

BY-LAW NO. 7### [DRAFT]

BEING A BY-LAW of The City of Brandon to establish a tax abatement program to promote the rehabilitation and restoration of Municipal Heritage Sites.

WHEREAS Sections 232(1), 235.1(1) and 235.1(2) of The Municipal Act authorize the Council of a municipality to enact a by-law to establish a program of property tax credits to encourage and assist in the renovation of buildings that have been designated as Municipal Heritage Sites under The Heritage Resources Act (Manitoba);

AND WHEREAS the Brandon and Area Planning District Development Plan, 2013 includes objectives and policies respecting the preservation and enhancement of buildings by reason of their historical significance;

AND WHEREAS the Council of The City of Brandon has enacted The Brandon Heritage Conservation By-law to provide, in part, for the issuance, suspension and cancellation of municipal heritage permits;

AND WHEREAS it is deemed necessary and expedient to pass a by-law for the purpose of establishing the terms and conditions for tax credits for heritage buildings;

NOW THEREFORE the Council of The City of Brandon, in open session assembled, enacts as follows:

PART ONE: INTERPRETATION

1. TITLE

This by-law may be cited by its long title ("City of Brandon Heritage Incentive By-law"), its short title ("Heritage Incentive By-law"), or its by-law number ("By-law No. 7###"), and any such citation is to be taken as meaning this by-law as amended.

2. DEFINITIONS

(a) Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in The Heritage Resources Act (Manitoba,) the City of Brandon Heritage Conservation By-law or, if not contained therein, a standard dictionary.

[By referring to the Heritage Conservation By-law, can avoid longer list of definitions in this by-law.]

(b) The following definitions apply to the text of this by-law:

- (1) "**Base year**" means the year prior to the year in which final approval is granted for a heritage conservation project completed under this by-law.
- (2) "**Director (Finance)**" means the Director of the Finance Department, and any of his or her delegates.
- (3) "**Director (Planning)**" means the Director of the Planning, Property & Buildings Department, and any of his or her delegates.
- (4) "**Eligible project costs**" means the cost of contracted labour, material, equipment and professional fees for eligible heritage conservation project work on or in a Municipal Heritage Site, or a portion thereof, as set out in this by-law.
- (5) "**Financial assistance**" means a tax credit for municipal property taxes.

PART TWO: ELIGIBILITY

3. ELIGIBLE APPLICANTS

- (a) The applicant shall be the owner of a Municipal Heritage Site on which financial assistance will be applied.
- (b) The applicant shall be responsible for the proposed heritage conservation project and all associated approvals and permits.

4. ELIGIBLE SITES

- (a) A site shall meet the following criteria to be eligible for financial assistance:
- (1) The site shall be a Municipal Heritage Site located within the municipality;
 - (2) The site shall not be in property tax arrears;
 - (3) The site shall not have any outstanding utility charges or other amounts owing to the municipality; and
 - (4) The site shall not have any outstanding contraventions or non-compliance orders, except for contraventions or orders requiring work for which the applicant is applying for financial assistance.
- (b) A Municipal Heritage Site is still eligible for financial assistance even if it is also designated as
- (1) a provincial heritage site in accordance with the Act,
 - (2) a national historic site in accordance with The Historic Sites and Monuments Act (Canada),
 - (3) a heritage railway station in accordance with The Heritage Railway Stations Protection Act (Canada), or
 - (4) a classified federal heritage building or a recognized federal heritage building in accordance with the Treasury Board Policy on Management of Real Property (Canada).

[Currently, only one Municipal Heritage Site, the BCATP Hangar, is also designated by higher levels of government. This site may also apply for provincial and federal funding due to its multiple heritage statuses.]

5. ELIGIBLE PROJECTS AND COSTS

- (a) The following heritage conservation projects, in the order of priority from highest to lowest, are eligible for financial assistance, provided that construction for such projects have not begun prior to conditional approval of an application for financial assistance:
- (1) Structural repair, building stabilization and moisture control;
 - (2) Repair and energy upgrading of existing original windows;
 - (3) Exterior restoration, including
 - (i) Conservation of original, existing material,
 - (ii) Restoration of deteriorated material, and
 - (iii) Reconstruction of missing components;
 - (4) Exterior historic paint colours;
 - (5) New windows that match the original windows in their details, operation and materials, but only if the original windows no longer exist or are in irreparable condition;
 - (6) Accessibility requirements with minimal impact to historically significant exterior and interior features; and
 - (7) Restoration of original interior features where the building is accessible to the public on a regular basis.

[This list of eligible projects is consistent with Manitoba's for its heritage incentive program.]

- (b) All work proposed for financial assistance requires a valid Municipal Heritage Permit.
- (c) All work proposed for financial assistance shall comply with the latest edition of Canadian Register of Historic Places' "Standards and Guidelines for the Conservation of Historic Places in Canada".
- (d) The following costs may be considered to be part of a project's eligible project costs:
- (1) All work as set out under subsection 5(a) of this by-law; and

- (2) All professional fees associated with work as set out under subsection 5(a) of this by-law.

[One example of professional fees is an architect's consulting fee for drafting plans for the project.]

- (e) The total eligible projects costs set out under subsection 5(d) of this by-law shall be no less than \$10,000.00.

[The minimum threshold of \$10,000 ensures costs to administer an application do not exceed the eligible incentive value, and the program will support more significant heritage conservation projects that typically are costlier.]

PART THREE: INCENTIVE ADMINISTRATION

6. FINANCIAL ASSISTANCE PARAMETERS

- (a) Financial assistance may be provided to Municipal Heritage Sites in that municipal taxes would be eligible for a tax credit for a period of ten (10) years commencing the year following the base year.
- (b) The total of the tax credit over the period of ten (10) years identified in subsection 6(a) of this by-law shall not exceed 50% of eligible project costs.
- (c) For Municipal Heritage Sites used solely for residential purposes in accordance with the Zoning By-law, subject to subsection 6(b) of this by-law, the tax credit identified in subsection 6(a) of this by-law shall be calculated as 100% of the ordinary annual municipal property taxes for the subject site in the first year and
- (1) A 10% reduction of the credit for each subsequent year compared to the previous year, or
- (2) the remaining total financial assistance to be released, whichever is less.

[Residential sites qualify for a ten-year graduated tax exemption program.]

- (d) For all other Municipal Heritage Sites, subject to subsection 6(b) of this by-law, the tax credit identified in subsection 6(a) of this by-law shall be calculated to equal the ordinary annual municipal property taxes for the subject site in a given year or the remaining total financial assistance to be released, whichever is less.

[Non-residential sites qualify for a ten-year tax exemption program.]

- (e) Where the subject site also qualifies for other financial assistance that provide a tax credit on municipal taxes levied against the subject site, the sum of all tax credits shall not exceed the subject site's ordinary annual municipal property taxes.

7. APPLICATION

- (a) An applicant shall submit an application package as prescribed by the municipality to the Planning, Property & Buildings Department.
- (b) An applicant may submit applications for multiple projects on one site, but the financial assistance limitation as set out under Section 6 of this by-law shall apply.
- (c) An application shall not be considered complete where the proposal will result in a violation of this by-law, any other City by-law or any other law or regulation.
- (d) An application will not be accepted if it is the same as or substantially similar to an earlier application that was denied within one (1) year before the day when the new application is made.
- (e) Upon receipt of a complete application, along with applicable fees in accordance with the City of Brandon Fee Schedule By-law, the Director (Planning) shall review the application.

[Fees are not proposed for heritage incentive applications in the foreseeable future as we want to encourage heritage conservation. However, an amendment to this by-law will not be necessary if future reviews determine that an application fee is required.]

8. APPROVAL

[This section defines two levels of approval. Conditional approval means that the application is approved in principle and work may proceed on the Municipal Heritage Site. Final approval will be granted if the completed work is confirmed to be in accordance with approved plans and permits.]

- (a) The Director (Planning) may grant conditional approval of an application where
 - (1) the application meets all eligibility criteria as set out under PART TWO: ELIGIBILITY, and
 - (2) the applicant obtains a valid Municipal Heritage Permit as well as valid development or building permits, where applicable, for all work identified in the application.
- (b) A decision to grant or deny conditional approval of an application is not subject to appeal.
- (c) The Director (Planning) may impose conditions on the conditional approval to ensure the proposal complies with Subsection 8(a) of this by-law.
- (d) The Director (Planning) may grant final approval of an application where
 - (1) the application still meets all eligibility criteria as set out under PART TWO: ELIGIBILITY of this by-law, and
 - (2) the Director (Planning) completes a final inspection confirming work done on the subject site is completed as approved in the associated Municipal Heritage Permit and, if applicable, development or building permits.

9. FINANCIAL ASSISTANCE ADJUSTMENT

[This section gives an applicant an opportunity to adjust their application after conditional approval in case of reasonable unforeseen circumstances resulting in increased project costs.]

- (a) If actual eligible project costs are less than the estimated eligible project costs resulting in the incentive being greater than the limitation as set out under subsection 6(d) of this by-law, the incentive shall be reduced to comply with this by-law.
- (b) If actual eligible project costs are greater than the estimated eligible project costs due to structural or other conservation problems that could not have been anticipated prior to the commencement of the project, the applicant may submit an amendment application package as prescribed by the municipality to the Planning, Property & Buildings Department to increase the approved incentive.
- (c) Subsections 7(c) and (e) as well as 8(a) and (b) of this by-law apply to review and process an amendment application, and the Director (Planning) may seek additional information to understand the structural or other conservation problems that could not have been anticipated prior to the commencement of the project.
- (d) After considering the amendment application, the Director (Planning) may
 - (1) uphold the original decision made under subsection 8(a) of this by-law,
 - (2) vary or add conditions of approval as set out under subsection 8(c) of this by-law, or
 - (3) rescind conditional approval and reject the original and amendment applications.

10. RELEASE OF FINANCIAL ASSISTANCE

- (a) The first installment of financial assistance shall not be applied until the Director (Planning) issues final approval of an application as set out under subsection 8(d).
- (b) Subject to sections 11 through 13, the Director (Finance) may apply subsequent annual installments of financial assistance until
 - (1) A total of ten (10) annual installments of financial assistance are applied for the approved application, or
 - (2) The total of the financial assistance has reached 50% of eligible project costs, whichever comes first.

11. INCENTIVE NOT TRANSFERRABLE

[The intent of this section is to reward only the owner of the Municipal Heritage Site that completed the approved heritage conservation work. It is not meant to subsidize future owners.]

If an applicant sells or transfers title of the subject site, any financial assistance or portion thereof that has not been applied to the subject site is not transferable, the applicant is deemed to forfeit the financial assistance for the subject site, and the financial assistance is cancelled in accordance with section 13 of this by-law.

12. SUSPENSION OF INCENTIVE

[This section lays out the grounds for which an incentive program for a Municipal Heritage Site may be suspended, as well as how a suspension may be lifted.]

- (a) The Director (Finance) or Director (Planning) shall suspend the release of installments of financial assistance for a site where
 - (1) additional work is being or has been done on the subject site that does not comply with the Heritage Conservation By-law,
 - (2) the site is not in compliance with any other applicable law, by-law or regulation, or
 - (3) except for clause 4(a)(1), the site no longer meets the eligibility criteria as set out under subsection 4(a) of this by-law.
- (b) The Director (Finance) or Director (Planning) shall lift the suspension of financial assistance or portion thereof when satisfied that the applicant satisfactorily addressed all outstanding issues under subsection 12(a) of this by-law within one (1) year of either Director being made aware of these issues or in accordance with a schedule approved by the Director (Planning).
- (c) The suspension of the financial assistance is not subject to appeal.

13. CANCELLATION OF INCENTIVE

[This section lays out the grounds for which an incentive program for a Municipal Heritage Site may be cancelled.]

- (a) The Director (Finance) or Director (Planning) shall cancel the financial assistance for a site where
 - (1) outstanding issues under subsection 12(a) have not been resolved within one (1) year of either Director (being made aware of these issues or in accordance with a schedule approved by the Director (Planning)),
 - (2) the subject site is no longer designated as a Municipal Heritage Site, or
 - (3) the applicant sells or transfers title of the subject site.
- (b) The cancellation of the financial assistance is not subject to appeal.

PART FOUR: REPEAL

14. REPEAL OF HERITAGE TAX CREDIT BY-LAW

By-law No. 6740 is hereby repealed and the rules of repeal provisions as set out in the City of Brandon Legislative Standards By-law are hereby applied.

DONE AND PASSED by the Council of the City of Brandon duly assembled this 3rd day of [Month], A.D. 2017.

MAYOR

CITY CLERK

Read for a first time this	3 rd	day of [Month]	A.D. 2017
Read for a second time this		day of [Month]	A.D. 2017
Read for a third time this		day of [Month]	A.D. 2017