THE CITY OF WINNIPEG

BY-LAW NO. 63/2018

A By-law of THE CITY OF WINNIPEG to establish a Pilot Program to offer incremental tax grants to encourage the restoration and rehabilitation of vacant or underutilized heritage properties.

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

Short title

1 This By-law may be cited as the "**Heritage Conservation Grant Program By-law**".

Definitions

2 The following definitions apply in this By-law:

"approval", unless otherwise stated, means an approval by the designated officer of an application for a Heritage Conservation Grant under this By-law, and "approved", in respect of a property, application or development, has a corresponding meaning;

"approved development" means a development for which a Heritage Conservation Grant has been approved under section 6;

"base taxes", in respect of a property that qualifies for a grant under this By-law, subject to section 3, 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 for a grant under this By-law;

"Charter" means *The City of Winnipeg Charter*, S.M. 2002, c.39;

"City" means The City of Winnipeg continued by the Charter;

"Council" means the council of the City;

"conservation" means all actions or processes that are aimed at safeguarding a listed building so as to retain its heritage value and extend its physical life, and includes preservation, rehabilitation and restoration or a combination thereof;

"designated committee" means the Standing Policy Committee on Property and Development, Heritage and Downtown Development or another standing committee of Council given responsibility for hearing appeals under this By-law;

"designated officer" means the Director or an employee of the City who has been designated in writing by the Director to exercise some or all of the powers given to the Director as the designated officer under this By-law;

"development" has the same meaning as in the Charter;

"Director" means the Director of Planning, Property and Development of the City and includes the City employee acting in that capacity;

"grant" means a Heritage Conservation Grant authorized under this By-law;

"incremental taxes" means the municipal real property taxes payable with respect to an approved property in any year less the base taxes on that property;

"listed building" means a building that is a listed resource under the Historical Resources By-law;

"municipal real property taxes" means real property taxes imposed by the City of Winnipeg for its own purposes pursuant to subsection 334(1) and 334(2)(b) of *The City of Winnipeg Charter* and, for greater certainty, does not include the following:

(a) fees for mobile home licences;

(b) personal property taxes;

(c) business taxes;

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

(e) frontage taxes;

(f) local improvement taxes;

(g) arrears of taxes;

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

(i) business improvement taxes;

(j) electricity and gas taxes; or

(k) penalties for unpaid taxes;

"occupied", in respect of a property, means that portion of the property that is not vacant;

"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;

(b) a person who is the registered owner of a unit under The Condominium Act; and

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

"property" means the total of all contiguous land described in a single certificate of title or, where a development spans two or more contiguous parcels that are owned by the same person, both parcels;

"preservation" means actions or processes that protect, maintain or stabilize the character-defining elements of a listed building;

"rehabilitation" means actions or processes that make possible a continuing or compatible contemporary use of a listed building or portion of it while protecting its character-defining elements;

"renovations" means one or more of

(a) the restoration of a building,

(b) alterations to a building;

(c) an addition to a building;

"restoration" means actions or process that accurately reveal, recover or represent one or more the character-defining elements of a listed building as it appeared at a particular period in its history;

"single-family dwelling" has the same meaning as "*dwelling, single-family detached*" in the Winnipeg Zoning By-law No. 200/2006;

"Standards and Guidelines for the Conservation of Historic Places in Canada" means the current edition of *Standards and Guidelines for the Conservation of Historic Places in Canada* published by the Government of Canada and any replacement document published by the Government of Canada;

"TIF Zone" means any tax increment financing area designated by by-law pursuant to section 222 of the Charter;

"underutilized", in respect of a building, means that one or more of the following applies:

(a) more than half of the building is vacant;

(b) less than half of the building is occupied by uses falling into one or more of the following use categories as set out in the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law, whichever is applicable to the building:

(i) residential and residential-related;

(ii) public and institutional;

(iii) cultural and entertainment;

(iv) office;

(v) commercial sales and service;

(c) the building fails to meet standards established in the current editions of the Manitoba Building Code, the Manitoba Electrical Code or the Manitoba Fire Code for uses that are permitted by the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law, whichever is applicable to the building, and making the modifications or renovations required to meet these standards would not be cost effective on a business basis;

(d) more than half of the building is occupied by uses that are not permitted under the Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law, whichever is applicable to the building, and meeting the standards established in the current editions of the Manitoba Building Code, the Manitoba Electrical Code or the Manitoba Fire Code for those uses would entail making modifications or renovations which would not be cost effective on a business basis;

"Vacant", in respect of a building, means a building that is not being used or occupied;

"work" means work undertaken as part of a development.

Determination of base taxes for condominiums constructed after base year

3 The base taxes in respect of a condominium unit which did not exist as a condominium unit in the year of approval shall be determined by applying the amount of taxes payable by the owner of the condominium unit as a percentage of the aggregate taxes payable by all owners of condominium units within the condominium corporation at the time the first grant under this By-law is payable against the total taxes which were payable in the year of approval in respect of the property that is the subject of the condominium declaration.

Heritage Conservation Grant available

4(1) Subject to this By-law, the owner of a property with respect to which an approval has been issued under section 6 is entitled to a Heritage Conservation Grant, being 12 consecutive annual grants each in the amount of 80% of the incremental taxes paid or payable for that year in respect of that property.

4(2) The grants which constitute a Heritage Conservation Grant

(a) are payable over the course of 12 consecutive years to the person or persons who are the owners of the property on which an approved development has been constructed at the time each grant is payable;

(b) are equal to 80% of the incremental taxes payable annually in respect of a property which qualifies under this By-law for the grant;

(c) are payable beginning on October 31st of the first full calendar year after a final occupancy permit has been issued for the approved development and October 31st of each year thereafter until the grant has been fully paid or is no longer eligible to be paid; and

(d) shall be applied first to pay any unpaid taxes or charges imposed by the City on the property in respect of which the grant is paid, and any other debts owed to the City by the owner of the property, with only the balance in excess of those unpaid taxes or charges or debts being paid to the owner.

Application

5(1) The owner of a property, or a person on the owner's behalf with the written authorization of the owner, may apply to the designated officer for a Heritage Conservation Grant to be approved in respect of a development located on the property.

5(2) An application is not complete until all information reasonably required in order to review the application has been provided. If required by the designated officer, the information must be provided on a form or in a format approved by the designated officer.

5(3) A Heritage Conservation Grant must not be approved under this By-law unless a complete application in respect of it is submitted before July 13, 2021.

Qualifications for grant

6 Subject to this By-law, upon application, the designated officer is authorized to approve a Heritage Conservation Grant for a development only if the property and the proposed development meets all the following requirements:

(a) the proposed development involves conservation of the character-defining elements of a listed building in a manner appropriate to the condition of those elements;

(b) the property on which the proposed development is located is not within any TIF Zone;

(c) no active approvals have been issued in respect of the property under the Live Downtown – Rental Development Grant Program By-law, the Heritage Conservation Tax Credit By-law, or any other City tax-based incentive programs;

(d) the building proposed to be developed is vacant or underutilized;

(e) the building proposed to be developed is not a single-family dwelling;

(f) the proposed development is reasonably expected to cost at least $10,000.00 or 20% of the assessed value of the property at the time of the application, whichever is less;

(g) the work necessary to complete the proposed development can be done in compliance with the Standards and Guidelines for the Conservation of Historic Places in Canada and the Historical Resources By-law in respect of the listed building; and

(h) in the reasonable opinion of the designated officer, the proposed development is viable and is likely to result in both significant incremental taxes being generated and the building no longer being vacant or underutilized.

Limitations on number of grants issued

7(1) Only three developments may be approved for Heritage Conservation Grants under this By-law.

7(2) Applications for approval under this By-law shall be assessed by the designated officer in the order in which they are received.

Conditions of approval

8(1) The designated officer shall withdraw approval of an application if any of the following takes place:

(a) the owner fails within a reasonable time to execute and thereafter comply with a grant agreement which reflects this By-law and other terms and conditions deemed necessary by the City Solicitor to protect the interests of the City;

(b) the work undertaken to complete the proposed development fails to comply with the Standards and Guidelines for the Conservation of Historic Places in Canada and the Historical Resources By-law in respect of the listed building;

(c) work on any stage of the project begins without the appropriate building permit having been issued;

(d) the proper municipal permits (including heritage permits and zoning approvals) have not been issued for the development at the appropriate stages of the work;

(e) the development, in the reasonable opinion of the designated officer, does not continue to be viable and remain likely to result in significant incremental taxes and the building becoming occupied and fully utilized; or

(f) subject to subsection (2),

(i) the necessary building permits are not issued in respect of the development within 18 months after approval has been given under this By-law; and

(ii) a final occupancy permit is not issued in respect of the development within 36 months after approval has been given under this By-law.

8(2) Despite the fact that a final occupancy permit has not been issued in respect of an approved development within 36 months after approval has been given under this By-law, the designated officer may extend the time limit set out in clause (1)(f) for an occupancy permit to be issued if he or she reasonably concludes that

(a) the owner has made diligent efforts to achieve the requirements for a final occupancy permit within the 36 month time frame but extenuating circumstances which are not the fault of the owner have made the 36 month deadline unachievable; and

(b) the development continues to be viable.

Termination of grants

9 The annual grants that constitute a Heritage Conservation Grant are no longer payable in respect of a property if any of the following occurs:

(a) the owner makes application to have the building which is the subject of the approval removed from the List;

(b) the building is entirely or substantially destroyed; or

(c) a payment is made to the owner of the property under the Live Downtown – Rental Development Grant Program By-law, the Heritage Conservation Tax Credit By-law, or any other City tax-based incentive programs.

Powers of designated officer

10(1) The designated officer has the powers of a “designated employee” under the Charter for the purposes of administering and enforcing this By-law.

10(2) Without restricting the powers set out in subsection (1), the designated officer is authorized to do all of the following:

(a) issue an approval after determining that a proposed development meets the qualifications set out in section 6;

(b) withdraw an approval under section 8;

(c) determine that the grants can no longer be paid because one of the events set out in section 9 have occurred; and

(d) 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.

Appeal

11 Where a decision of a designated officer is subject to appeal under *The City of Winnipeg Charter*, the appeal shall be heard by the designated committee.

DONE AND PASSED this 19th day of July, 2018.

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Mayor

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City Clerk

Approved as to content:

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Director of Planning, Property and Development

Legally reviewed and certified as to form:

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For Director of Legal Services/City Solicitor