

THE CITY OF WINNIPEG

**THE DOWNTOWN HERITAGE CONSERVATION
TAX CREDIT BY-LAW
NO. 7200/98**

**A By-law of THE CITY OF WINNIPEG to
establish a program of property tax credits to
encourage and assist in the renovation and
improvement of designated structures in the
downtown area of the City of Winnipeg.**

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

WHEREAS section 474(2) of The City of Winnipeg Act provides as follows:

"By-law re grants and tax credits

474(2) The council may by by-law establish a program of grants or tax credits to encourage and assist in the renovation of buildings listed in a by-law under subsection (1)."

WHEREAS section 474(3) of The City of Winnipeg Act provides as follows:

"Contents of by-law

474(3) A by-law under subsection (2) may, without limiting the generality of that subsection,

- (a) specify the taxes against which there may be a tax credit;
- (b) determine the types of renovations and costs associated with renovations that are eligible for a grant or tax credit;
- (c) impose terms and conditions on the entitlement to a tax credit or grant;
- (d) provide for the amount, or means of determining the amount, of a grant or tax credit;
- (e) establish a maximum annual grant or tax credit for each building;
- (f) fix the period of time during which a tax credit may be applied to taxes or a grant may be paid;
- (g) make provisions for any other matter that council considers necessary or advisable."

AND WHEREAS Council desires to establish a program of property tax credits to encourage and assist in the renovation and improvement of designated structures in the downtown area of the City of Winnipeg.

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. This by-law may be cited as:

"The Downtown Heritage Conservation Tax Credit By-law".

2. In this By-law,

"CITY" means the City of Winnipeg;

"DESIGNATED BUILDINGS" means those buildings identified from time to time on the Buildings Conservation List, attached as Schedule "A" to By-law No. 1474/77;

"DESIGNATED COMMITTEE" means the Standing Policy Committee of Council to which Council has delegated the responsibility of matters involving Designated Buildings;

"DESIGNATED OFFICER" means the person designated in writing by the Chief Administrative Officer to administer this by-law;

"DOWNTOWN" means the geographic area of the City as set out in Appendix "A" to this by-law;

"LONG-TERM TENANT" means a tenant in a designated building who has entered into a signed lease agreement effective for 10 years following the completion of the proposed conservation project;

"NET PRIVATE INVESTMENT" means the cost of labour, material and equipment for eligible work in designated buildings and approved architectural, engineering and interior design fees, or a portion thereof;

"OWNER" means a person who is the registered owner under The Real Property Act of land on which a building, erection or building is located, or the grantee thereof in a valid conveyance registered under The Registry Act, or an agent of either such owner;

"STANDARDS FOR CONSERVATION" means the standards contained in the attached Appendix "B" to this by-law, as adopted by the Historical Buildings Committee and approved by Council, to be applied to heritage rehabilitation projects.

3(1) A tax credit is available under this by-law for a maximum of 10 designated buildings, 5 of which must have a vacancy rate of at least 50%, in the Downtown area of the City;

3(2) 50% of the net private investment in eligible work is eligible for a tax credit, to a maximum credit of \$250,000.

3(3) A minimum of \$10,000 in eligible renovations must be undertaken by the applicant in order to be eligible for a tax credit.

3(4) Designated buildings used as single-family dwellings and undesignated buildings are ineligible for a tax credit under this by-law.

4(1) The tax credit may be used at the applicant's discretion for up to 10 years commencing in the 1999 tax year, to reduce City property and business taxes accruing to the designated building and land upon which the building is situated.

4(2) The tax credit may be used to reduce amusement taxes accruing to the building, provided that the building was not in use for amusement tax purposes prior to February 28, 1998.

5. When calculating the net private investment in eligible renovations, any other government grants or rebates, including any provincial sales tax or federal goods and services tax refunds or credits which applicants may be eligible for, regardless of having applied for or received those entitlements, shall be excluded.

6. The following work is eligible for a tax credit under this by-law:

- (a) repairs essential to the stabilization and preservation of the physical integrity of a designated building, including repairs to the roof, drainage system, foundation and exterior cladding;
- (b) repair or replacement of electrical, mechanical/heating and plumbing systems, including fire sprinkling, air conditioning and heritage elevators, in order to ensure that the systems comply with the applicable provisions of the Manitoba Building Code;
- (c) measures to restore, upgrade or convert a designated building to a functional state for contemporary occupancy and use, including:

- (i) eavestroughing;
 - (ii) modern additions where the addition is sympathetic to the original historic building;
 - (iii) new interior construction where the work is sympathetic to the original fabric of the building;
 - (iv) sympathetically designed improved accessibility for the disabled;
 - (v) asbestos removal;
 - (vi) energy efficiency upgrading where it does not effect the exterior appearance of the building;
 - (vii) doors and screen doors that match the appearance of the original historic doors; and
 - (viii) windows and storm windows that match the appearance of the original historic windows or storm windows.
- (d) measures designed to:
 - (i) protect significant original heritage elements;
 - (ii) restore significant original heritage elements which have deteriorated; or
 - (iii) reconstruct significant original heritage elements which are missing.

7. The following work is not eligible for a tax credit under this by-law:

- (a) non-heritage awnings and signage;
- (b) exterior paint colours not based on historical analysis;
- (c) application of water-repellent coatings;
- (d) sandblasting or other cleaning methods that may damage the building materials or finishes;

- (e) new fences or new outbuildings;
- (f) landscaping or other work not done to the designated building;
- (g) moving of buildings;
- (h) work on a designated replica or reconstructed designated building;
- (i) removing, preserving, storing, or reusing portions of a demolished designated building; and
- (j) routine maintenance of a designated building and its site.

8(1) Applicants must:

- (a) be the owner or a long-term tenant of a designated building;
- (b) be responsible for the payment of City property, business or amusement taxes accruing to the designated building and land upon which the building is situated;
- (c) submit an application in the form of a conservation report to the designated officer, along with any other information, documentation or verification that the designated officer may require;
- (d) specify the amount of the tax credit being applied for; and
- (e) specify whether the designated building has had a vacancy rate of at least 50% for a minimum of 6 months prior to the date of the application.

8(2) If an applicant is a long-term tenant, the application must include written authorization from the owner of the designated building and proof of a signed lease agreement, effective for 10 years following the anticipated completion of the conservation project.

9. In addition, all applications must comply with the following:

- (a) the proposed conservation project must conform with all applicable provisions of the City's zoning and building by-laws, and with any applicable design approval process; and

- (b) construction of the proposed project must not be commenced prior to approval of the tax credit by the Designated Officer or the Designated Committee, as the case may be.

10. One application is sufficient to cover all phases of a multi-phase conservation project.

11(1) Applications will be received on a first-come, first-served basis, from the date of enactment of this by-law until September 30, 1998.

11(2) All applications shall be submitted to and assessed by the Designated Officer.

11(3) The Designated Officer shall approve applications for projects which:

- (a) comply with the criteria set out at sections 6, 8 and 9 of this by-law, and with the Standards for Conservation, to a maximum of 5 applications; and
- (b) comply with the criteria set out at sections 6, 8 and 9 of this by-law, with the Standards for Conservation, and which have had a vacancy rate of at least 50% for 6 months prior to applying for a tax credit under this by-law, to a maximum of 5 applications.

11(4) Applicants of applications which do not meet the criteria of this by-law, or which are received after the program has been fully subscribed, shall be notified in writing by the Designated Officer.

11(5) Applicants who wish to appeal the decision of the Designated Officer shall notify the Designated Officer in writing, within 15 days of receiving the Designated Officer's decision.

11(6) Appeals of applications not approved by the Designated Officer shall be forwarded to the Designated Committee, along with a copy of the Designated Officer's written recommendations, a copy of which shall be provided to the applicant.

11(7) Prior to considering an appeal, the Designated Committee shall give the applicant notice of the time, date and place of a meeting to hear any representation which the applicant may wish to make concerning the appeal.

11(8) Where the Designated Committee denies an appeal, it shall record in its minutes the reasons for the refusal, and shall provide a copy of its reasons to the applicant.

12(1) When a proposed project has been approved, the applicant shall be required to:

- (a) enter into a written heritage agreement with the City;
- (b) submit all costs and work plans;
- (c) pay all outstanding taxes, utility charges or rates of any nature whatsoever which have become due to the City;
- (d) complete the project as set out in the application and pay all invoices, bills and costs related thereto; and
- (e) provide any other information as may be required by the designated officer,

prior to the tax credit or any portion thereof being released to the applicant.

12(2) When a multi-phase conservation project is approved, the tax credit available shall be proportioned and released to the applicant only as the completion of each phase is documented and inspected to the satisfaction of the Designated Officer.

13(1) If the net private investment is less than approved, or if the proposed project is not completed in accordance with the application, the amount of the approved tax credit shall be reduced accordingly.

13(2) If the net private investment is greater than approved due to structural or other conservation problems which could not have been anticipated prior to the commencement of the project, the applicant may submit information regarding the excess net private investment to the designated officer for consideration for further tax credit. The designated officer shall forward the information to the Designated Committee for a final determination.

14(1) Subject to subsection (2), if an applicant wishes to sell or transfer title or the long-term lease in the designated building, any approved tax credit or portion thereof which has not been released to the applicant is not transferrable and will be cancelled.

14(2) If the Designated Committee so approves and if the new owner or long-term tenant of the designated building agrees to assume all obligations of the applicant as hereinbefore set out, the approved tax credit or portion thereof may be transferred to the new owner or long-term tenant.

15(1) If, after assessing all applications received prior to September 30, 1998, the program has not been fully subscribed, the Designated Officer may, by notice, re-open the time period during which further applications may be submitted.

15(2) Applications received after September 30, 1998 shall be considered on a first-come, first-served basis.

15(3) Applications considered, if any, after September 30, 1998 shall be subject to all eligibility requirements and criteria as set out in this by-law and are eligible for tax credits commencing in the 2000 tax year.

16. The tax credit program created by this by-law shall expire on April 30, 2000.

DONE AND PASSED in Council assembled, this 27th day of May, 1998.

APPENDIX "A"



APPENDIX "B"

Standards for Conservation

On August 9, 1995, City Council approved a Consolidated Policy for Funding the Conservation of Heritage Buildings. This policy includes a series of standards which are to be applied to specific heritage projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design, colour, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.