

Authority: Planning and Growth Management Committee Item PG34.15, as adopted by City of Toronto Council on July 8, 9, 10 and 11, 2014

CITY OF TORONTO

BY-LAW No. 357-2015

To amend City of Toronto Municipal Code Chapter 103, Heritage, Article VII, Heritage Property Tax Rebate Program to adopt a new Heritage Property Tax Rebate Program.

Whereas Council has approved the adoption of a new heritage property tax rebate program;

The Council of the City of Toronto enacts:

1. City of Toronto Municipal Code, Chapter 103, Heritage, is amended as follows:
 - A. By repealing Chapter 103, Article VII, Heritage Property Tax Rebate Program.
 - B. By adding the following as a new Chapter 103, Article VII, Heritage Property Tax Rebate Program:

**ARTICLE VII
Heritage Property Tax Rebate Program**

§ 103-30. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACT - means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18.

ADDITIONAL ELIGIBILITY CRITERIA - means the criteria as set out in § 103-32 that must be met in order for a property to qualify as an eligible heritage property.

APPLICANT - means an owner or a person authorized by an owner to submit a heritage property tax rebate application on behalf of the owner.

APPLICATION PROCESS - means the two step process, inclusive of a project proposal and heritage property tax rebate application, in accordance with § 103-34.

CONTRIBUTING RESOURCE - means a property or feature within a heritage conservation district that is deemed to contribute to the cultural heritage value and character of the district, as identified in the heritage conservation district plan.

ELIGIBLE HERITAGE PROPERTY - means a property or portion of a property that:

- A. Is designated under Part IV of the Act or Part V of the Act; and
- B. Complies with the additional eligibility criteria set out in § 103-32; and

- C. Is subject to:
- (1) A heritage easement agreement with the City under section 37 of the Act;
or
 - (2) A heritage easement agreement with the Ontario Heritage Trust under section 22 of the Act; or
 - (3) A maintenance and conservation agreement with the City under section 334 of the *City of Toronto Act*.

ELIGIBLE COSTS - means costs that are:

- A. Incurred by an owner for the undertaking of eligible maintenance and conservation work and approved by the manager in a statement of authorized eligible expenses; and
- B. Equivalent to no less than 20 percent of the property tax for the eligible heritage property in the year for which a heritage property tax rebate is applied for.

ELIGIBLE MAINTENANCE AND CONSERVATION WORK - means work approved in a statement of authorized eligible expenses that is required to repair, restore, preserve, rehabilitate and stabilize an eligible heritage property in accordance with § 103-33.

GROSS FLOOR AREA - means the sum of the total area of each floor level, above and below the ground, measured from the exterior of the main wall of each floor level of a building or structure.

HERITAGE ATTRIBUTES - means those portions of an eligible heritage property that contribute to its cultural heritage value or interest, and that are identified in:

- A. A designation by-law under Part IV of the Act; or
- B. A heritage easement agreement; or
- C. A maintenance and conservation agreement; or
- D. A heritage conservation district plan under Part V of the Act.

HERITAGE CONSERVATION DISTRICT - means a geographically defined area designated under Part V of the Act.

HERITAGE EASEMENT AGREEMENT - means a registered agreement entered into under section 22 or section 37 of the Act.

HERITAGE PERMIT - means:

- A. A permit issued by Council under section 42 of the Act; or

B. The consent of Council given under section 33(1) of the Act.

HERITAGE PROPERTY TAX REBATE APPLICATION - means the second step in the application process as set out in § 103-34.3.

HERITAGE PROPERTY TAX REBATE - means a property tax rebate in respect of an eligible heritage property issued in accordance with this article.

MANAGER - means the manager of Heritage Preservation Services.

MAINTENANCE AND CONSERVATION AGREEMENT - means a registered agreement for the maintenance and conservation of eligible heritage properties under section 334(2)(c) of the *City of Toronto Act*.

OWNER - means the registered owner of an eligible heritage property.

PROJECT PROPOSAL - means the first step of the application process as set out in § 103-34.

PROPERTY TAX - means the annual taxes levied on a property for municipal and school purposes that are attributable to the eligible heritage property, and the land used in connection with the eligible heritage property, as determined by the City.

STANDARDS AND GUIDELINES FOR THE CONSERVATION OF HISTORIC PLACES IN CANADA - means the Standards and Guidelines for the Conservation of Historic Places in Canada as adopted by Council and as amended from time to time.

STATEMENT OF AUTHORIZED ELIGIBLE EXPENSES - means a statement issued by the manager in accordance with § 103-34.1.

§ 103-31. Heritage property tax rebate.

- A. The heritage property tax rebate in respect of an eligible heritage property designated under Part IV of the Act shall be a maximum annual rebate of 40 percent of the property tax within an application year subject to:
- (1) A maximum rebate of 50 percent of the eligible costs; and
 - (2) An annual cap of \$500,000 or such other amount as may be approved by Council through the annual budget process for the City Planning Division.
- B. The heritage property tax rebate in respect of an eligible heritage property designated under Part V of the Act shall be a maximum rebate of 40 percent of the property tax subject to:
- (1) A maximum rebate of 50 percent of the eligible costs;

- (2) An annual cap of \$50,000 or such other amount as may be approved by Council through the annual budget process for the City Planning Division; and
- (3) A maximum availability of two consecutive years within the term of a five year maintenance and conservation agreement.

§ 103-32. Additional eligibility criteria.

In order for a property to qualify as an eligible heritage property the following additional eligibility criteria must be met:

- A. A property designated under Part IV of the Act must be a commercial or industrial class property as prescribed under the *Assessment Act*, R.S.O. 1990, c. A.31, with a minimum of 50 percent of the current value assessment applied to the calculation of commercial or industrial taxes.
- B. A property designated under Part V of the Act must be a contributing resource within the commercial or industrial class as prescribed under the *Assessment Act*, with a minimum of 50 percent of the current value assessment applied to the calculation of commercial or industrial taxes.
- C. Eligible maintenance and conservation work undertaken in the year for which a heritage property tax rebate is applied for must be equivalent to no less than 20 percent of the property tax for the eligible heritage property.
- D. All facades facing a street or open space must have been and continue to be retained.
- E. A building or structure related to or supporting heritage attributes must not have been:
 - (1) Substantially or completely disassembled; or
 - (2) Substantially or completely reconstructed; or
 - (3) Relocated from its original property.
- F. Where an application is submitted within one year of any other application related to development, interior or exterior structural alterations, or any alterations affecting the structure or gross floor area of an eligible heritage property:
 - (1) 50 percent of the existing gross floor area related to, or supporting the heritage attributes must be retained; and
 - (2) 50 percent of the existing exterior walls, plus all facades facing a right of way or open space must be retained as exterior walls.

- G. The property must be subject to the payment of taxes and not a payment in lieu of tax.
- H. The property must be in compliance with the heritage easement agreement or maintenance and conservation agreement and all applicable legislation, building and zoning by-laws.
- I. The property must not be subject to any work orders, deficiency notices, outstanding accounts, fines, arrears of taxes, fees or penalties.
- J. Where a property is eligible for a property tax rebate under any other City program, the amount of any such rebates received by the owner shall be deducted from the property tax prior to the calculation of the heritage property tax rebate.

§ 103-33. Eligible maintenance and conservation work.

Eligible maintenance and conservation work must be approved in a statement of authorized eligible expenses under § 103-34.1 and subject to Schedule A of this chapter, includes the following:

- A. Work required to repair, restore and preserve an eligible heritage property.
- B. Restoration of lost historic features of an eligible heritage property where sufficient documentary evidence exists to replace the lost features with new elements that match the lost features in form, materials, and detailing.
- C. Engineering or architectural drawings and studies focused on conservation, provided that such studies are required to direct the eligible maintenance and conservation work and provided that the related eligible maintenance and conservation work is undertaken and completed to the satisfaction of the manager.

§ 103-33.1. Compliance with plans, standards and guidelines.

- A. Eligible maintenance and conservation work must be consistent with the *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010) and must comply with all additional requirements of the heritage property tax program as set out in this article.
- B. Where an eligible heritage property is within a heritage conservation district, eligible maintenance and conservation work must be in compliance with the in-force heritage conservation district plan and associated guidelines.

§ 103-33.2. Excluded work.

Eligible maintenance and conservation work does not include the types of work set out in Schedule A of this chapter.

§ 103-34. Application process, step one; project proposal.

An owner or applicant wishing to apply for a heritage property tax rebate shall submit the following information to the satisfaction of the manager by August 31 in the calendar year in which the proposed work will be completed:

- A. A completed project proposal form and supporting documents including:
- (1) Name, address, telephone number, fax number and e-mail address of the owner and applicant;
 - (2) Municipal address of the eligible heritage property;
 - (3) Total current value assessment of the eligible heritage property for the taxation year to which the application applies, including confirmation that a minimum of 50 percent of the current value assessment is applied to the calculation of commercial or industrial taxes;
 - (4) Total property tax levied on the property for the taxation year to which the application applies and a copy of the most recent tax bill for the property;
 - (5) A copy of any registered heritage easement agreement or maintenance and conservation agreement or a letter requesting approval to enter into a heritage easement agreement or maintenance and conservation agreement;
 - (6) Photographs of the eligible heritage property in its current state;
 - (7) A scope of work for the proposed eligible maintenance and conservation work;
 - (8) Detailed specifications of all proposed eligible maintenance and conservation work;
 - (9) Complete architectural plans and elevations for proposed eligible maintenance and conservation work that involves development, interior or exterior structural alterations, or any alterations affecting the structure or gross floor area of the eligible heritage property, documenting compliance with § 103-32F;
 - (10) Detailed cost estimates for all proposed eligible maintenance and conservation work, detailed by each specialized trade and/or type of work.

§ 103-34.1. Approval of project proposal; statement of authorized eligible expenses.

Upon approval of a project proposal by the manager, the manager will issue a statement of authorized eligible expenses indicating what proposed work and material costs constitute eligible maintenance and conservation work and eligible costs.

§ 103-34.2. Completion of project proposal.

- A. All eligible maintenance and conservation work must be completed in accordance with the statement of authorized eligible expenses, the requirements of the Act, including the obtaining of all required building permits, the heritage easement agreement or maintenance and conservation agreement, and all other requirements of the heritage property tax rebate program as provided for in this article, to the satisfaction of the manager.
- B. In the event that the eligible maintenance and conservation work cannot be completed as approved in the statement of authorized eligible expenses, provided that the eligible maintenance and conservation work has not commenced, the manager may issue a revised statement of authorized eligible expenses based on the submission of a revised scope of work to the satisfaction of the manager.

§ 103-34.3. Application; step two; heritage property tax rebate application; approval.

Upon completion of the eligible maintenance and conservation work in accordance with § 103-34.2, an owner or applicant wishing to apply for a heritage property tax rebate shall submit the following information to the satisfaction of the manager, no later than the last day of February in the year following the year for which the owner is requesting a heritage property tax rebate:

- A. A completed heritage property tax rebate form.
- B. If not previously submitted, a copy of the heritage easement agreement or maintenance and conservation agreement, or an acknowledgment that the required heritage easement agreement or maintenance and conservation agreement shall be registered prior to issuance of any heritage property tax rebate.
- C. A copy of the statement of authorized eligible expenses.
- D. A copy of the property tax bill for the year in which the eligible maintenance and conservation work was completed with proof of payment.
- E. Photographs of the eligible heritage property showing the completed eligible maintenance and conservation work.
- F. Invoices for the eligible maintenance and conservation work completed within the previous tax year, marked as paid, with a breakdown of costs by each skilled trade and/or type of work.
- G. A certificate of insurance showing that the eligible heritage property is insured in accordance with the heritage easement agreement or the maintenance and conservation agreement.

§ 103-34.4. Approval of heritage property tax rebate application.

The manager will issue instructions to Revenue Services to process the heritage property tax rebate upon:

- A. Verification that the eligible maintenance and conservation work has been completed in accordance with the statement of authorized eligible expenses and all additional requirements of the heritage property tax program as set out in this article, to the satisfaction of the manager.
- B. Submission of a copy of the heritage easement agreement or maintenance and conservation agreement with registration particulars if not previously submitted.
- C. Receipt of the owner's acknowledgement in writing that the heritage property tax rebate as determined in accordance with this article is in full satisfaction of the heritage tax rebate for the applicable year.

§ 103-34.5. Authorization.

The owner of an eligible heritage property may retain the benefit of any heritage property tax rebate despite the provision of any lease or other agreement relating to the eligible heritage property, or may authorize the City, in writing, to pay the heritage property tax rebate to a lessee of the eligible heritage property.

§ 103-34.6. Penalties.

- A. The owner of an eligible heritage property shall repay all or any part of the heritage property tax rebate, as determined by the City, where there are outstanding work orders, municipal fines, arrears of taxes, fees or penalties assessed against the owner.
- B. If the owner of an eligible heritage property who has received a heritage property tax rebate alters, demolishes or removes the eligible heritage property in breach of the requirements of the Act, or breaches the terms of a heritage easement agreement or maintenance and conservation agreement, the owner shall repay all or part of the heritage property tax rebate, as determined by the manager.
- C. The owner of an eligible heritage property shall pay interest on the amount of any repayment required under Subsections A or B at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the bank listed in Schedule I of the Bank Act (Canada) calculated from the date the heritage property tax rebate was issued.

§ 103-34.7. Delegation.

The Chief Planner and Executive Director is authorized to negotiate and sign heritage easement agreements and maintenance and conservation agreements entered into for purposes of compliance with the requirements of this article.

§ 103-34.8. Program in effect.

The heritage property tax rebate program shall continue at the pleasure of Council and may be terminated at any time, without prior notice.

Enacted and passed on April 2, 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

- A. new construction that is not restoration;
- B. electrical and wiring;
- C. plumbing and sprinklers;
- D. heating, air conditioning and ventilation;
- E. new windows, doors and fixtures except when restoring historic features that are lost, but for which sufficient documentary evidence exists to replace the lost features with new elements that match the lost features in form, materials, and detailing;
- F. carpeting;
- G. window treatments;
- H. furniture or chattels;
- I. decks;
- J. demolition;
- K. building moving;
- L. additions of new features, fixtures or fittings;
- M. waterproofing or underpinning;
- N. landscaping, fencing or paving not associated with the restoration or maintenance of heritage attributes or features;
- O. lighting;
- P. signage;
- Q. financing, acquisition or leasing costs;
- R. upgrades for accessibility, thermal performance or compliance with the *Ontario Building Code*;
- S. development feasibility studies;
- T. heritage studies required as part of an agreement or development application under the *Planning Act*.