Duties of presiding officer

67(3) At each meeting of council, the presiding officer must

- (a) chair the meeting;
- (b) maintain order and decorum; and
- (c) decide questions of order, subject to appeal to the council.

Absence of presiding officer

67(4) When the presiding officer is absent or unable to act for any reason, the deputy presiding officer has the powers, duties and functions of the presiding officer.

Acting presiding officer

67(5) If the presiding officer and the deputy presiding officer are absent from a meeting of council, the members of council present at the meeting must appoint one of their number to be an acting presiding officer to chair the meeting until the presiding officer or deputy presiding officer attend, and the acting presiding officer, while so acting, has the powers, duties and functions of the presiding officer.

Participation in debates

67(6) The presiding officer may at any time leave the chair and participate in a debate of council, and the deputy presiding officer must chair the meeting until the presiding officer returns to the chair.

DIVISION 4

MEETINGS OF COUNCIL AND ITS COMMITTEES

First meeting of a council

68(1) The first meeting of each newly elected council must be held on the first Tuesday in November after the general election at which they were elected, at the place of the last meeting of the previous council.

Regular meetings of council

68(2) Meetings of council after the meeting required under subsection (1) must be held on the days, and at the times and places, that council determines.

Effect of meeting not taking place

68(3) Council is not dissolved by reason of any meeting of council not taking place.

Adjournment

69 A meeting of council at which a quorum is present may be adjourned by the council to another hour of the same day or to the next day without giving notice of the adjournment to members of the council who are not present, but notice of an adjournment beyond the next day must be given to all the members in the same manner as notice of a special meeting of council.

Minutes

70 Council and all committees of council must cause minutes of their meetings to be kept.

Quorum

71 At meetings of council, a majority of the total number of members of council is needed to constitute a quorum, and at meetings of committees of council and their subcommittees, a majority of the members of the committee or subcommittee, as the case may be, is needed to constitute a quorum.

Decisions by majority

72(1) All acts authorized or required by this Act to be done by council or a committee of council, and all questions and motions that are raised in a meeting of council, or of a committee of council or a subcommittee thereof, must, except where otherwise provided by this Act or a by-law passed under subsection 73(1), be decided by a majority of the members of council, or the committee or subcommittee, as the case may be, who are present at the meeting.

Tie votes

72(2) At a meeting of council, or of a committee of council or a subcommittee thereof, a question or motion on which there is a tie vote is deemed to be decided in the negative.

Number of votes required may be increased

73(1) Council may by by-law prescribe categories of matters that require more than a majority decision of the total number of members of council, members of a committee of council, or members of a subcommittee of a committee of council. The by-law must specify a percentage of votes required for a decision on those matters.

Review of by-law in fourth year

73(2) A by-law passed under subsection (1) expires four years after the day it is passed unless in the fourth year council, by resolution, approves its continuation.

Procedures by-law

74 Council may by by-law establish rules governing

- (a) the procedure and conduct of council, council committees, subcommittees and other bodies established by the council, the conduct of members of council and the conduct of members of council committees and other bodies established by the council; and
- (b) the circumstances under which meetings of council, or of its committees or subcommittees, may be conducted by means of electronic or other communication devices as permitted under section 81 (use of communication devices).

Open meetings

75(1) Subject to section 76, all meetings of council and committees of council and their subcommittees must be open to the public, and no individual may be excluded except for disorderly or disruptive conduct.

Expulsion for disorderly conduct

75(2) Any individual whose behaviour at a meeting of council, or of a committee of council or its subcommittee, is disorderly or disruptive may be expelled or excluded from the meeting by the presiding officer of council or the chairperson of the committee or subcommittee, as the case may be.

Reports etc. available to members

75(3) A report, an agenda or the minutes of a meeting of a committee of council must be made available to a member of council on the request of the member to the city clerk.

By-law re in camera consideration

76(1) Council may by by-law specify categories of matters that may be considered at in camera meetings of council or a committee of council or a subcommittee thereof.

In camera consideration

76(2) A matter to be considered at a meeting of council, or a committee of council or a subcommittee thereof may be considered in camera where, in the opinion of not less than 2/3 of the total number of members of council or the committee or subcommittee thereof, as the case may be,

- (a) the matter comes within a category specified in a by-law passed under subsection (1); and
- (b) the matter should be considered in camera.

Record of in camera decision in minutes

76(3) Where a matter is considered in camera at a meeting of council or a committee of council or a subcommittee thereof, the reasons for considering the matter in camera must be recorded in the minutes of the meeting.

Voting obligatory

77(1) When a question or motion is put to a vote at a meeting of council, every member of council present must vote on the question or motion unless the member

- (a) is excused from voting by a majority of the other members present;
- (b) is prohibited from voting by this Act or *The Municipal Council Conflict of Interest Act*; or
- (c) has, under the general law, a conflict of interest in respect of the question or motion.

Voting to be open

77(2) Subject to section 76, every vote at a meeting of council or a committee of council must be taken by open voting, and, if requested by a member, the vote of each member present must be recorded in the minutes of the meeting.

Council seminars

78(1) The provisions of this Division do not apply to seminars convened by some or all members of council or a committee of council for the purpose of receiving information or discussing policies and other matters that affect the city.

Convened members of council

78(2) Members of council convened as provided for under subsection (1) may not pass a by-law or resolution.

SPECIAL MEETINGS

Special meetings of council

79(1) A special meeting of council

- (a) may be called when the mayor considers it appropriate to do so; and

(b) must be called if the city clerk receives a written request from the majority of the total number of members of council stating the purpose of the meeting.

Notice of special meeting

79(2) A notice of a special meeting of council must be given in accordance with the by-law governing procedures.

Effect of failure to notify

79(3) A special meeting of council must not be held in the absence of a member unless the member has been given notice of the meeting in accordance with the by-law governing procedure.

Agenda at special meeting

79(4) At a special meeting of council, only matters that were mentioned in the notice of the meeting may be considered.

EMERGENCY MEETINGS

Emergency meetings

80(1) Where in the opinion of the mayor an emergency exists, the mayor may convene an emergency meeting of council on such notice to the members as the mayor considers reasonable in the circumstances.

Place of emergency meeting

80(2) The mayor may decide where an emergency meeting of council is to be held.

Agenda of emergency meeting

80(3) At an emergency meeting of council, only matters that arise out of or are incidental to the emergency may be considered.

USE OF COMMUNICATION DEVICES

Meeting through communication devices

81(1) Council may, in circumstances under which it is permitted by by-law to do so, conduct a meeting by means of electronic or other communication devices if the devices enable the members to hear and speak to each other and the public to hear the members.

Participating member deemed present

81(2) A member of council who participates in a meeting of council conducted by means of communication devices is deemed to be present at the meeting.

Meetings of committees

81(3) Where council has provided for a meeting of a committee of council or a subcommittee thereof to be conducted by means of electronic or other communication devices, subsections (1) and (2) apply, with necessary changes, to the meeting and to members of the committee or subcommittee.

DIVISION 5

HEARING BODIES FOR APPEALS

Establishment of hearing bodies for appeals

82 Council may by by-law establish one or more hearing bodies to hold hearings in respect of appeals under section 189.

By-law respecting hearing body

83(1) A by-law establishing a hearing body must provide for

- (a) the designation of a member of the body as chairperson, and another member as vice-chairperson, of the body;
- (b) payment to members who are not councillors or employees of remuneration and expenses incurred in the performance of their duties as members of the body;

- (c) rules of practice and procedure for the body; and
- (d) such other matters as council considers necessary or advisable.

Composition of hearing bodies for appeals

- 83(2) A hearing body must be composed of at least three persons appointed by council, and may consist
- (a) entirely of members of council;
 - (b) of a combination of members of council and other persons; or
 - (c) entirely of persons who are not members of council.

Criteria for membership

- 83(3) Council may establish different eligibility requirements for members of different hearing bodies.

Panels

- 83(4) A by-law under subsection (1) may provide that a hearing body may sit in panels of at least three members of the body selected by the chairperson.

Powers of panels

- 83(5) If panels are provided for, a panel of a hearing body has all the powers of the hearing body and
- (a) a hearing by a panel is a hearing by the body; and
 - (b) a decision of a panel is a decision of the body.

DIVISION 6

COMPENSATION

Setting indemnity and expenses

- 84(1) Council may, by by-law, determine the types, rates, amounts and conditions of payments that may be made to or on behalf of members of council
- (a) as an annual indemnity;
 - (b) as additional indemnities for holding certain positions on council or committees of council;
 - (c) for expenses incurred by members in the discharge of their duties and functions as members of council;
 - (d) for any other purpose relating to the discharge of their duties and functions that council considers appropriate;
 - (e) as contributions for pensions for the members; or
 - (f) under group insurance plans providing benefits for the members and their dependants.

Portion of indemnity may be deemed expense

- 84(2) Council may, by by-law, provide that where a member of council is paid an indemnity by the city, 1/3 of the indemnity is deemed to be for expenses related to the discharge of the member's duties as a member of council.

Members may accept payments

- 84(3) Members of council may be paid and may accept any payments made in accordance with a by-law passed under subsection (1).

Pensions

- 85(1) Council may, by by-law, establish, maintain and regulate pensions for members of council.

Contracts for pensions and insurance

- 85(2) The city may enter into contracts respecting pensions and group insurance benefits for members of council and their dependants.

Members not employees

86 For the purposes of any pension plan for members of council or for employees, and for the purposes of *The Pension Benefits Act*, members of council are not employees of the city.

Review of indemnities and expenses

87 Council may

- (a) appoint an independent review board to review the indemnities and benefits provided to members of council under this Division; and
- (b) provide for paying the costs of the review board.

PART 4

ADMINISTRATION

DIVISION 1

STRUCTURE

Administrative structure of the city

88(1) Council must establish and maintain the administrative structure for the city.

Delegation to employees

88(2) Subject to subsection 53(1) (restriction of delegation), council may delegate any of its administrative powers, duties or functions to an employee.

Delegation by employees

88(3) An employee may delegate to another employee any power, duty or function given or delegated to the particular employee under this or any other Act, or under a by-law, unless this Act or a by-law prohibits the delegation.

EMPLOYEES

Conditions of employment

89(1) Council must establish

- (a) classifications and standards for employees;
- (b) rates of remuneration, and the nature and amounts of benefits, for employees; and
- (c) conditions of employment and codes of conduct for employees.

Change of titles to positions

89(2) Council may change the title of any officer or employee of the city, and where in any provision of this Act or a by-law there is a reference to the title of a position the title of which was changed by council, the reference is deemed to be a reference to the title as so changed.

EMPLOYEE PENSION PLAN

Pension plan by-laws

90(1) The city may pass by-laws for establishing, maintaining and regulating a pension plan and group insurance plan for officers and employees of the city and may, in addition to all other rates and assessments for city purposes, levy and assess in every year a special rate sufficient to furnish the amount required during the year for the purpose of establishing and maintaining the funds for the plans, and may guarantee the solvency of the plans.

Benefit boards and committees

90(2) A by-law passed under subsection (1) may provide for

- (a) the establishment of benefit boards and committees to operate and administer the pensions or group insurance;
- (b) the selection or appointment of members and officers of the benefit boards and committees and their terms of office;
- (c) the powers and duties of the benefit boards and committees;
- (d) the payment of the expenses of members and officers of the benefit boards and committees and remuneration to some or all of them;
- (e) procedures to govern the conduct of the business of the benefit boards and committees;
- (f) the manner in which the boards and committees must keep accounts in respect of the pensions and group insurance; and
- (g) such other matters as council considers necessary or advisable for the proper administration of the pensions and group insurance.

Composition of benefit boards

90(3) Each benefit board must be composed of

- (a) individuals selected as members of the board by employees entitled to the pensions or group insurance administered by the board, in such number as may be fixed by by-law;
- (b) an equal number of individuals appointed by council; and
- (c) a designated employee.

Investment committees

90(4) Council may, by by-law, provide for the establishment of an investment committee for a benefit board to exercise powers and perform duties and functions in respect of a benefit board as provided in the by-law, and each such investment committee must be composed of

- (a) two individuals appointed by the selected members of the benefit board; and
- (b) four individuals appointed by council, at least three of whom must be chosen for their experience in investing.

Combination of funds for investment

90(5) A benefit board established by a by-law passed under subsection (1) may combine any funds that it administers with the funds of another such benefit board for the purpose of investment if

- (a) council by by-law authorizes the combination of such funds;
- (b) the manner of the investment of the combined funds is authorized by each benefit board; and
- (c) accounts are kept to show the share of each benefit board in the combined fund.

Admission into pension plan

91(1) The city shall pass by-laws to maintain pension plans in existence in any before the coming into force of *The City of Winnipeg Act*, S.M. 1989-90, c. 10, and, subject to the provisions of any agreement under which the pension plan was established, council may make arrangements for alterations in pension programs over which it assumes jurisdiction as in the opinion of council will be in the best interests of the city employees or any group of its employees.

Definition of "area municipality"

91(2) In subsection (1), "area municipality" means all cities, towns and municipalities and includes The Metropolitan Corporation of Greater Winnipeg, which, immediately before January 1, 1972, were established, constituted and existed within the boundaries of the city.

Pensions exempt from process

91(3) Subject to *The Garnishment Act*, the right of a retired employee of the city, a board or commission or the police department to receive payments out of a pension fund created by the city before or after the coming into force of this section, or out of the police pension fund, and money payable to a person under the city's pension scheme or out of any such fund, or as advance by way of gratuity, whether made in periodic payments or otherwise, shall not be assigned, charged, anticipated or given as security, or seized, attached or levied upon by or under the process of a court.

City may refuse power of attorney

91(4) The city may in its discretion refuse to recognize a power of attorney granted by a person with reference to any right, money or payment to which reference is made in subsection (3).

Admission of other employees to plan

92 A by-law passed under subsection 90(1) to establish a pension or insurance plan for employees may provide, subject to such terms and conditions as may be set out in the by-law, for admission to and participation in the plan, of individuals employed by an employer

(a) whose operations

(i) are principally conducted within the boundaries of the city, and

(ii) are considered by council to be related to the operations of the city; or

(b) who provides a service or performs a function that was previously provided or performed by, or under the direction and control of, the city;

and the city may for that purpose enter into an agreement with the employer.

By-law to merge pension plans

93(1) Despite any other provision of this Act, council may by by-law merge into one pension plan the pension plans maintained under by-law No. 219 of the former Metropolitan Corporation of Greater Winnipeg, and by-laws No. 1125/75, and No. 2819/80, including any such pension plan which may have, at the date of merger, an actuarial surplus or an unfunded liability, and council may by by-law merge into one trust the trusts arising under the pension plans that are merged.

Powers of council

93(2) Subject to subsection (3), a merger under subsection (1) of pension plans and trusts arising under the pension plans shall be effected in a manner and on terms and conditions that council considers appropriate, and a by-law passed under subsection (1) may be retroactive and shall be deemed to come into force on the date stipulated in the by-law.

No adverse effect on pension credits

93(3) Council shall satisfy itself, before passing a by-law under subsection (1), that the pension benefit credits, as defined in *The Pension Benefits Act*, of members of the pension plans that are to be merged are not adversely affected by the merger, and for that purpose and all other purposes, the certificate of the actuary of the pension plans to that effect shall be conclusive thereof.

Amendments

93(4) Despite the provisions of pension plans that are merged under subsection (1), or the by-laws creating the pension plans, council may pass by-laws amending the pension plans that are merged and any trusts arising under the pension plans, to facilitate a merger, and council may amend a by-law passed under subsection (1).

Application of other statutes

93(5) Despite section 3 of *The Pension Benefits Act*, that Act and *The Trustee Act* do not apply to a merger under subsection (1) of pension plans and to a merger of trusts arising under such pension plans.

EMPLOYEE BENEFITS PROGRAM

Definitions

94(1) In this section and section 95,

"amended and restated employee benefits program" means the employee benefits program, as proposed to be amended and continued under the agreements to be entered into pursuant to the amending agreement, with such changes, if any, as are approved by the court under clause (5)(c); (« régime d'avantages sociaux modifié et révisé »)

"amended and restated pension plan" means the pension trust agreement, and any related document setting out the terms of the plan administered under that agreement, that governs the pension plan to be continued as part of the amended and restated employee benefits program; (« régime de pension modifié et révisé »)

"amending agreement" means the Letter of Understanding, ratified by the city on November 22, 2000, between the city and the collective bargaining agents regarding proposed changes to the employee benefits program; (« accord modificatif »)

"class of members" means one of the following classes of members:

- (a) members who are employees represented by a participating union,
- (b) members who are employees not represented by a participating union,
- (c) members not described in clause (a) or (b); (« catégorie de participants »)

"commission" means The Pension Commission of Manitoba under *The Pension Benefits Act*; (« Commission »)

"employee benefits program" means the pension plan, the long-term disability plan and the early retirement benefits arrangement that were provided for by law when this section came into force; (« régime d'avantages sociaux »)

"member" means a member of the pension plan that forms part of the employee benefits program, and includes

- (a) a former member who is entitled to a deferred benefit under the plan, and
- (b) a pensioner who, or a member's beneficiary who, has an absolute entitlement to benefits under the plan; (« participant »)

"participating union" means a collective bargaining agent that is a party to the amending agreement; (« syndicat participant »)

"superintendent" means the Superintendent of Pensions appointed under *The Pension Benefits Act*. (« surintendant »)

Implementation of amending agreement

94(2) The parties to the amending agreement may implement the agreement only with the approval of the court under clause (5)(c).

Application for court approval

94(3) The parties to the amending agreement may apply to the Court of Queen's Bench for an order approving the implementation of that agreement.

Non-application of Trustee Act

94(4) Section 59 of *The Trustee Act* does not apply to any variation of a trust that is required to implement the amending agreement as approved by the court under clause (5)(c).

Court order

94(5) In connection with an application under subsection (3), the court may make any interim or final order it thinks fit, including, without limitation,

- (a) an order respecting the notice to be given to members and to the superintendent;
- (b) an order appointing counsel to represent the interests of any class of members;
- (c) if the court is satisfied that the amendments to be made to the employee benefits program are justifiable and beneficial for each class of members as a whole, an order approving
 - (i) the implementation of the amending agreement, and
 - (ii) any variation of a trust that is necessary to implement the amending agreement,as proposed or with any changes approved by the court; and
- (d) an order fixing costs relating to the court application that are to be paid out of the pension fund.

Effect of implementation with court approval

94(6) If the parties to the amending agreement implement the agreement as approved by an order made under clause (5)(c),

- (a) the existing pension plan, long-term disability plan and early retirement benefits arrangement comprising the employee benefits program are amended and continued under the terms of the amended and restated employee benefits program;
- (b) the amended and restated employee benefits program applies to and is binding on the members and all other former employees, and every ascertained or unascertained beneficiary of a member or other former employee, except that the amended and restated pension plan does not apply to those who, as a class, exclude themselves from it under subsection 26.1(3) of *The Pension Benefits Act*;

(c) subsection 26(5) of *The Pension Benefits Act* does not apply to the amending agreement or the amended and restated pension plan; and

(d) for the purposes of clause 26(2.1)(a) and subsection 26(2.2) of *The Pension Benefits Act*, the commission may consider the terms of the amended and restated pension plan as at the effective date of its implementation to be the terms that governed the pension plan as at that date.

Designation as a multi-unit pension plan

94(7) Despite subsection 26.1(2) of *The Pension Benefits Act*, when the superintendent is satisfied that

(a) the pension plan has been amended and restated as approved by the court under clause (5)(c);

(b) the provisions of the amended and restated pension plan meet the requirements of subsection 26.1(11) of *The Pension Benefits Act*; and

(c) members have been given the opportunity under subsection 26.1(3) of *The Pension Benefits Act* to exclude themselves from the amended and restated pension plan;

the superintendent shall designate the amended and restated pension plan as a multi-unit pension plan under *The Pension Benefits Act*.

Interpretation

94(8) Subject to subsection (7), nothing in this section or in an order made under subsection (5) shall have the effect of limiting the power of the superintendent or the commission to ensure that the amended and restated pension plan complies with the provisions of *The Pension Benefits Act* that apply to it.

Payments to city to pay other employee benefits

95 Despite subsection 26(2) of *The Pension Benefits Act*, the commission's consent is not required for payments of surplus out of the pension plan to the city under the terms of the amended and restated pension plan if those payments

(a) are not more than the maximum payable to the city under subsection 26(2.3) of *The Pension Benefits Act*; and

(b) are not more than the amounts required by the city to fund benefits under the long-term disability plan and the early retirement benefits arrangement continued under the amended and restated employee benefits program.

STATUTORY OFFICERS

Appointment of statutory officers

96 Council must appoint the following statutory officers:

(a) the chief administrative officer for the city;

(b) the city clerk;

(c) the chief financial officer;

(d) the city auditor.

CHIEF ADMINISTRATIVE OFFICER

Powers etc. of chief administrative officer

97 The powers, duties and functions of the chief administrative officer for the city include

(a) carrying out the powers, duties and functions assigned to the officer by this or any other Act or by council or the executive policy committee of council;

(b) informing executive policy committee in respect of the operations and administration of the city;

(c) ensuring that by-laws and resolutions passed by council and the city's policies and programs are implemented;

(d) except as council otherwise directs, managing and supervising employees;

(e) except as council otherwise directs, and subject to an employee's contract or collective agreement or the terms of an employee's employment, appointing, suspending or dismissing employees other than statutory officers; and

- (f) ensuring the preparation of annual operating and capital budgets.

Suspension of chief administrative officer

98(1) The mayor may suspend the chief administrative officer for the city for a period not exceeding three working days.

EPC powers on suspension

98(2) Where the chief administrative officer for the city is suspended under subsection (1), the executive policy committee must, during the period of the suspension,

- (a) recommend to council that the chief administrative officer be dismissed;
- (b) terminate the suspension and reinstate the chief administrative officer; or
- (c) extend the suspension for a period of not more than 30 days and during that period
 - (i) recommend to council that the chief administrative officer be dismissed, or
 - (ii) terminate the suspension and reinstate the chief administrative officer.

CITY CLERK

Duties etc. of city clerk

99 The city clerk's powers, duties and functions include

- (a) ensuring that the minutes of every meeting of council or of a committee of council are prepared without note or comment;
- (b) ensuring that by-laws, resolutions and minutes of council and committees of council meetings, and other records and reports received by or provided to council or committees of council, are kept safe and in accordance with the policies and procedures approved by council for the retention and safekeeping of records;
- (c) ensuring that any information requested from the city by the minister is provided within a reasonable time; and
- (d) performing such other duties and functions and exercising such other powers as may be assigned to the clerk by this or any other Act or by council.

CHIEF FINANCIAL OFFICER

Duties etc. of chief financial officer

100 The powers, duties and functions of the chief financial officer include

- (a) ensuring that the revenues of the city are collected;
- (b) ensuring that money belonging to or held by the city is deposited to the credit of the city in a financial institution designated by council;
- (c) ensuring that accounts for authorized expenditures by the city are paid;
- (d) ensuring that accurate records and books of account are kept of the city's financial affairs;
- (e) ensuring that insurance, as required or approved by council, is in effect at all times to protect the city from losses or claims;
- (f) receiving and safekeeping of all money belonging to the city;
- (g) safekeeping of city securities that are undelivered to the purchasers or that are unsold, and delivering them to such persons and in such manner as is provided in this Act, and as directed by by-laws or resolutions of council;
- (h) ensuring that money collected for the purpose of paying interest and principal of city securities is properly applied to those payments;
- (i) submitting to council, within six months after the end of each fiscal year of the city, a report on the financial position of the city at the end of that fiscal year, including balance sheets, statements of revenue and expenditures and other financial statements necessary to provide full disclosure of the financial position of the city;
- (j) sending to the minister, within six months after the end of each fiscal year of the city, the report submitted to council under clause (i) and the reports of the city auditor in respect of that fiscal year;

- (k) sending to the minister, promptly after they are adopted, such number as the minister may request of copies of
 - (i) the city's operating budget for each fiscal year,
 - (ii) the city's capital budget for each fiscal year, and
 - (iii) each of the city's five-year capital forecasts; and
- (l) performing such other duties and functions and exercising such other powers as may be assigned to the chief financial officer by this or any other Act or by council.

Liability of chief financial officer

101 The chief financial officer is not liable to an action for any money paid by the chief financial officer in accordance with a by-law or resolution passed by council, except where an Act expressly provides for another disposition of the money.

CITY AUDITOR

Qualifications of city auditor

- 102(1) An individual is not eligible to be appointed as city auditor if the individual
- (a) is, or was, within one year before the appointment, a member of council;
 - (b) is not entitled to practise as an accountant under *The Chartered Accountants Act*, *The Certified General Accountants Act* or *The Society of Management Accountants of Manitoba Incorporation Act*; or
 - (c) within one year before the appointment entered into a contract with the city to provide a service or perform a function on behalf of the city, other than
 - (i) a contract to provide auditing services to the city in the capacity of a professional auditor,
 - (ii) a contract to receive goods or services provided by the city to the public at large, or
 - (iii) as an employee of the city.

Restrictions on holding public office

102(2) The city auditor is not eligible to hold any other public office.

Dismissal or suspension

103 The city auditor may be suspended or dismissed only by a resolution of council that is approved by not less than 2/3 of all members of council.

Responsible for office of city auditor

- 104(1) The city auditor
- (a) must supervise and is responsible for all matters relating to the internal operations of the offices of the city auditor and the employees employed under the city auditor;
 - (b) may regulate and establish procedures in respect of the operations of the office; and
 - (c) may appoint and compensate, within a budget approved by council, such employees as the city auditor considers necessary for carrying out the powers, duties and functions of the city auditor, and may suspend them.

Delegation by city auditor

- 104(2) The city auditor may delegate to an employee in the office of the city auditor any power, duty or function of the city auditor except
- (a) the duty to report to council under subsection 105(1); or
 - (b) the power to authorize an individual to have the powers and protection of a commissioner appointed under Part V of *The Manitoba Evidence Act*.

Duties re annual audit

105(1) The city auditor must ensure that a proper and complete audit of each annual consolidated financial statement of the city is made, and must, within six months after the end of each fiscal year of the city, make a report to council, in accordance with normal accounting practices and with such further terms, conditions and requirements as council may from time to time establish, in respect of the annual audit for that fiscal year, and expressing an opinion as to whether

- (a) the financial statements and financial information returns of the city fairly present its financial position;
- (b) all information required was provided within a reasonable time; and
- (c) any other matter the auditor considers appropriate has been brought to the attention of council.

Duties re operations

105(2) The city auditor must ensure that examinations of the operations of the city and each affiliated body are made at such times as the city auditor considers appropriate, and in accordance with such terms and conditions as council may from time to time establish, to determine whether

- (a) operations of the city are carried on, and money is expended, with due regard for economy and efficiency; and
- (b) satisfactory procedures have been established to measure, and report to council on the achievement of, economy and efficiency in the conduct of operations of the city and each affiliated body;

and the city auditor must report to council in respect of those examinations with any recommendations that the auditor considers relevant.

Audits of trusts and grantees

105(3) For the purposes of carrying out duties under subsection (2), the city auditor may examine and audit, or cause an examination and audit to be made of, the accounts and financial records of

- (a) any fund or property held in trust for the benefit or purposes of the city; and
- (b) any person to whom the city or an affiliated body makes, or has made, a financial contribution or a transfer of property for no or substantially inadequate consideration.

Special audits and examinations

105(4) Council may, at any time, direct the city auditor to examine and audit

- (a) anything done by the city or an affiliated body; or
- (b) any person to whom the city or an affiliated body has made a financial contribution or a transfer of property for no or substantially inadequate consideration;

and to report as directed by council in respect of the examination and audit.

Powers of auditor

105(5) The city auditor

- (a) has access to, and may at any reasonable times require production of, any record or document in the possession of an employee or a person employed by an affiliated body, that relates to the financial affairs, operations or property of the city or the affiliated body;
- (b) may require and receive information and explanations that the city auditor considers necessary for the proper performance of the city auditor's duties, from
 - (i) employees,
 - (ii) officers or employees of affiliated bodies,
 - (iii) persons to whom, or officers or employees of persons to whom, the city or an affiliated body has made a financial contribution or a transfer of property for no or substantially inadequate consideration,
 - (iv) financial institutions or their officers or employees,
 - (v) district registrars of land titles districts, and
 - (vi) officers of courts; and
- (c) may station employees employed under the city auditor in any of the offices or premises of the city or an affiliated body for the purposes of carrying out the duties and functions of the city auditor, and must require an employee so stationed to comply with any security measures that apply to individuals employed in the place in which the employee is stationed.

Reliance on other audits

105(6) The city auditor

(a) is not required to examine or audit, or cause an examination or audit to be made of, the accounts and financial records of the city or an affiliated body if the city auditor is satisfied that

(i) council has assigned the audit to an external auditor under subsection 107(2), or

(ii) a person who has the qualifications referred to in subsection 107(1) has audited the accounts and financial records of the body for the fiscal period that is of interest to the city auditor; and

(b) is entitled to receive, on written request, a copy of any certificate, statement or comment given or made by a person under clause (a) in respect of that fiscal period.

Powers under Part V of Evidence Act

106(1) For the purposes of carrying out the duties and functions of the city auditor, the city auditor, or an individual authorized in writing by the city auditor, has the powers and protection of a commissioner appointed under Part V of *The Manitoba Evidence Act*, but section 85 (oath of office) of that Act does not apply to the city auditor or authorized individual, and no notice of the appointment, of the scope of the inquiries to be made, or of the time and place of the holding of any hearing or inquiry, need be published as required under section 86 (notice of appointment of commission) of that Act.

Report to council re examination

106(2) Where the city auditor exercises the powers of a commissioner under subsection (1) or authorizes an individual to exercise those powers, the city auditor must promptly advise council in writing of that fact.

Appointment and qualifications of external auditor

107(1) Council may appoint one or more persons as external auditors if

(a) where the person is an individual, he or she would be eligible to be appointed as the city auditor; and

(b) where the person is a firm of accountants, none of its members or associates would be ineligible to be appointed as the city auditor under clause 102(1)(a).

Responsibilities of external auditor

107(2) Council may assign the audit of an affiliated body or of the annual consolidated financial statement of the city under subsection 105(1) to an external auditor.

City auditor and external auditor

107(3) The city auditor must provide an external auditor with such information, records, documents and other assistance as the external auditor requires for the purpose of the audit.

Powers and duties of external auditor

107(4) Subsection 105(6) and section 106 apply to an external auditor, with necessary changes.

Report of external auditor on statements

107(5) An external auditor must report to council

(a) the results of an audit within six months after the end of the fiscal year, and the report must include the matters set out in subsection 105(1); and

(b) any irregularity that comes to his or her attention, including any failure on the part of an employee to comply with a request of the external auditor.

MEDICAL OFFICER OF HEALTH

Medical officer of health is a designated employee

108 Subject to an agreement between the city and the authority employing the medical officer of health, a medical officer of health, and every individual designated by the medical officer of health, is deemed to be a designated employee for the purposes of the administration and enforcement of every by-law and every provision of this Act respecting the health, safety or well-being of people, and has all the powers, duties and functions of a designated employee for those purposes.

DIVISION 2

RECORDS MANAGEMENT

By-law respecting records

109 Council must pass a by-law providing for the management, retention, safekeeping, disposition and destruction of records.

City archivist

110(1) Council must designate an employee as the city archivist who must

- (a) establish and administer a system of records management to serve the current and long-term requirements and interests of the city; and
- (b) perform such other duties and functions and exercise such other powers as may be assigned to the city archivist by council.

Records committee established

110(2) There shall be a records committee which shall

- (a) be composed of the city archivist and such other individuals, who may be employees or citizens, as council shall, from time to time, designate; and
- (b) make recommendations to council, and implement policies and procedures approved by council, for the management, retention, safekeeping, disposition and destruction of records.

Approval for destruction or removal of record

111 A record created or held by the city must not be destroyed or removed from the custody and control of the city by any employee unless

- (a) the destruction or removal is permitted under a by-law; or
- (b) the employee has obtained the written approval of the records committee to destroy or remove the record, as the case may be.

Records available on request

112(1) The city clerk must, within a reasonable time after the request of any person, provide access to, or direct the person to another employee who has custody of and who must provide access to, any of the following city records:

- (a) the assessment rolls of the city for the current year and for the two preceding years;
- (b) the tax rolls of the city for the current year and for the two preceding years;
- (c) quarterly financial reports for the current fiscal year prepared by the chief financial officer;
- (d) the agenda for any open meeting of council or of a committee of council;
- (e) any report that has been received by council at an open meeting;
- (f) the approved minutes of any open meeting of council or of a committee of council;
- (g) attachments to the minutes of any open meeting of council or of a committee of council;
- (h) by-laws;
- (i) any resolution passed at an open meeting of council or a committee of council;
- (j) records prepared by the city in respect of streets, showing the numbers of the buildings on them, and the names and numbers of all multiple dwellings and business buildings, if any;

(k) the audited statements of election expenses of, and contributions for, any candidate in a general election or any election held to fill a vacancy on council.

Certified copies of by-laws

112(2). The city clerk must provide, within a reasonable time, to any person who requests it, a copy of any by-law, or of any resolution or order passed at an open meeting of council or a committee of council, under seal of the city and certified by the clerk to be a true copy.

Personal security protection

112(3). Despite anything in this or any other Act,

(a) the name and other personal information of or about an individual must be omitted or obscured from an assessment roll or tax roll produced under this section if the individual applies in writing to the clerk to have that information omitted or obscured to protect the individual's personal security; and

(b) information about an elector that, under subsection 36.1(1) (personal security protection on lists and records) of *The Local Authorities Election Act*, was omitted from, or obscured on, a list of electors or other record must not be made available for examination, inspection or copying.

DIVISION 3

NOTICES AND SERVICE OF DOCUMENTS

Public notices of hearings and other matters

113(1). Except where this Act provides otherwise, where public notice of a hearing or other matter is required by this Act, the city must publish the notice in a newspaper having general circulation in the city,

(a) where the notice relates to a hearing, at least 14 days before the day when the hearing is to begin; and

(b) where the notice relates to a matter other than a hearing, at least 14 days before any step is taken or work is done in respect of the matter.

Multiple publications of public notices

113(2). Except where this Act provides otherwise, where a public notice of a hearing or other matter is required to be published in a newspaper more than once, the publications must be at least 6 days apart and one of the publications may be less than 14 days before the day when the hearing is to begin or any step is taken or work is done in respect of the matter.

Copies of published notices

113(3). The city must compile and make available through the city clerk's office copies of all current notices published in compliance with this Act or a by-law in any newspaper or *The Manitoba Gazette* that relate to hearings or other matters.

Exceptions to newspaper notice

113(4). Where a designated employee determines that the matter to be considered at a hearing affects only a specific building or parcel of land, the required notice of the hearing may be provided by posting a notice of the hearing on the building or parcel, in accordance with section 118 (posting notices) instead of giving public notice thereof by publication in a newspaper.

Notice to persons of hearing

114. Except where this Act provides otherwise, where a notice of a hearing is required by this Act to be given to, sent to or served on a person, the notice must be given to, sent to or served on the person at least 14 days before the day of the hearing.

Content of notice of hearing

115(1). Where this Act requires a notice to be given about a hearing, the notice must set out

(a) the name of the committee or other body that will conduct the hearing;

(b) the date, time and place of the hearing;

(c) a general description of the matter to be considered at the hearing;

- (d) a statement that the purpose of the hearing is to allow interested persons to make submissions, ask questions or register objections in respect of the matter; and
- (e) an address where information or documents concerning the matter and a description of the procedure to be followed at the hearing are available for inspection.

Content of notice of other matters

115(2). Except where this Act provides otherwise where a notice is required to be given about a matter other than a hearing, the notice must set out

- (a) a general description of the matter;
- (b) the nature of any proposed action that may be taken in respect of the matter and when the action could be taken;
- (c) the manner in which objections to any such proposed action may be made; and
- (d) an address where information or documents concerning the matter and a description of the procedure to be followed in respect of the proposed action are available for inspection.

Service of order or decision

116(1). Where council, a committee of council, an employee or other body authorized by this Act or council makes an order or decision, as soon as practicable after the order or decision is made, a copy of the order or decision must be given

- (a) to the person in respect of whom, or in respect of whose application, the order or decision was made; and
- (b) to any other person to whom a copy of the order or decision is required by this Act or council to be given.

Notice of appeal with order or decision

116(2). Where an order or decision mentioned in subsection (1) is subject to appeal under this Act or a by-law, the order or decision and every copy thereof

must set out

- (a) the reasons for the order or decision;
- (b) a statement that there is a right to appeal the order or decision, and the procedure to be followed for appealing it;
- (c) the person or hearing body to which the appeal may be taken; and
- (d) the date before which any appeal must be filed.

Service of notices, orders and documents

117(1). Except where this Act provides otherwise, where a notice, order or other document is required by this Act to be given to, sent to or served on a person, the requirement must be effected

- (a) by delivering a copy of it to the person; or
- (b) by sending a copy of it to the person, addressed to the person's address as determined in accordance with a by-law, by registered mail, delivery or facsimile transmission or by other type of communication facility for which confirmation of the sending of the copy may be obtained.

Notice by mail

117(2). A copy of a notice, order or document to be sent by mail to a person in compliance with a provision of this Act

- (a) must be sent to the person's address, as that address is determined in accordance with a by-law; and
- (b) is deemed to be received by the person on the third day after the day it is mailed.

Where service not possible

117(3). Where for any reason it is unreasonable to comply with subsection (1) in respect of giving, sending or serving of a notice, order or document to or on a person, and the notice or document relates to a hearing or matter in respect of a specific building or parcel of land, if a copy of the notice, order or document is posted on the building or land in accordance with section 118,

- (a) the notice, order or document is deemed to be given to, sent to or served on the person; and

(b) the person is deemed to have received a copy of the notice, order or document seven days after posting.

Posting notices etc.

118 Where a notice, order or other document is permitted or required by this Act to be posted on a building or parcel of land, the notice, order or document must be

- (a) posted outdoors
 - (i) in conspicuous locations on the site of the building or parcel,
 - (ii) facing each street adjacent to the site or parcel, and
 - (iii) not more than 1 m inside the boundary lines of the site or parcel;
- (b) of such size and dimensions, printed in such easily legible characters, and maintained in such manner, as may be prescribed by by-law; and
- (c) where it is a notice of a hearing or relates to an anticipated action, posted at least 14 days before the day the hearing is to take place or the earliest day when the anticipated action is to be taken.

Council may vary notice requirements

119 Despite any other provision of this Division, council may by by-law vary the requirements for notice set out in this Division where council considers that it is impractical or impossible to comply with those requirements.

Evidence of notice or service

120 A certificate of a designated employee certifying

- (a) that public notice has been given in accordance with this Act or a by-law;
- (b) that a notice, order or document has been given, sent or served on a person in accordance with this Act or a by-law; or
- (c) that a notice, order or document has been posted in accordance with section 118;

is proof, in the absence of evidence to the contrary, of the matters set out in the certificate and is admissible in evidence without proof of the designation or signature of the employee who signed it, and evidence that a copy of a notice or document was posted at the beginning of any period during which it is required to be kept posted is conclusive proof that it was kept posted during the period.

Service on city

121 A notice or other document required to be served on the city must be served by delivering it to the city clerk or an employee designated by the city clerk.

DIVISION 4

HEARINGS

By-law re procedures at hearings

122(1) Council may pass a by-law establishing procedures to be followed by hearing bodies, which may include provisions

- (a) permitting hearing bodies to establish reasonable time limits for presentations, questions or objections;
- (b) providing that a hearing body may decline to hear presentations, questions or objections where the body is satisfied that the matter has been adequately addressed at the hearing;
- (c) allowing a hearing body to determine which of several presentations that are the same or similar the body will hear;
- (d) respecting the expulsion of individuals from hearings for improper or disruptive conduct; and
- (e) respecting the adjournment of hearings.

Preliminary meeting

122(2) A hearing body required under this Act or a by-law to hold a hearing may, before the hearing and in accordance with any procedure established under a by-law passed under subsection (1), convene a public meeting for discussion of the subject matter of the hearing.

Conduct of hearing

122(3) A hearing body required under this Act to hold a hearing must

- (a) at the time and place set out in the notice of the meeting, begin the hearing;
- (b) subject to the provisions of a by-law passed under subsection (1), hear any person who may be affected by the result of the hearing and who wishes to make submissions, ask questions or register objections on their own behalf or on behalf of others; and
- (c) keep a record of its proceedings in a manner prescribed by by-law.

Adjournment of hearings

123(1) A hearing required under this Act may be adjourned but, unless the date, time and place of the continuation of the hearing is announced at the time of the adjournment, the hearing body must give public notice of that information as though the continuation were a new hearing.

New matters on continuation

123(2) A hearing body conducting a hearing required under this Act may, after an adjournment of the hearing and before its conclusion, receive submissions in respect of new subject matter not set out in the original notice of the meeting, but only if the hearing body gives a new notice of the continuation under subsection (1) setting out the new subject matter.

DIVISION 5

PETITIONS AND OBJECTIONS

Form and content of petitions

124(1) Where this Act requires or provides for a petition to be presented to council, the petition is sufficient if

- (a) it consists of one or more pages, each of which contains an identical statement of the purpose of the petition;
- (b) it includes, for each person who signs it,
 - (i) the person's surname and given name or initials legibly printed or, if the person is not an individual, the person's corporate or business name or the name under which it carries on activities,
 - (ii) the person's signature,
 - (iii) the date when the person signed it, and
 - (iv) the person's address or, where the person resides outside the city, the address or legal description of the land located in the city the ownership of which is the basis of the person's right to be qualified to sign the petition;
- (c) it is filed with the city clerk within 90 days after the day when the first signature was placed on it; and
- (d) if it is filed for the purpose of complying with a provision of this Act that requires a petition signed by a prescribed number of persons who meet prescribed criteria, it contains the required number of signatures of persons with those qualifications.

Determination of sufficiency of petition

124(2) When a petition is filed with the city clerk, a designated employee must

- (a) determine its sufficiency by determining whether it complies in all respects with subsection (1), and in particular by
 - (i) counting the number of persons who have signed it, and
 - (ii) determining how many of them are qualified to sign it; and
- (b) report to council or a committee of council, as the case requires, whether it is sufficient or insufficient.

Counting of signatories

124(3) In counting under subsection (2) the number of persons who have signed a petition, the designated employee must exclude any person if

- (a) the person's signature appears on a page of the petition that does not contain the statement required by clause (1)(a);
- (b) anything required by clause (1)(b) to be included in respect of the person is not included; or

(c) the person is, for any other reason, not qualified to sign the petition.

Form and content of objection

125(1) Where this Act provides that an objection may be filed in respect of any matter, the objection is valid if

- (a) it is in writing;
- (b) it sets out a clear description of the matter to which the objection relates and clearly expresses an objection to the matter;
- (c) it is signed by one or more persons and, for each person who signs it, includes
 - (i) the person's surname and given name or initials legibly printed or, if the person is not an individual, the person's corporate or business name or the name under which it carries on activities,
 - (ii) the date when the person signed it, and
 - (iii) the person's address and, if the objection relates to property or premises the address of which differs from the person's address, the address of the property or premises to which the objection relates and the person's interest in that property or those premises;
- (d) it is filed with the city clerk; and
- (e) if it is required to be filed before a specified day or in a specified period, it is filed before that day or in that period, as the case requires.

Determination of sufficiency of objections

125(2) When objections in respect of any matter are filed with the city clerk, a designated employee must

- (a) determine which of the objections are valid by determining whether they comply in all respects with subsection (1);
- (b) count the number of persons who have signed valid objections in respect of the matter and determine how many of those persons are qualified to sign objections in respect of the matter; and
- (c) report to council or a committee of council, as the case requires, whether the number of persons who have signed, and are qualified to sign, objections in respect of the matter is sufficient or insufficient in respect of that matter.

Counting of signatories

125(3) In counting under subsection (2) the number of persons who have signed objections in respect of any matter, the designated employee must exclude any person if

- (a) the person's signature appears on a page that does not set out the matter to which the objection relates and an objection to that matter as required by clause (1)(b);
- (b) anything required by clause (1)(c) to be included in respect of the person is not included; or
- (c) the person is, for any other reason, not qualified to file an objection in respect of the matter.

Signatures after filing

126 No signatures may be added to or removed from a petition or an objection after it is filed with the city clerk.

Determination final

127 The determination of the designated employee as to the sufficiency of a petition or the validity or sufficiency of objections is final.

Sections: 1 - 127 | 128 - 282 | 283 - 450 | 451 - 539