**THE CITY OF WINNIPEG**

**BY-LAW NO. 109/2014**

A By-law of THE CITY OF WINNIPEG to create a Live Downtown – Rental Development Grant Program

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

**Short title**

**1** This By-law may be cited as the *Live Downtown – Rental Development Grant Program By-law*.

**Definitions**

**2** In this By-law

**"affordable"**, in the context of a residential rental unit, means that its monthly rent is equal to or less than the median market monthly rent for that year as published annually in advance by the Department of Housing and Community Development of the Province of Manitoba;

**"approval"**, unless otherwise stated, means an approval by the Evaluation Committee under section 5 of an application for a grant referred to in subsection 3(1) of this By-law, and **"approved"**, in respect of a property, application or development, has a corresponding meaning;

**"assessed value"** means assessed value as defined in *The Municipal Assessment Act*;

**"base taxes"**, in respect of a property that qualifies for a grant under this By-law, means the annual municipal real property taxes payable in the year of approval on the basis of the assessed value of the property as of the date of approval under this by-law;

**"designated employee"** means the Director of Planning, Property and Development or an employee of the City of Winnipeg who the Director has authorized to exercise all or part of his or her authority as a designated employee under this By-law;

**"Evaluation Committee"** means the Committee established by section 10;

**"incremental taxes"** means the municipal real property taxes paid with respect to a property in any year less the base taxes on that property;

**"municipal real property taxes"** means taxes imposed by the City of Winnipeg for its own purposes on real property pursuant to clauses 334(1)(a) and 341(1) of The City of Winnipeg Charter and, for greater certainty, does not include:

(a) business taxes;

(b) fees for licences in lieu of business tax;

(c) fees for mobile home licences;

(d) personal property taxes;

(e) local improvement taxes;

(f) frontage taxes;

(g) arrears of taxes;

(h) any amounts added to taxes for the recovery of a debt pursuant to a statutory authority;

(i) business improvement taxes;

(j) electricity and gas taxes;

(k) penalties for unpaid taxes;

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

(a) a person who is an owner, with another person as joint tenant or tenant in common, of a freehold estate; and

(b) a real owner, as defined in subsection 1(1) of *The Municipal Assessment Act*;

**"real property"** means real property as defined in *The City of Winnipeg Charter*;

**"residential rental unit"** means a residential unit that is not registered under *The Condominium Act* and is either occupied or available for occupancy pursuant to a tenancy agreement with the owner of the building in which it is located;

**"residential unit"** means a self-contained dwelling unit that has facilities for living, sleeping, personal hygiene and grooming, and the preparation and consumption of food but does not include overnight or temporary accommodations such as those found in a hostel or hotel;

**"residential rental use"**, in relation to all or part of a building, means the area of the building that is devoted to residential rental units and those functions that support residential rental units, including hallways, stairwells, elevators and lobbies;

**"structured parking"**, in respect of a building for which an application has been made under this By-law, means an area in which parking for motor vehicles is available that

(a) contains at least half as many spaces for vehicular parking as the number of residential rental units in the building; and

(b) is either

(i) an area within the building itself; or

(ii) a separate building that is attached to the building and in which parking for motor vehicles is available on at least two levels;

**"surface parking lot"** means land that is

(a) zoned "off street parking at grade" in the Downtown Zoning By-law; and

(b) used to provide parking for four or more motor vehicles.

**Grants available to owners of eligible properties**

**3(1)** Subject to this By-law, the owner of a property with an approved development is entitled for a period of twelve years to an annual grant in the amount of the incremental taxes paid for that year in respect of that property.

**3(2)** Subject to this By-law, in addition to any other grant referred to in this section, the owner of a property with an approved development is entitled for a period of an additional four years to an annual grant in the amount of the incremental taxes paid for that year in respect of that property if the property is located within the shaded area identified as the Strategic Location Boundary shown on the map attached as Appendix A to this By-law or is fronting on or abutting on that area.

**3(3)** Subject to this By-law, in addition to any other grant referred to in this section, the owner of a property with an approved development is entitled for a period of an additional two years to an annual grant in the amount of the incremental taxes paid for that year in respect of that property if, at the time this By-law comes into effect, the property is a surface parking lot.

**3(4)** Subject to this By-law, in addition to any other grant referred to in this section, the owner of a property with an approved development is entitled for a period of an additional two years to an annual grant in the amount of the incremental taxes paid for that year in respect of that property if the property integrates structured parking into the building.

**3(5)** The grants referred to in this section are not payable until September 1 of the first full calendar year after an occupancy permit has been issued for the approved development in compliance with clause 7(1)(c).

**Property qualifications for grant application**

**4(1)** The owner of a property may apply for a grant under this By-law if the property and the proposed development meets all of the following qualifications:

(a) it Is located within the area to which the Downtown Zoning By-law applies;

(b) it does not contain a residential unit as of May 31, 2014;

(c) it is not located within the SHED TIF Zone, as defined in the SHED TIF Zone By-law No. 98/2012;

(d) as of March 1, 2014, it was neither approved nor conditionally approved under the Downtown Residential Development Grant Program By-law No. 77/2010;

(e) the design of the proposed development shows that it will contain at least five residential units;

(f) as designed, at least 80% of the total usable square footage of the proposed development, excluding structured parking, is designed and constructed for

residential rental use.

**4(2)** A property is not eligible for a grant under this By-law if, as of May 31, 2014,

(a) an application had been made for one or more permits for the construction of a building containing residential units on the property, excluding demolition permits;

(b) a building containing residential units was under construction on the property.

**Approval by Evaluation Committee**

**5(1)** The owner of a property that meets the qualifications set out in section 4, or a person on the owner's behalf and with the written authorization of the owner, may apply to the Evaluation Committee for the property and proposed development to be approved for one or more grants under this By-law. An application is not complete until all information reasonably required in order to review the application has been provided. If required by the Evaluation Committee, the information must be provided on a form or in a format established by the Committee.

**5(2)** An application under subsection (1) may not be approved by the Evaluation Committee unless it is submitted within two years of the date this By-law comes into effect.

**5(3)** The Evaluation Committee may approve applications for one or more grants under this By-law using as primary criteria the qualifications of the property and the development for grants under subsections 3(2) to (4).

**5(4)** In addition to using the primary criteria set out in subsection (3), the Evaluation Committee shall take into account the following secondary criteria in approving applications for grants under this By-law:

(a) the time it will take before the proposed development will be capable for being occupied for residential rental housing, with developments that can be occupied more quickly given priority;

(b) the development history of the applicant and, where applicable, the developer, with applicants and developers who have a lengthy history of successful development given priority;

(c) the density of the proposed development, with higher density development given priority;

(d) the extent to which the proposed development incorporates occupancies with other zoning classifications (that is, mixed use), with higher levels of mixed use given priority;

(e) the extent to which units in the proposed development will be able to be approached, entered, and used by persons with physical or sensory disabilities, with developments with greater levels of accessibility given priority;

(f) whether a proposed development involves a newly-constructed building or a renovation of an existing building, with newly-constructed buildings given priority;

(g) whether the proposed development will take place on previously vacant land or on land that was previously occupied, with development on previously vacant land given priority.

**5(5)** For the purposes of determining the time it will take before the property is available for residential rental housing, set out in clause 5(4)(a), the Evaluation Committee shall take into account

(a) the owner's readiness, financial and otherwise, to proceed with the development; and

(b) the development readiness of the proposed development, including

(i) any market analysis that has been conducted;

(ii) the viability of the development as indicated in projected financial statements; and

(iii) the extent to which building plans have been developed.

**Maximum number of units in approved developments**

**6(1)** Subject to this section, the Evaluation Committee may approve any number of applications for grants under this By-law.

**6(2)** Notwithstanding subsection (1), when the total number of residential units approved by the Committee exceeds 750, the Committee must not approve any further applications for grants under this By-law.

**6(3)** Notwithstanding subsections (1) and (2), the Evaluation Committee must not approve applications for developments totalling more than 900 units.

**6(4)** If necessary, in order to comply with subsection (3), the Evaluation Committee may approve only a percentage of a development for funding under this By-law.

**Conditions of approval**

**7(1)** The approval of an application by the Evaluation Committee is subject to the following conditions:

(a) where Council has required a deposit as a condition of approval, the payment of the deposit;

(b) full and complete building permit applications for the development must be submitted within 12 months of the approval;

(c) designation by regulation of the property by the Lieutenant Governor in Council under section 4 of *The Community Revitalization and Tax Increment Financing Act* prior to an occupancy permit being issued under clause (d).

(d) an occupancy permit for the entire building approved by the Committee must be issued by December 31 of the fourth full calendar year after approval has been given.

**7(2)** A failure to meet any of the conditions set out in subsection (1) renders the approval null and void.

**7(3)** A deposit made under clause (1)(a) must be made and refunded in compliance with Council's direction respecting the requirement of a deposit as a condition of approval.

**On-going grant conditions**

**8(1)** In addition to the conditions on approval set out in section 7, the owner's entitlement to the grants approved pursuant to this By-law is subject to the following conditions being met and continuing to be met:

(a) the approved development must contain at least five residential rental units;

(b) at least 80% of the total usable square footage of the development, excluding structured parking, must be devoted to residential rental use;

(c) subject to clause (d), at least 10% of the residential rental units within the development must be affordable for at least five years after an occupancy permit has been issued;

(d) if the property qualifies and is approved for a tax credit under the Province of Manitoba's Provincial Rental Tax Credit Program, at least 15% of the residential rental units within the development on the property must be affordable for at least five years after an occupancy permit for the development has been issued;

(e) taxes imposed by the City of Winnipeg in respect of the property must not be outstanding at any point;

(f) the recipient of the grant or grants must not

(i) be bankrupt or insolvent;
(ii) have gone into receivership; or
(iii) have taken the benefit of any statute from time-to-time in force relating to bankrupt or insolvent debtors;

(g) the owner must provide information, including a statutory declaration, to the designated employee when this is reasonable to enforce or administer this By-law, including information required to determine whether the conditions set out in this section are being met;

(h) the person who owned the property at the time of application must continue to own the property unless the designated employee has approved the transfer of the entitlement to receive the grants under section 9 to the current owner prior to the transfer of ownership;

(i) the owner of the property must comply with other conditions reasonably imposed by the designated employee to administer this By-law.

**8(2)** For purposes of clarity,

(a) no further grants may be paid under this By-law to the owner of a property if any of the conditions set out in subsection (1) are not met, even if the conditions are later satisfied; and

(b) grants paid after the conditions set out in subsection (1) have failed to be met must be repaid to the City by the owner of the property. However, the owner is not required to repay grants paid before the conditions were not met.

**Grants transferable**

**9** The designated employee is authorized, prior to the transfer of property in respect of which an application has been made or which has been approved for one or more grants under this By-law, to

(a) approve the transfer of the application to the prospective owner; or

(b) approve the transfer to the prospective owner of the entitlement to receive a grant.

**Evaluation Committee established**

**10(1)** An Evaluation Committee is hereby established for the purposes of approving properties for grants under this By-law.

**10(2)** The Evaluation Committee consists of

(a) two employees of the City of Winnipeg, appointed by the Chief Administrative Officer; and

(b) the Deputy Minister of Manitoba Municipal Government and the Deputy Minister of Manitoba Housing and Community Development or their delegates.

**10(3)** The Evaluation Committee

(a) may establish deadlines for submissions of applications for grants under this By-law;

(b) shall determine if a property meets the qualifications set out in section 4 and its owner is therefore eligible to apply for a grant under this By-law.

**10(4)** The decisions of the Evaluation Committee are final and are not subject to appeal.

**Powers of designated employee**

**11(1)** The designated employee has the powers of a “designated employee” under The City of Winnipeg Charter for the purposes of administering and enforcing this By-law.

**11(2)** Without restricting the powers set out in subsection (1), the designated employee is authorized to do the following:

(a) require that the owner of approved property provide information or, where appropriate, a statutory declaration, when this is reasonable to enforce or administer this By-law;

(b) determine that the conditions set out in subsection 6(1) have not been met and the approval of a development is therefore null and void;

(c) determine when the conditions set out in section 8 have not been met and that the grants should not be paid or should not have been paid in respect of the property;

(d) approve the transfer of the entitlement to receive a grant under section 9.

**Appeal**

**12** Where a decision of a designated employee is subject to appeal under *The City of Winnipeg Charter*, the appeal shall be heard by the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

**DONE AND PASSED**, this day of , 2014.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning, Property and Development

Approved as to form:

_____
For A/Director of Legal Services/City Solicitor

**APPENDIX A**

Map showing strategic areas (s. 3(2))



Downtown Strategic Location Boundary2.p