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CONSOLIDATION UPDATE: MAY 27, 2014

THE CITY OF WINNIPEG

THE HERITAGE CONSERVATION TAX CREDIT BY-LAW
NO. 7155/98

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 City of Winnipeg.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:
amended 8162/2002

1. This by-law may be cited as:

"The Heritage Conservation Tax Credit By-law".

2. In this By-law,

"CENTREVENTURE" means the CentreVenture Development Corporation; a corporation without share capital, incorporated July 9, 1999 under *The Corporations Act* of Manitoba for the purposes of promoting and fostering economic, residential and cultural growth and development in the Downtown district of the City;
added 144/2005

"CITY" means the City of Winnipeg;

"COUNCIL" means the Council of the City;

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

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

"DESIGNATED STRUCTURES" means those buildings listed on the List of Historical Resources established under the Historical Resources By-law;
amended 55/2014

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

"NET CAPITAL INVESTMENT" means the cost of labour, material and equipment for eligible renovations to designated structures and approved architectural, engineering and interior design fees, or a portion thereof, and any other project costs as specifically approved by Council.
added 7769/2001

"NET PRIVATE INVESTMENT" means the cost of labour, material and equipment for eligible renovations to designated structures and approved architectural, engineering and interior design fees, or a portion thereof.

"PROPERTY OWNER" means a person who is the registered owner under *The Real Property Act* of land on which a building, erection or structure is located, or the grantee thereof in a valid conveyance registered under *The Registry Act*, or an agent of either such owner.
added 8162/2002

"STANDARDS FOR CONSERVATION" means the standards contained in the attached Schedule A to this by-law, as adopted by the Historical Buildings and Resources Committee and approved by Council, to be applied to heritage rehabilitation projects.
amended 55/2014

- 3(1) Subject to section 4, annual tax credits are available for up to 50% of the net private investment in eligible renovations to designated structures.
- 3(1.1) Subject to section 4, in the event that the net capital investment exceeds \$20,000,000, annual tax credits are available for up to 50% of the net capital investment in eligible renovations to designated structures.
added 7769/2001
- 3(2) So long as the building remains a designated structure, the tax credit may be used at the applicant's discretion for up to 10 years, or such other period as may be approved by Council, to reduce City property or business taxes accruing to the designated structure and land upon which the structure is situated or to reduce grants paid in lieu of taxes on institutional lands pursuant to subsection 335(1) of *The Municipal Act*.
amended 7224/98; 7685/2000; 218/2007; 55/2014

- 3(2.1) The tax credit may be used to reduce amusement taxes accruing to the structure, provided that the structure was not in use for amusement tax purposes prior to February 28, 1998.

added 7224/98

- 3(2.2) The tax credit referred to in subsection 3(1.1) may be used at the applicant's discretion for such period as may be approved by Council.

added 7769/2001

- 3(3) 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.

- 3(4) A minimum of \$10,000 in eligible renovations must be proposed by the applicant in order to be eligible for a tax credit under this by-law.

- 4(1) Single-family dwellings occupied as residences are not eligible for tax credits under this by-law.

- 4(2) Non-building designated structures may be eligible for a tax credit under this by-law if it, or the uses to which it is put, are assessable for City property or business tax purposes.

amended 7224/98

- 4(3) The amount of any tax credit provided under 3 in respect of a designated structure is reduced in the first year it is used by the amount of a research fee established by Council with respect to the inclusion of that designated structure on the List of Historical Resources.

added 55/2014

- 5(1) Structures which are not designated must be evaluated and added to the List of Historical Resources prior to receiving a tax credit.

amended 55/2014

- 5(2) Inclusion on the List of Historical Resources must be approved by the Designated Committee or by Council, in accordance with the provisions of the Historical Resources By-law.

amended 55/2014

6. Subject to section 7, the following are eligible renovations:

- (a) repairs essential to the stabilization and preservation of the physical integrity of a designated structure, 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 structure 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,
- (e) repairs to, stabilization of and preservation of heritage ruins which are maintained on their original site.

7. The following renovations are 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 structure;
- (g) moving of buildings;

- (h) work on a designated replica or reconstructed designated structure;
- (i) removing, preserving, storing, or reusing portions of a demolished designated structure; and
- (j) routine maintenance of a designated structure and its site.

8(1) Applicants must:

- (a) be the property owner or a long-term tenant of a designated structure;
amended 8162/2002
- (b) 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;
- (c) specify the amount of the tax credit being applied for; and
- (d) if the proposed project includes an undesignated structure, submit an application for inclusion as a designated structure on the List of Historical Resources to be processed concurrently with the tax credit application.
Amended 55/2014

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

8(3) One application is sufficient to cover all phases of a multi-phase conservation project.

9. 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.

10(1) The designated officer shall review and make recommendations to the Designated Committee on the application, including an economic analysis of the proposed conservation project.

10(2) After considering the recommendations of the designated officer, the Designated Committee shall recommend to Council whether, in its opinion, Council should approve, approve with conditions, or refuse the application.

10(3) When the Designated Committee makes a recommendation to Council pursuant to subsection (2), the Clerk shall provide the applicant notice in accordance with *The City of Winnipeg Charter* of the date, time and place at which Council will hear representations from the applicant for or against the recommendation.
amended 8162/2002

- 10(4) After hearing the representations, Council may approve, approve with conditions, or refuse to grant the tax credit applied for.
- 11(1) When a proposed conservation project has been approved by Council, 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.
- 11(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.
- 12(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.
- 12(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 review and recommendation. The Designated Committee shall forward its recommendation to the Council for a final determination.
- 13(1) Subject to subsection (2), if an applicant wishes to sell or transfer title or the long-term lease in the designated structure, any approved tax credit or portion thereof which has not been released to the applicant is not transferrable and will be cancelled.
- 13(2) If Council so approves and if the new owner or long-term tenant of the designated structure 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.
- 13(3) Notwithstanding the foregoing, in the event that

- (a) the applicant is the owner of a designated structure which is or becomes governed by *The Condominium Act* of Manitoba during the period within which the applicant is entitled to use the approved tax credit or any portion thereof; and
- (b) the applicant has assigned the approved tax credit or any portion thereof to CentreVenture for the purpose of obtaining gap financing for the project;

the tax credit or any portion thereof to which the applicant is entitled shall not be cancelled upon the sale or transfer of any or all of the condominium units to a new owner or owners.

added 144/2005

- 14(1) Notwithstanding the foregoing, at the option of the applicant, a tax credit or any portion thereof may be assigned as security for gap financing provided by CentreVenture, in which case the tax credit or any portion thereof to which the applicant would otherwise be entitled shall be paid in the form of a grant to CentreVenture in accordance with the terms of the agreement entered into between the City and CentreVenture for that purpose.

added 144/2005

- 14(2) The amount of the grant payable pursuant to subsection (1) shall not exceed the amount of the tax credit otherwise available."

added 144/2005

15. CentreVenture shall administer all grants received by it from the City pursuant to this by-law in accordance with the terms of the agreement entered into between the City and CentreVenture for that purpose.

added 144/2005

- 16(1) The Chief Administrative Officer and his/her delegates may take steps to administer and enforce this by-law and any decisions made shall be made in accordance with The City of Winnipeg Charter.

- 16(2) Any decisions made by Council, the Designated Committee or the Chief Administrative Officer or his/her delegates shall be given to the applicant by delivering a copy of the decision to the applicant or the agent of such applicant or by sending a copy of the decision to the applicant or the agent of such applicant, addressed to the person's address as provided in the applicant's application, in accordance with *The City of Winnipeg Charter*.¹

- 16(3) Any decisions made by the Chief Administrative Officer or his/her delegates may be appealed in accordance with *The City of Winnipeg Charter* to the designated Committee.²

added 8162/2002; amended 144/2005

17. Council shall review this by-law in the third year after the date of enactment.

amended 144/2005

DONE AND PASSED in Council assembled, this 25th day of February, A.D. 1998.

1 [See sections 116 and 117 of The City of Winnipeg Charter for information about how to serve orders, decisions and other documents.](#)

2 [See sections 189 and 121 of The City of Winnipeg Charter for information about appeals, including information about the time limit for appeals and how appeals are to be filed.](#)

SCHEDULE "A"
added 116/2003

Standards for Conservation

On August 19, 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.