

# Guide to The Planning Amendment and Winnipeg Charter Amendment Act: Appeals and Performance Standards

## Part A - Introduction

The Planning Amendment and City of Winnipeg Charter Amendment Act – Bill 37 (The Act) received Third Reading and Royal Assent on May 20, 2021. On October 29, 2021 the appeals and performance standards sections were proclaimed.

This guide explains those proclaimed sections and is intended for primary stakeholders - municipalities and planning districts. It provides an overview and explanation of key changes to planning processes introduced by The Act. The guide will also be useful to the general public, the development community and others with an interest in land use planning and permitting.

The Act delivers on Manitoba's commitment to modernize planning and permitting processes and reduce red tape on development, while balancing the public interest. The legislation makes a number of changes to improve efficiency, transparency and accountability of planning and permitting, while also enhancing opportunities for economic growth in across the province.

Through improved collaboration and coordination of planning, permitting and development, The Act helps build a solid foundation for ongoing economic success and position Manitoba to encourage investment and compete on a global scale.

Additional details are provided in appendices to this document. For example, flowcharts showing the various planning processes and the changes, are attached in Appendix C. Additional information on The Act, including Fact Sheets and FAQs, are posted on the Department's website in the Quick Links section at <https://www.gov.mb.ca/mr/index.html>.

**Note:** In this *Guide*, the term '**planning authority**' means an appointed or elected body, or a person, enabled to receive and process applications, hold hearings and/or make decisions on planning and development matters, and includes: municipal councils, planning district boards, applicable council committees, planning commissions and designated employees or officers.

## PART B - Appeals and Time Limits

### Municipal Board

- 1. Municipal Board to hold hearing in 120 days** - Except as otherwise stated in The Planning Act or The City of Winnipeg Charter, the Municipal Board now must hold a hearing on planning appeals within 120 days of receiving the notice.
- 2. Municipal Board to give decision/report in 60 days** - Except as elsewhere stated in The Planning Act or The City of Winnipeg Charter, the Municipal Board must issue its decision or report within 60 days of the

hearing.

- 3. Municipal Board may assign costs** - In the case of an appeal of a missed deadline, if the Municipal Board finds there was an unreasonable delay by a municipality or planning district, it may charge the hearing and applicant's costs to the municipality or planning district.

## Appeals and time limits – See Appendices A and B for further detail

- 1. Rejections may be appealed** - If a planning authority refuses to accept, rejects, resolves not to proceed or fails to come to terms on a:
  - a. zoning by-law amendment
  - b. secondary plan amendment
  - c. subdivision application
  - d. permit application
  - e. development agreement

The applicant may appeal the decision to the Municipal Board.

- 2. Some conditions may also be appealed** – Conditions in addition to what are permitted in The Planning Act or an approved local by-law may be appealed to the Municipal Board.
- 3. Appeal of missed deadlines** - Besides appealing a rejection, an applicant can appeal a missed deadline to the Municipal Board.

## Part C - General/Miscellaneous Changes

- 1. Hearings may be held before 1<sup>st</sup> reading of a planning by-law** - Planning authorities outside of Winnipeg will now be able to hold a public hearing on a development plan, zoning by-law or secondary plan by-law prior to first reading. Winnipeg has had this authority for a number of years.
- 2. Written reason for rejection** - A planning authority must now give a written reason for rejecting a development application.
- 3. Review Period Proclaimed** – The Planning Act and City of Winnipeg Charter now include a section that requires these legislative amendments be reviewed in three years.

## Other Conditional Use, Variance and Permit changes

- 1. Conditional use and variance approvals may be extended by 1 more year** - Conditional uses and variances may be extended for up to an additional 12 months (for a total of 24 months beyond the 12 month original approval) making a conditional use order or variance approval potentially good for up to 3 years.
- 2. Winnipeg may require a development agreement for a conditional use or variance** - The City of Winnipeg may now require a development agreement as a condition of approving a conditional use or variance. This is consistent with The Planning Act.

## **APPENDICES**

Appendix A – Service Standards (Timelines)

Appendix B – Appeals Provisions

Appendix C – Planning and Development Approval Process Flow Charts

Appendix D – Regulation Making Powers for Proclaimed Parts of Bill

## **Appendix A:**

### **Service Standards (Timelines)**

The recent amendments to The Planning Act and City of Winnipeg Charter introduce new timelines for planning processes in the City of Winnipeg and all other municipalities and planning districts. Failure to meet timelines can be appealed to Municipal Board. The following are key timelines established under the legislation.

## The Planning Act – New Service Standards

Application Type	Service Standard(s)
Secondary Plan amendment decision	<ul style="list-style-type: none"> <li>• 90 days from date application is made to hearing</li> <li>• 60 days from hearing to council decision or referral to Municipal Board</li> </ul>
Zoning By-law amendment decision	<ul style="list-style-type: none"> <li>• 90 days from date application is made to hearing</li> <li>• 60 days from hearing to council decision or referral to Municipal Board</li> </ul>
Subdivision decision	<ul style="list-style-type: none"> <li>• 90 days from date application is received by council to resolution</li> <li>• 60 days from date of council resolution to approving authority decision</li> </ul>
Minor subdivision decision	<ul style="list-style-type: none"> <li>• 60 days from date application is received by council to decision</li> </ul>
Development agreement	<ul style="list-style-type: none"> <li>• 90 days from date development agreement is required under section 150 to conclusion</li> </ul>
Development agreement amendment	<ul style="list-style-type: none"> <li>• 90 days from date completed application is received by city</li> </ul>
Development permit	<ul style="list-style-type: none"> <li>• 20 days to determine whether application is complete from date application submitted (unless extended by agreement between applicant and planning district/municipality)</li> <li>• 60 days to determine if the proposed development conforms with the applicable provisions of the development plan by-law, zoning by-law and any secondary plan by-law from the date the application is submitted (already exists in The Planning Act)</li> </ul>
Municipal Board	<ul style="list-style-type: none"> <li>• 120 days<sup>1</sup> from date appeal notice or sufficient objections notice is received to hearing</li> <li>• 60 days<sup>2</sup> from date hearing is concluded to order</li> <li>• 60 days to refer zoning by-law or secondary plan if sufficient objections received</li> </ul>

**Note:** Only new appealable service standards are included.

<sup>1</sup>Except where otherwise stated in The Planning Act (eg. for subdivisions and conditional uses there is no timeline on when the Municipal Board must hold a hearing once an appeal notice has been received).

<sup>2</sup>Except where otherwise stated in The Planning Act (eg. for subdivisions and conditional uses Municipal Board must make order within 30 days after the hearing is concluded).

## The City of Winnipeg Charter Act – New Service Standards

Application Type	Service Standard(s)
Development Plan amendment decision	<i>None</i>
Secondary Plan amendment decision	<ul style="list-style-type: none"> <li>• 150 from date completed application is received by city to decision</li> </ul>
Zoning by-law amendment decision	<ul style="list-style-type: none"> <li>• 150 from date completed application is received by city to decision</li> </ul>
Subdivision decision by council	<ul style="list-style-type: none"> <li>• 150 days from date completed application is received by city to decision</li> </ul>
Subdivision decision by designated employee	<ul style="list-style-type: none"> <li>• 60 days from date completed application is received by city to decision</li> </ul>
Development agreement executed under subsection 240(4) or ordered by The Municipal Board under section 282.1	<ul style="list-style-type: none"> <li>• 90 days from date applicable zoning by-law, plan of subdivision, conditional use or variance is approved by the city or ordered by The Municipal Board</li> </ul>
Development agreement amendment	<ul style="list-style-type: none"> <li>• 90 days from date completed application is received by city</li> </ul>
Development permit	<ul style="list-style-type: none"> <li>• 20 days to determine whether application is complete from date application submitted (unless extended by an agreement in writing between the applicant and planning district or municipality)</li> <li>• <i>If a permit that is subject to section 246 is withheld for longer than 60 days, the owner of the land is entitled to compensation for damages resulting from the withholding of the permit—except as provided for in clauses 246(2)(b) and (c)— and subsections 245(2) and (3) (where permit cancelled) apply, with necessary changes, in respect of the withholding (already exists in The City of Winnipeg Charter Act).</i></li> </ul>
Municipal Board	<ul style="list-style-type: none"> <li>• 120 days from date appeal notice is received to hearing</li> <li>• 60 days from date hearing is concluded to order</li> </ul>

---

Note: Only new appealable service standards are included.

## **Appendix B: Appeal Provisions**

The recent amendments to The Planning Act and City of Winnipeg Charter introduce new appeal provisions for planning processes in the City of Winnipeg and all other municipalities and planning districts. The following are appeal provisions established under the legislation.

## The Planning Act – New Appeal Provisions for Service Standards, Decision or Condition

Action	Appealable by applicant	Timeline for applicant to file Notice of Appeal	Appeal hearing body
Missed service standard (general)	Yes	14 days from missed service standard	Municipal Board
Missed service standard (subdivision)	Yes	30 days from missed service standard	Municipal Board
Secondary Plan amendment decision by PD board, council or planning commission	Yes	14 days from notice of decision or date a development agreement is imposed	Municipal Board
Zoning By-law amendment decision by PD board, council or planning commission	Yes	14 days from notice of decision or date a development agreement is imposed	Municipal Board
Terms and conditions of development agreement that has been required as a condition of amending a zoning by-law, making a variance order or approving a conditional use	Yes	14 days from expiry of the time period for coming to an agreement (90 days)	Municipal Board
Development agreement amendment decision	Yes	14 days from notice of decision	Municipal Board
Development permit decision	Yes	14 days from notice of decision	Municipal Board

Note: "Decision" includes both rejection of an application and conditions of approval.



## The City of Winnipeg Charter Act – Service Standards, Decision or Condition

Note: "Decision" includes both rejection of an application and conditions of approval.

<b>Action</b>	<b>Appealable by applicant</b>	<b>Timeline for applicant to file Notice of Appeal</b>	<b>Appeal hearing body</b>
Missed service standard	Yes	14 days from missed timeline	Municipal Board
Refusal by a designated employee of a development proposal <sup>1</sup> for not conforming to a Plan Winnipeg by-law or a secondary plan by-law	Yes	14 days from date notice of refusal received	Municipal Board
Secondary Plan amendment decision	Yes	14 days from notice of decision	Municipal Board
Zoning by-law amendment decision	Yes	14 days from notice of decision	Municipal Board
Plan of subdivision decision by council	Yes	14 days from notice of decision	Municipal Board
Development agreement amendment	Yes	14 days from notice of decision	Municipal Board
Decision by a designated employee that a development permit application is incomplete	Yes	14 days after notice of decision	Municipal Board
<b>Action</b>	<b>Appealable by public</b>	<b>Timeline for public to file Notice of Appeal</b>	<b>Appeal hearing body</b>
Zoning by-law amendment decision <sup>2</sup>	Yes	14 days after notice of first reading	Municipal Board

<sup>1</sup> A development proposal means a proposal which would require the approval of a subdivision application, a by-law amendment or a development permit.

<sup>2</sup> Sufficient objections have to be received at the public hearing and after notice of first reading for the application to be referred to the Municipal Board.

# Appendix C:

## Planning and Development Approval Process Flow Charts

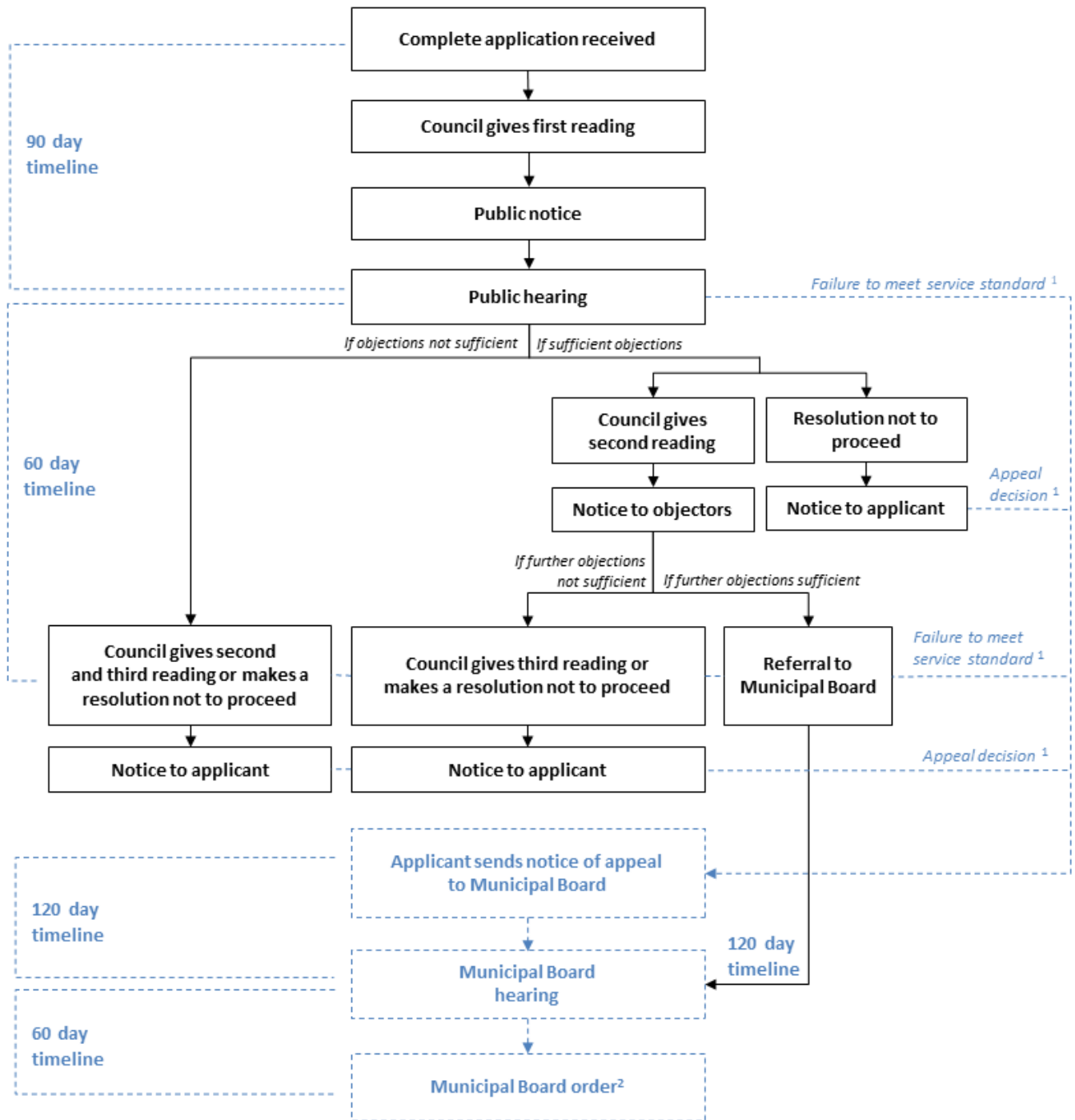
The following flowcharts show planning and development application approval processes under The Planning Amendment and Winnipeg Charter Amendment Act. They identify steps required by The Planning Act, the City of Winnipeg Charter and the City of Winnipeg Development Procedures By-law (104/2020), as well as avenues for public objection, new service standards, and opportunities for appeal of decisions made by designated officials, planning commissions, councils and planning districts introduced under The Planning Amendment and Winnipeg Charter Amendment Act.

### Notes:

“Decision” includes both rejection of an application and conditions of approval.

Blue text denotes service standards and appeal provisions introduced under The Planning Amendment and Winnipeg Charter Amendment Act.

# The Planning Act Secondary Plan Approval Process

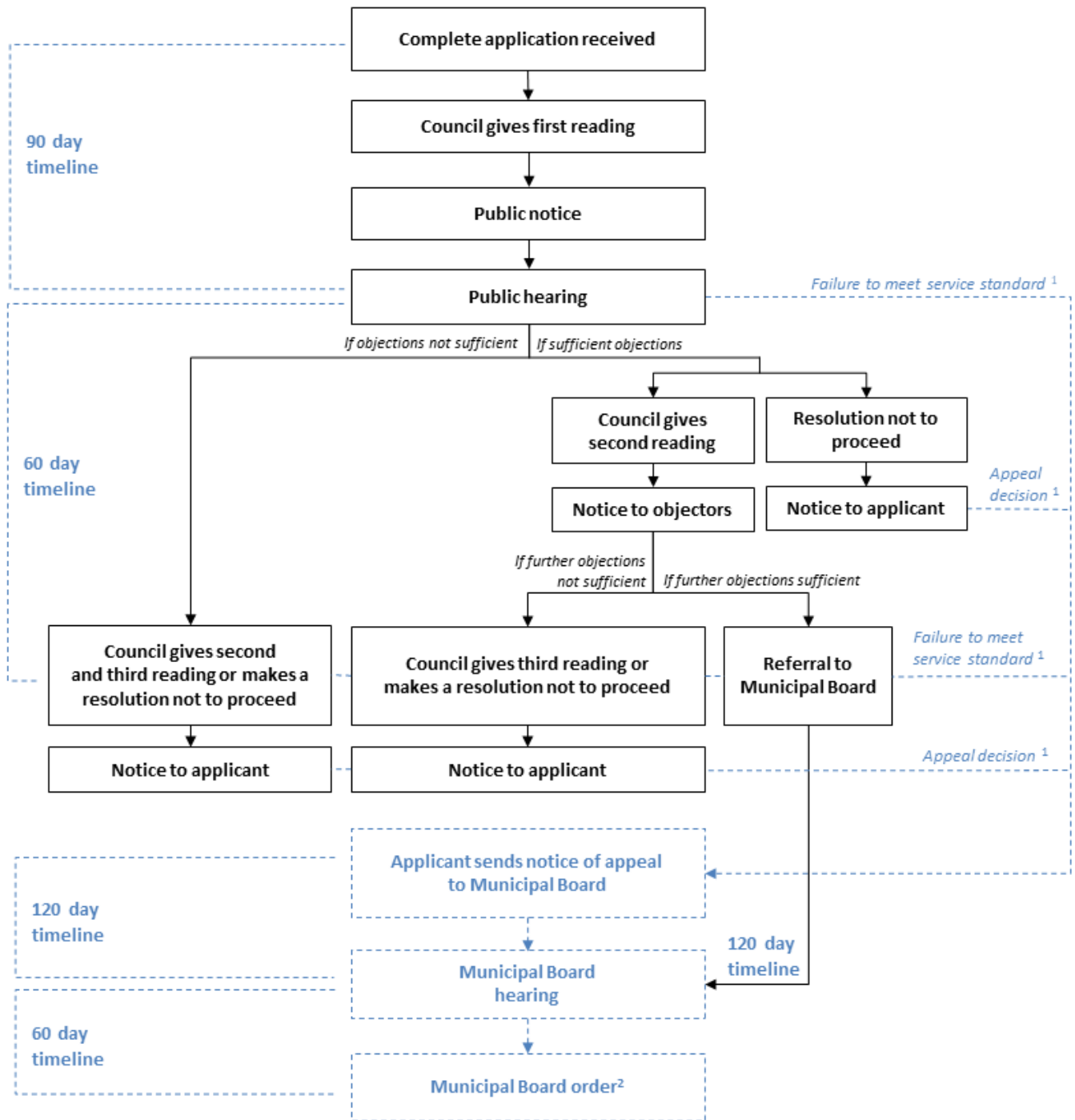


<sup>1</sup> Applicant has 14 days to appeal.

<sup>2</sup> If appeal was triggered by public objections (referral to Municipal Board), the by-law needs to receive third reading in order to be considered approved.

# The Planning Act

## Zoning By-law Approval Process

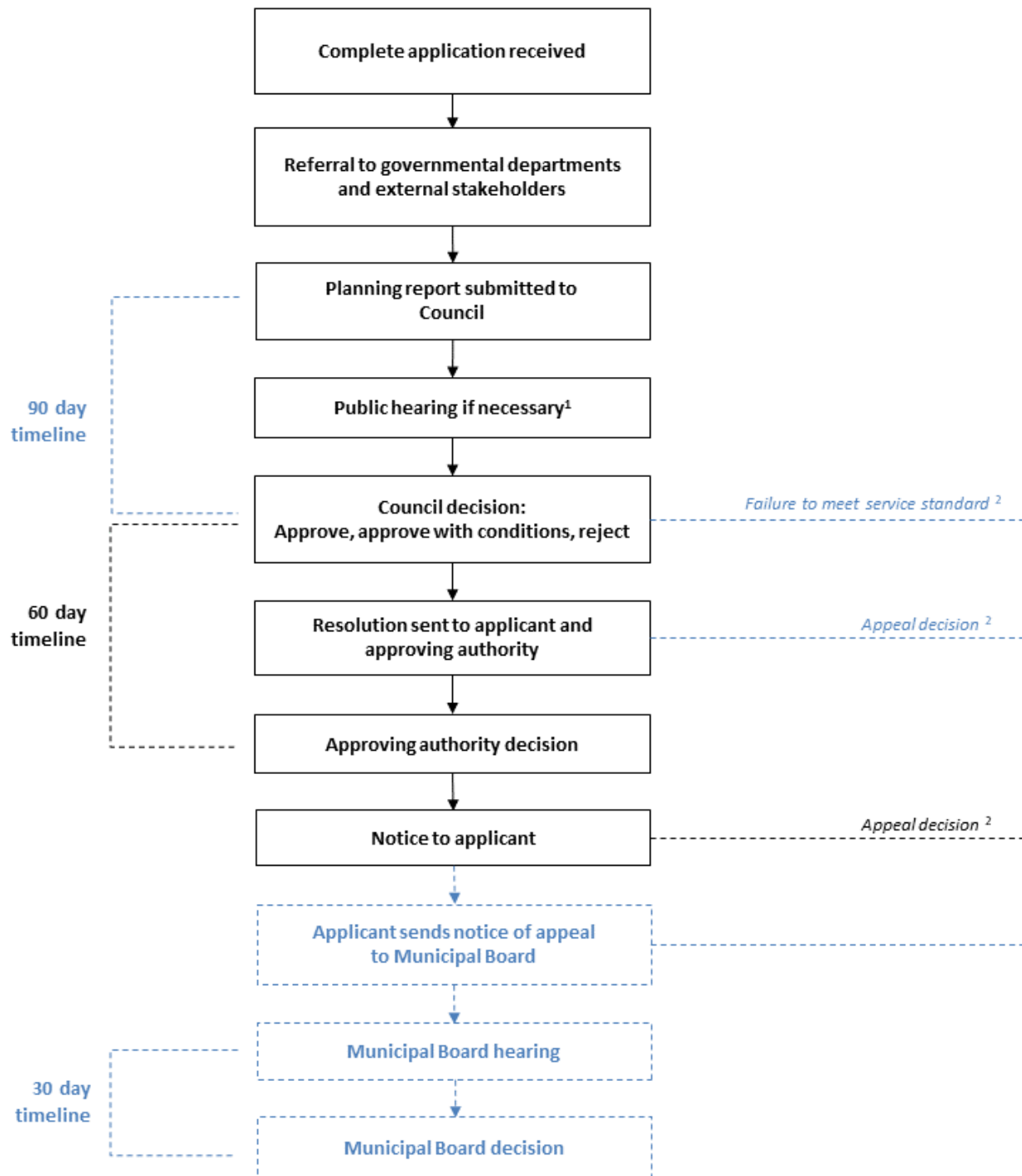


<sup>1</sup> Applicant has 14 days to appeal.

<sup>2</sup> If appeal was triggered by public objections (referral to Municipal Board), the by-law needs to receive third reading in order to be considered approved.

# The Planning Act

## Subdivision Approval Process (Standard)

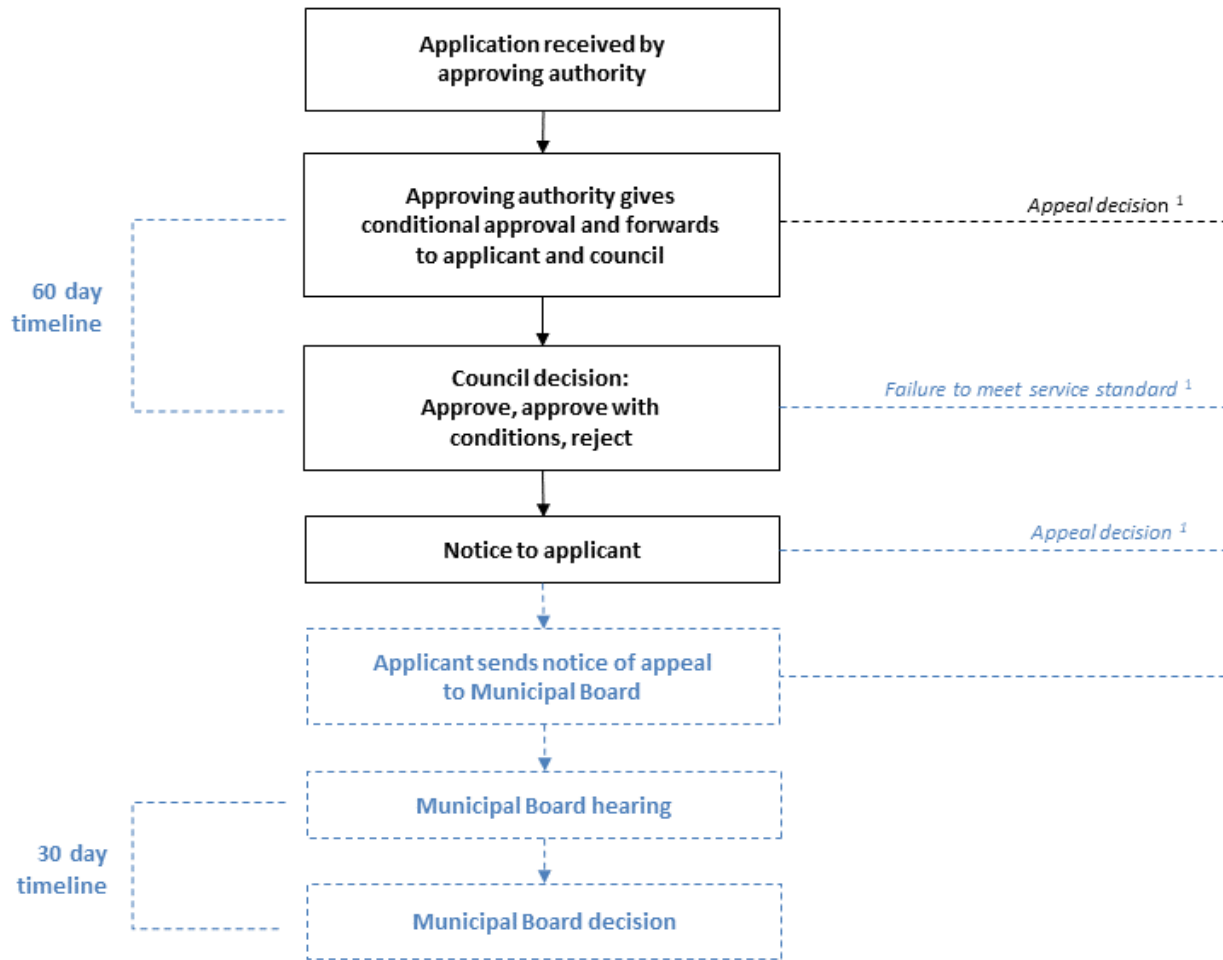


<sup>1</sup> If new public road is proposed.

<sup>2</sup> Applicant has 30 days to appeal.

# The Planning Act

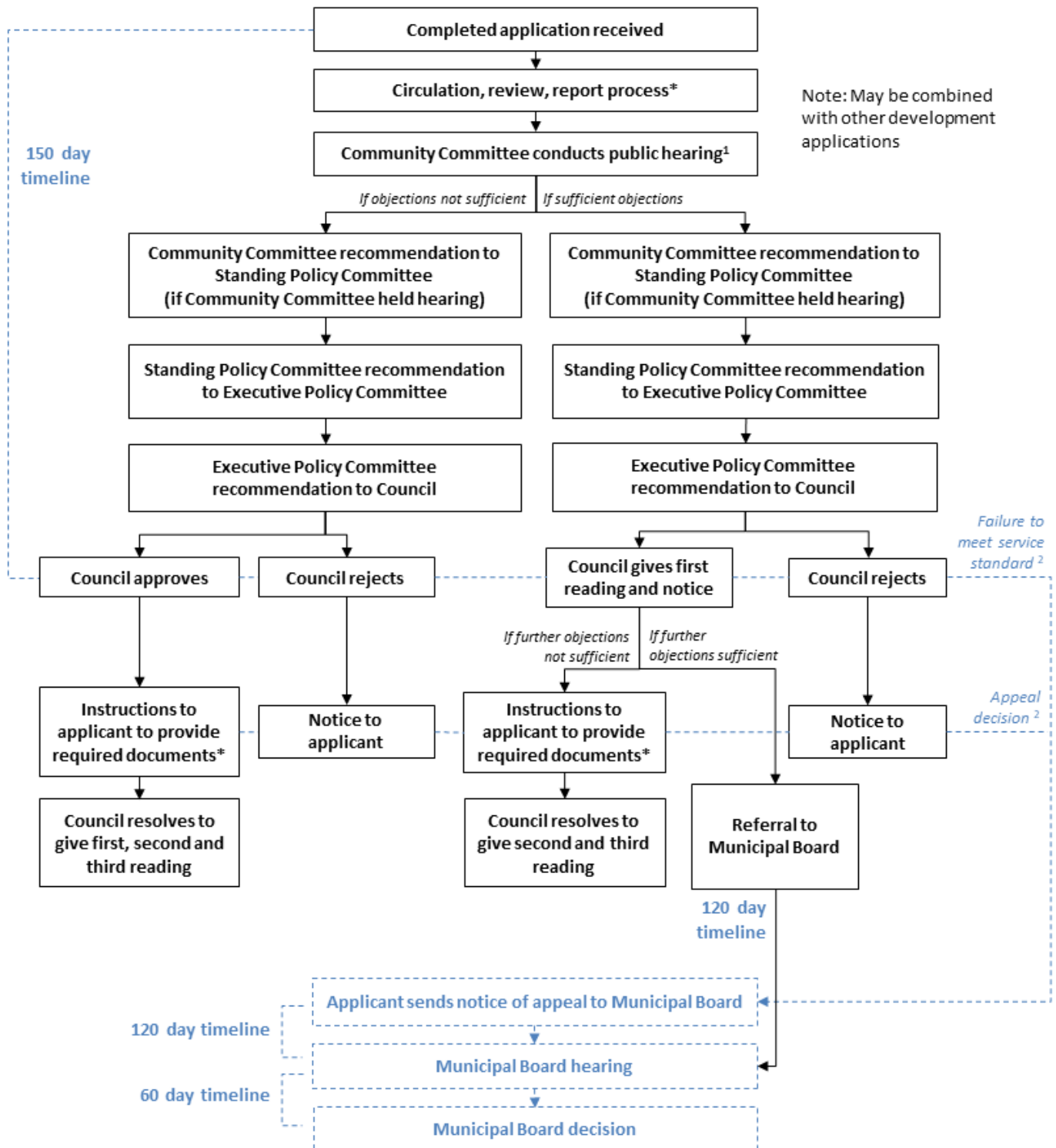
## Subdivision Approval Process (minor)



<sup>1</sup> Applicant has 30 days to appeal.

# City of Winnipeg Charter

## Secondary Plan Amendment Approval Process



Note: May be combined with other development applications

Failure to meet service standard<sup>2</sup>

Appeal decision<sup>2</sup>

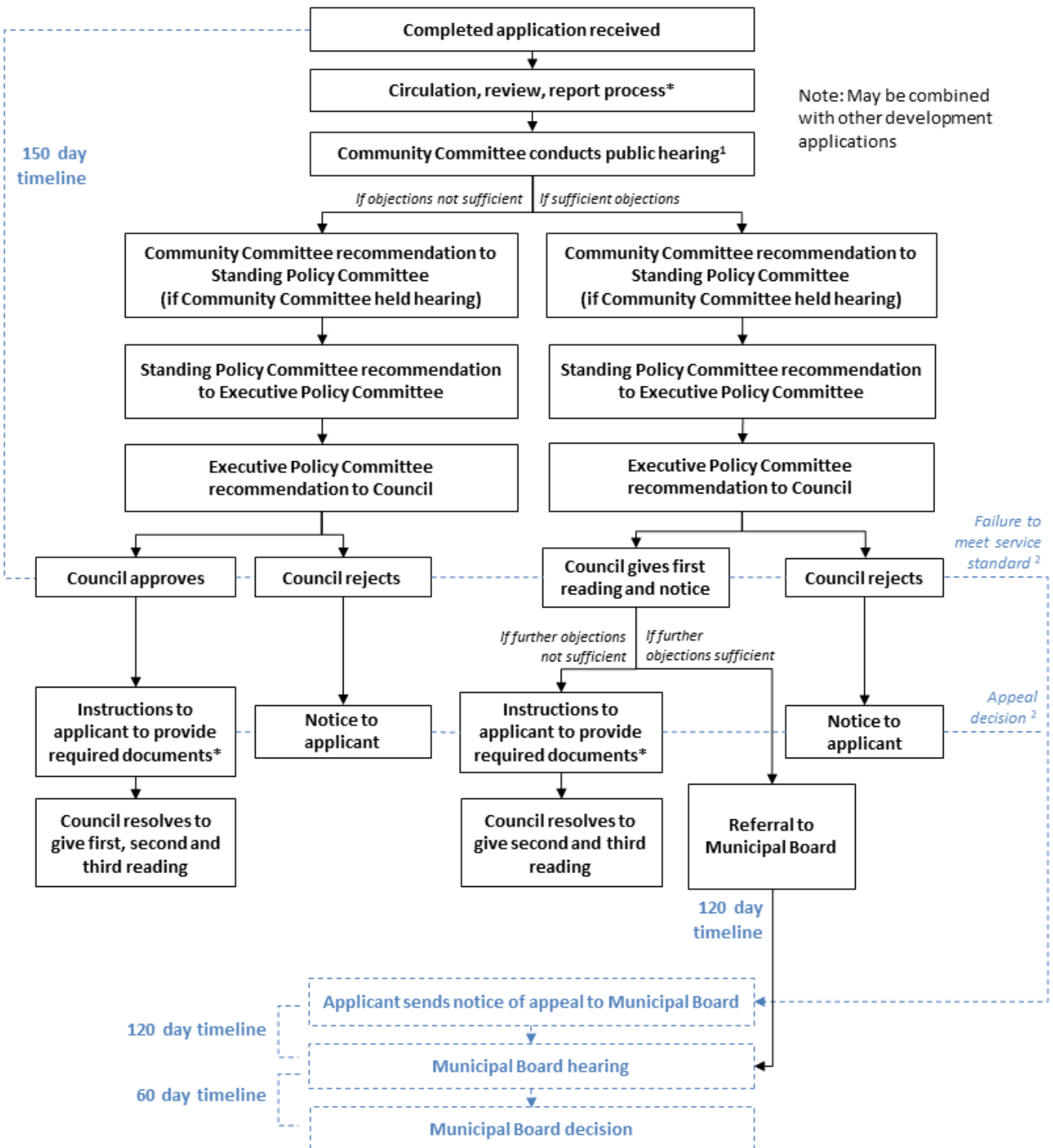
\* Current City of Winnipeg internal process.

<sup>1</sup> Standing Policy Committee holds hearings for lands located in the downtown area. For land that is located in two or more community areas, the Standing Policy Committee holds the hearing unless they direct a Community Committee to hold the hearing.

<sup>2</sup> Applicant has 14 days to appeal.

# City of Winnipeg Charter

## Zoning By-law Amendment Approval Process



\* Current City of Winnipeg internal process.

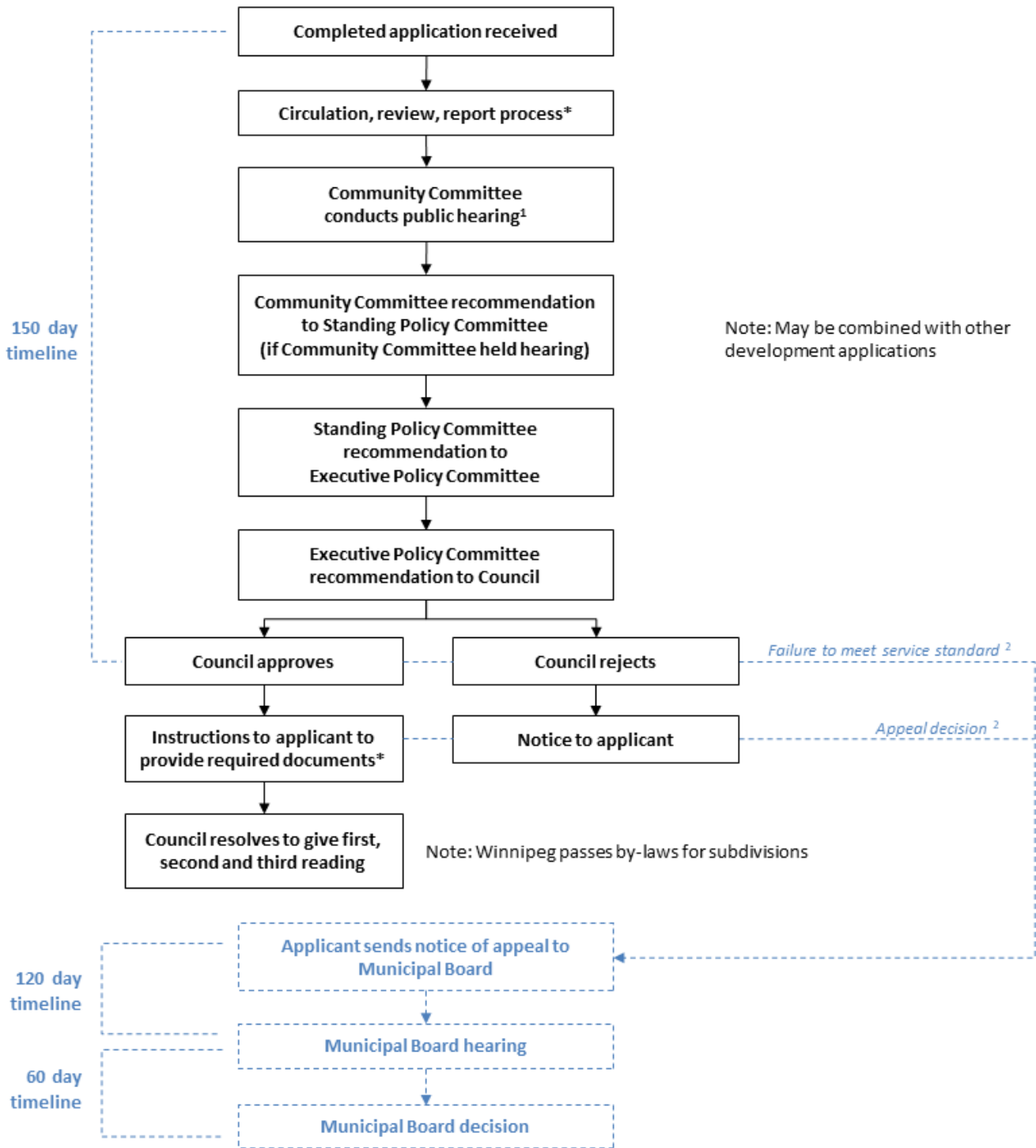
<sup>1</sup> Standing Policy Committee holds hearings for lands located in the downtown area. For land that is located in two or more community areas, the Standing Policy Committee holds the hearing unless they direct a Community Committee to hold the hearing.

<sup>2</sup> Applicant has 14 days to appeal.



# City of Winnipeg Charter

## Subdivision Approval Process - Decision by Council



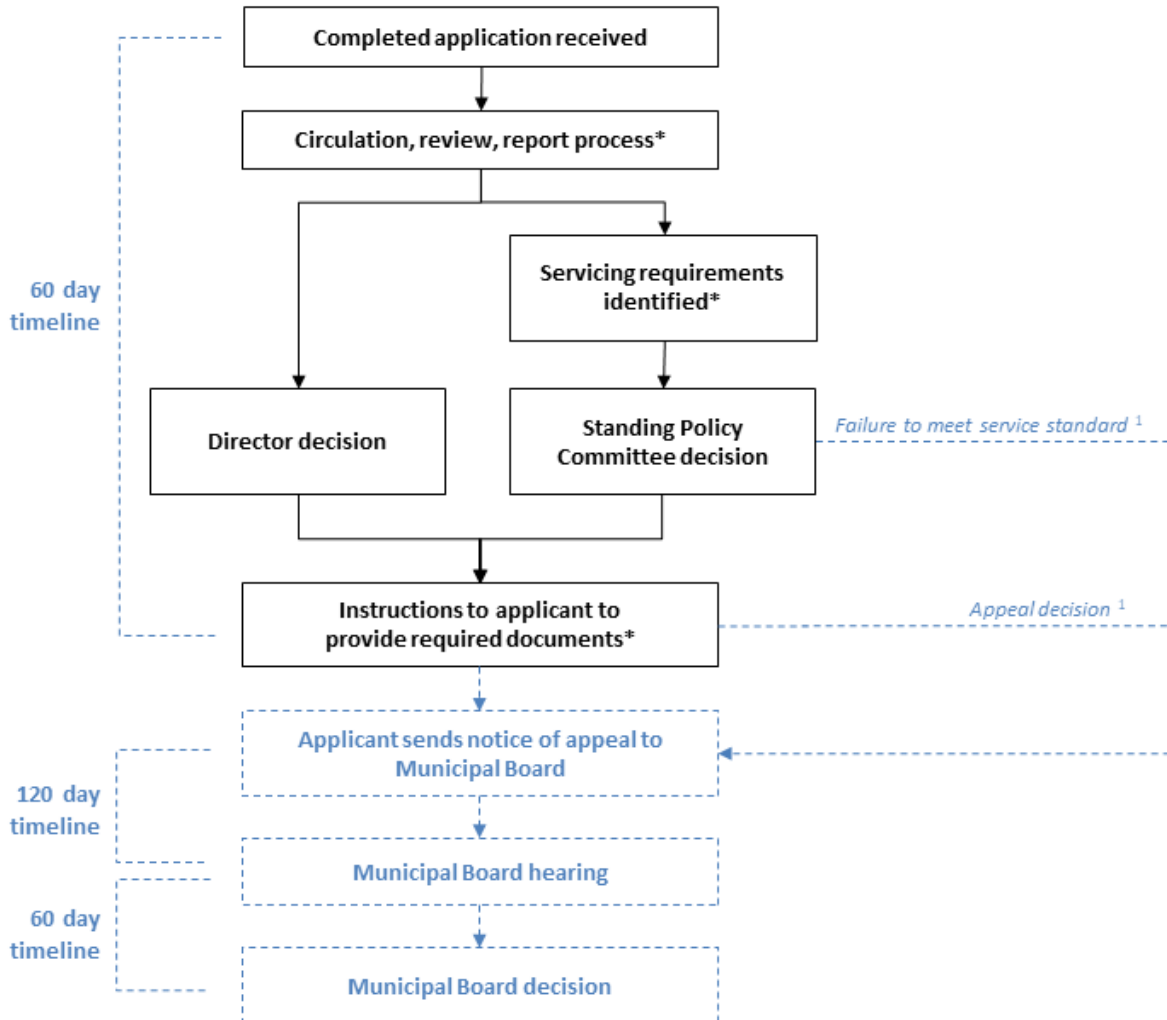
\* Current City of Winnipeg internal process.

<sup>1</sup> Public hearing is held by Standing Policy Committee for subdivisions involving lands downtown or in multiple community areas.

<sup>2</sup> Applicant has 14 days to appeal.

# City of Winnipeg Charter

## Subdivision Approval Process - Decision by Designated Employee (Director)

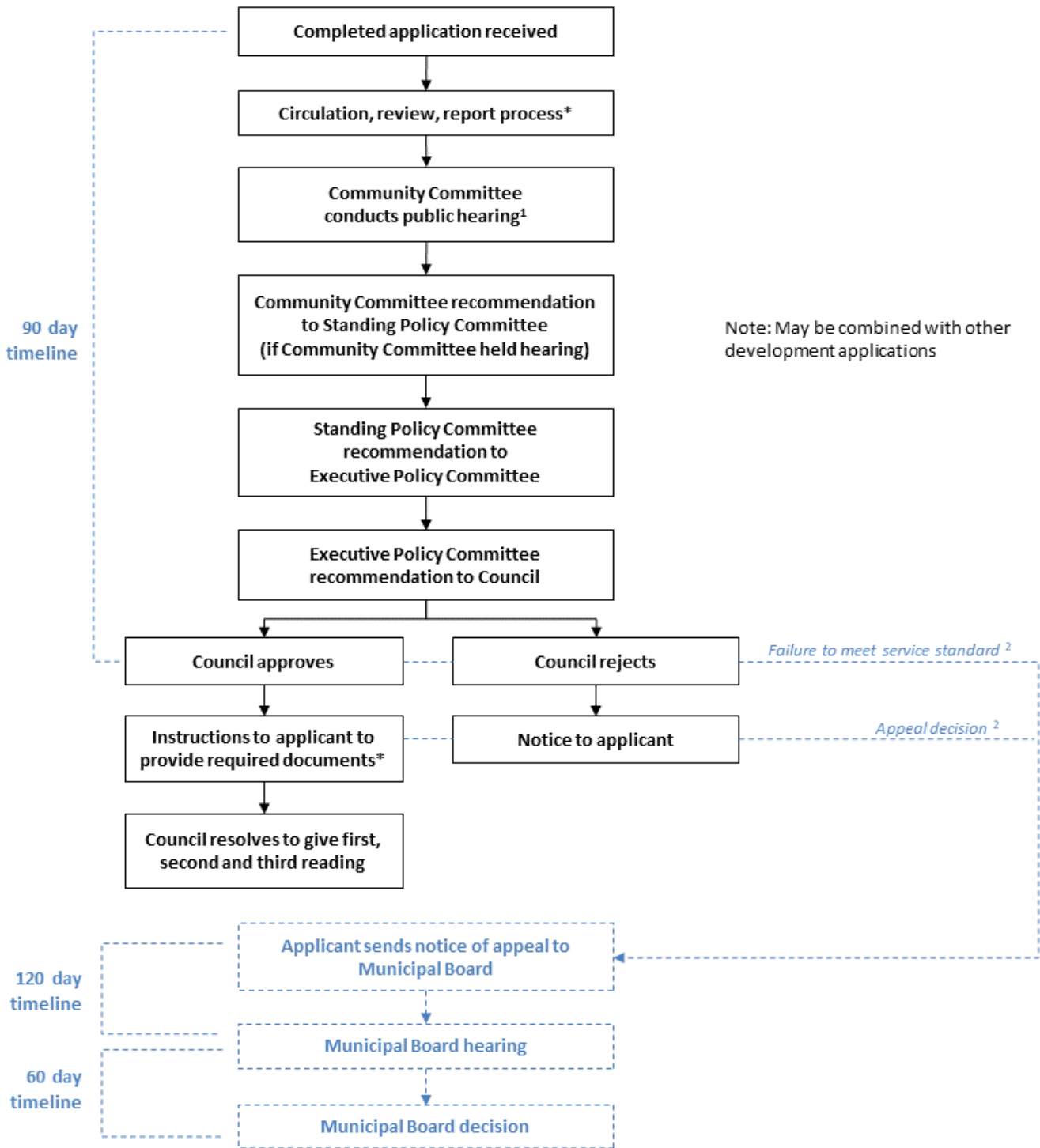


\* Current City of Winnipeg internal process.

<sup>1</sup> Applicant has 14 days to appeal.

# City of Winnipeg Charter

## Development Agreement Amendment Process (Zoning)



\* Current City of Winnipeg internal process.

<sup>1</sup> Standing Policy Committee holds hearings for lands located in the downtown and land that is located in two or more community areas. For land that is located in two or more community areas, the Standing Policy Committee may direct a Community Committee to hold the hearing.

<sup>2</sup> Applicant has 14 days to appeal.

## **Appendix D: List of Regulatory Making Authorities Created Under Proclaimed Parts of Bill 37**

The following is a list of regulation making authorities created under the proclaimed portions of Bill 37, *The Planning Amendment and City of Winnipeg Charter Amendment Act*.

### **The Planning Act:**

#### Development Agreement as Condition of Development Permit

149.1(3) The minister may make regulations prescribing major development for purposes of determining when a development agreement as a condition of a permit applies in the case of major development.

### **The City of Winnipeg Charter:**

#### Development Agreement as Condition of Development Permit

240.1.1(3) The minister may make regulations prescribing a development to be a major development to define scope of development agreement a condition of a permit in the case of major development.

### **The Provincial Planning Regulation:**

Note: amendments to the existing Provincial Planning Regulation will also be proposed to ensure the Provincial Land Use Policies, under *The Provincial Planning Regulation*, align and are consistent with key changes with respect to planning regions proposed under Bill 37.