REPEALED BY BY-LAW NO. 8162/2002
DECEMBER 11, 2002

THE CITY OF WINNIPEG

BY-LAW NO. 7076/97

A By-law of THE CITY OF WINNIPEG to establish a program of property tax credits or refunds to encourage and to assist in the construction or purchase of new dwellings.

WHEREAS Section 138.3 of The City of Winnipeg Act provides as follows:

By-law re new home grants, credits or refunds to property owners
138.3(1) The council may by by-law establish a program of grants, property tax credits or refunds to encourage and assist in the construction or purchase of new dwellings, and any such by-law shall include provisions

(a) prescribing types or classes of premises eligible for a grant, tax credit or refund;

(b) establishing terms and conditions under which a grant, tax credit or refund may be provided or terminated;

(c) establishing criteria for determining

(i) the amount of a grant, tax credit or refund,

(ii) the maximum annual grant, tax credit or refund, and

(iii) the period of time in which a grant, tax credit or refund may be paid out to an owner or applied to taxes;

(d) respecting eligibility criteria for recipients of grants, tax credits or refunds; and

(e) respecting any other matter that the council considers necessary or advisable.

Review of program in fifth year
138.3(2) A by-law passed under subsection (1) expires five years after the day it is passed unless the council, in the fifth year, reviews the program and approves continuation of the by-law.

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

1. In this by-law,

"City Treasurer" means the Director of the Corporate Finance Department or his designate;

"Committee" means the Committee on Finance and Administration;

"Director of Business Liaison and Intergovernmental Affairs" means the Director of Business Liaison and Intergovernmental Affairs or his designate;

"infill development" means construction of a dwelling on land which

(a) is within a Neighbourhood or Downtown Policy Area as designated in Plate "A" of Plan Winnipeg,

(b) is contiguous to an existing residential neighbourhood, and

(c) previously contained a housing, commercial, institutional or industrial development;

"new development" means construction of a dwelling which is not infill development;

"municipal taxes" means the amount of all general taxes payable in the taxation year with the exclusion of all school taxes, local improvement levies, arrears, penalties and any other amounts added for the recovery of a debt pursuant to statutory authority and after the application of such portion of any phase-in credit or debit applicable to only the general taxes amount which remains after having accounted for all exclusions and any other tax credit provided under a by-law of the City of Winnipeg, but prior to the allowance of the realty tax credit for premises serviced by neither water nor sewer and the Manitoba Resident Home Owner Tax Assistance deduction;

2. A tax credit shall be applied to the municipal taxes with respect to property which meets all of the following requirements:

(a) the property must be classified as Residential 1 pursuant to the Classification of Property Regulation made pursuant to The Municipal Assessment Act;

(b) the property must contain a newly constructed single family detached dwelling which is wholly occupied by one or more of the registered owners of the property, as the registered owner's home and principal residence;

(c) registered ownership of the property must be held by a person who is the first person to occupy the property as a home and principal residence and who after March 26, 1997 but not later than March 25, 1998 has

(i) become or become entitled to be a registered owner of the property, as a result of having purchased the newly constructed dwelling on the property from a developer or builder or having constructed the new dwelling on the property;

(ii) obtained possession of the property; and

(iii) commenced actual occupation of the whole of the property as the person's home and principal residence;

except that in the event that the registered ownership of the property is held concurrently by more than one person, at least one of the registered owners must be the first person to occupy the property as a home and principal residence and must after March 26, 1997 but not later than March 25, 1998 meet the requirements of subclauses (c)(i), (ii) and (iii).

3. Notwithstanding section 2 of this by-law, a tax credit shall not be applied to the municipal taxes with respect to any of the following properties:

(a) a mobile home located in a mobile home park or not constructed on a permanent foundation;

(b) a building that is used wholly or partly as a hotel, motel, tourist camp, apartment hotel or other transient accommodation;

(c) a building that is used as a nursing home or personal care home; or

(d) a building that is a duplex.

4. In order for a tax credit to be provided, each and every person eligible under section 2 must collectively

(a) make application for the tax credit in a form determined by the City Treasurer and provide all information and documentation that the City Treasurer may require, including a certified status of title and a copy of the offer to purchase confirming the date of possession;

(b) as and when requested by the City Treasurer, provide in a form determined by the City Treasurer written periodic confirmation of entitlement to a tax credit and provide all information and documentation that the City Treasurer may require; and

(c) certify that the information and documentation given is true and accurate.

5. The term of the tax credit program created by this by-law shall be for a total of thirty-six consecutive months, divided into three equal consecutive periods of twelve months each, with the first period commencing on the day occurring after March 26, 1997 but not later than March 25, 1998 on which the property first meets all of the requirements provided for in section 2.

6. Subject to section 10, where a property eligible under section 2 is infill development, the amount of the tax credit which may be applied to the municipal taxes with respect to the property during the term of the tax credit program shall be calculated as follows:

(a) for the first period, the sum of the following two amounts:

(i) an amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the first period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the first period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the first period which is $2,000.00, and in such event the amount of $2,000; and

(ii) in the event that the amount calculated in subclause (i) is less than $2,000, an additional amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the first period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the first period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the difference of $2,000 less the amount determined by subclause (i), and in such event the amount of said difference;

and;

(b) for the second period, the sum of the following two amounts:

(i) an amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the second period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the second period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the second period which is $2,000.00, and in such event the amount of $2,000; and

(ii) in the event that the amount calculated in subclause (i) is less than $2,000, an additional amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the second period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the second period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the difference of $2,000 less the amount determined by subclause (i), and in such event the amount of said difference;

and;

(c) for the third period, the sum of the following two amounts:

(i) an amount equal to 50% of the product of the municipal taxes with respect to the property for the taxation year in which the third period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the third period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the third period which is $1,000.00, and in such event the amount of $1,000; and

(ii) in the event that the amount calculated in subclause (i) is less than $1,000, an additional amount equal to 50% of the product of the municipal taxes with respect to the property for the taxation year in which the third period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the third period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the difference of $1,000 less the amount determined by subclause (i), and in such event the amount of said difference.

7. For greater certainty, the total tax credit during the term of the tax credit program for a property which is infill development shall not exceed $5,000.

8. Subject to section 10, where a property eligible under section 2 is new development, the amount of the tax credit which may be applied to the municipal taxes with respect to the property during the term of the tax credit program shall be calculated as follows:

(a) for the first period, the sum of the following two amounts:

(i) an amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the first period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the first period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the first period which is $2,000.00, and in such event the amount of $2,000; and

(ii) in the event that the amount calculated in subclause (i) is less than $2,000, an additional amount equal to 100% of the product of the municipal taxes with respect to the property for the taxation year in which the first period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the first period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the difference of $2,000 less the amount determined by subclause (i), and in such event the amount of said difference;

and;

(b) for the second period, the sum of the following two amounts:

(i) an amount equal to 50% of the product of the municipal taxes with respect to the property for the taxation year in which the second period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the second period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the second period which is $1,000.00, and in such event the amount of $1,000; and

(ii) in the event that the amount calculated in subclause (i) is less than $1,000, an additional amount equal to 50% of the product of the municipal taxes with respect to the property for the taxation year in which the second period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the second period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the difference of $1,000 less the amount determined by subclause (i), and in such event the amount of said difference;

and;

(c) for the third period, the sum of the following two amounts:

(i) an amount equal to 25% of the product of the municipal taxes with respect to the property for the taxation year in which the third period commenced multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the third period and the denominator is the total number of days in said taxation year, provided that such amount does not exceed the maximum tax credit allowable for the third period which is $500.00, and in such event the amount of $500; and

(ii) in the event that the amount calculated in subclause (i) is less than $500, an additional amount equal to 25% of the product of the municipal taxes with respect to the property for the taxation year in which the third period ended multiplied by a fraction whereby the numerator is the number of days in said taxation year which are also days within the third period and the denominator is the total number of days in said taxation year, provided that such amount is not greater than the amount of the difference of $500 less the amount determined by subclause (i), and in such event the amount of said difference.

9. For greater certainty, the total tax credit during the term of the tax credit program for a property which is new development shall not exceed $3,500.

10. The amount of a tax credit calculated under section 6 or section 8 shall be rounded off to the nearest dollar such that where the amount would have otherwise ended in $.50 or greater the amount shall be rounded upwards and where the amount would have otherwise ended in $.49 or less the amount shall be rounded downwards.

11. Notwithstanding any other provision of this by-law, there shall be no tax credit with respect to property where there exists arrears of municipal taxes or school taxes, or both, after December 31 of the taxation year to which the tax credit would have otherwise applied in whole or in part but for this section.

12. In the event that a property is eligible for a tax credit but the tax credit has not been applied to the municipal taxes as an entry on the Statement and Demand for Payment of Taxes, or the supplemental Statement and Demand for Payment of Taxes, and the municipal taxes have been paid, the tax credit may be applied to the municipal taxes in the form of a refund.

13. Notwithstanding any other provision of this by-law, in the event that there is more than one person who meets the requirements under clause 2(c) to make application under section 4 for a tax credit to be applied to the municipal taxes with respect to a property, only one tax credit shall be provided under this by-law.

14. Entitlement to a tax credit shall cease upon the sale or transfer of ownership of the property, excluding interspousal transfers, by or from a person who is, was, or had been eligible to apply for a tax credit under this by-law.

15. In any given period within the term of the tax credit program, in the event that, as a result of a person having provided false or inaccurate information or documentation or having failed to provide true and accurate information and documentation contrary to section 4 or as a result of an error in a calculation under any of sections 6 through 9, the person receives a tax credit which is applied to municipal taxes of a property that is not eligible under section 2, which is in excess of the amount provided for under sections 6 through 9, or which otherwise is not in compliance with this by-law, the person shall return to the City Treasurer such portion of the tax credit calculated for the period in accordance with the following formula:

$$A = C \times \frac{B}{D}$$

where **A** is the amount of the tax credit to be returned under this section
C is the total amount of the tax credit received for the period
B is the number of days for which no tax credit should have been given in the period
D is the total number of days in the period

and in addition shall pay interest on the amount to be returned, calculated at the rate prescribed by The Tax Penalty By-law commencing on the day the property or the person failed or ceased to meet all of the requirements under section 2 or the day the municipal taxes were due and payable, whichever day is later.

16. In any given period within the term of the tax credit program, in the event that, as a result of a change in ownership of the property as contemplated under section 14 or as a result of an error in a calculation under any of sections 6 through 9, a tax credit is applied to the municipal taxes of a property that is not eligible under section 2, which is in excess of the amount provided for under sections 6 through 9, or which otherwise is not in compliance with this by-law, the City Treasurer shall reverse such portion of the tax credit calculated for the period in accordance with the following formula:

$$A = C \times \frac{B}{D}$$

where **A** is the amount of the tax credit to be reversed under this section
C is the total amount of the tax credit which had been applied to the municipal taxes of the property for the period
B is the number of days for which no tax credit should have been applied in the period
D is the total number of days in the period

and in addition shall impose a penalty of interest on the amount of the reversal, calculated at the rate prescribed by The Tax Penalty By-law commencing on the day the property failed or ceased to be eligible under section 2 or the day the municipal taxes were due and payable, whichever day is later.

17. The determination of whether a property is eligible under section 2, whether a person meets the requirements under clause 2(c), the amount of any tax credit, return of tax credit under section 15, or reversal of tax credit under section 16 and all other matters within this by-law shall be made by the City Treasurer, except that the determination of whether a property is infill development shall be made by the Director of Business Liaison and Intergovernmental Affairs.

18. Any person who is aggrieved by a determination made under section 17 may, within 15 days of the mailing of notice of the determination made under section 17, appeal from that determination to the Committee, by filing a written notice of appeal with the City Clerk, which states the grounds for the appeal and the mailing address of the appellant.

19. The notice of the determination referred to in section 18 may be in the form of a Statement and Demand for Payment of Taxes, a supplemental Statement and Demand for Payment of Taxes, or such other form as prescribed by the City Treasurer.

20. The Committee shall fix a date for a meeting to consider the appeal and shall cause not less than 15 days notice of the meeting to be provided by certified mail to the appellant, at the address of the appellant as specified in the notice of appeal.

21. The notice under section 20 shall inform the appellant that he or she may appear at the meeting and make such representation as he or she desires and that in the event that he or she does not appear at the meeting, a decision may be made by the Committee in his or her absence.

22. On the day and at the time and place stated in the notice, the Committee shall conduct the meeting and receive representations from the appellant and from the City Treasurer or the Director of Business Liaison and Intergovernmental Affairs as may be applicable and any other person deemed appropriate by the Committee.

23. The meeting may be adjourned from time to time and may be resumed at such time and place as the Committee may decide.

24. The Committee, after conducting the meeting, may:

(a) rescind, modify or confirm any determination made under section 17 by the City Treasurer or by the Director of Business Liaison and Intergovernmental Affairs;

(b) make such other decision as in the circumstances of each case it deems just;

and the decision of the Committee, upon being communicated to the appellant shall be final for all purposes under this by-law.

25. The Committee Clerk shall cause a copy of the Committee's decision to be mailed to the appellant and to any other person who made representation to the Committee.

DONE AND PASSED in Council assembled, this 24th day of July, 1997.