



STAFF REPORT ACTION REQUIRED

Amendment to Toronto Municipal Code, Chapter 103 – Heritage Property Tax Rebate Program

Date:	September 15, 2016
To:	Toronto Preservation Board Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	All
Reference Number:	P:\2016\Cluster B\PLN\PGMC\PG16106

SUMMARY

This report recommends that City Council adopt revisions to the Toronto Municipal Code, Chapter 103, to clarify program requirements for the Heritage Property Tax Rebate Program (HPTRP).

The HPTRP acquired a new program structure with the enactment of City of Toronto By-law No. 357-2015 on April 2, 2015 and the subsequent amendment of the City of Toronto Municipal Code Chapter 103. The HPTRP provides tax rebates for costs related to eligible maintenance and conservation work for commercial and industrial properties that are designated under either Part IV or V of the Ontario Heritage Act (OHA). The provincial government shares the cost of rebates with the City.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct staff to amend Municipal Code, Chapter 103, Article VII, Heritage Tax Rebate Program as follows:
 - a. By amending the definition of Eligible Maintenance and Conservation Work to include work required to repair, restore, preserve, rehabilitate and stabilize the identified heritage attributes, as well as any of the following structural elements or actions that support or protect identified heritage attributes: exterior walls and façades, roofs, foundations, chimneys, exterior windows and doors, exterior stairs.
 - b. To provide that eligible properties must retain the designated heritage property, including all façades facing a street or open space and a minimum 50% of gross floor area related to or supporting the heritage attributes.
 - c. To provide that where a project proposal is related to development, interior or exterior structural alterations, or any alterations affecting the gross floor area of an eligible heritage property, 50 percent of the existing gross floor area related to or supporting the heritage attributes must be retained; and 50 percent of the existing exterior walls plus all façades facing a right of way or open space must be retained as exterior walls.
 - d. To provide that work is ineligible if it is begun prior to receiving written approval of the work through the Heritage Property Tax Rebate Program.
 - e. To provide that Eligible Maintenance and Conservation Work does not include the types of work set out in Schedule A of Chapter 103, or any work resulting from the types of work set out in Schedule A of Chapter 103.
 - f. To provide that Eligible Maintenance and Conservation Work does not include work required by the City of Toronto in accordance with an existing s.37 agreement, or within an existing zoning by-law amendment, or secured in an existing Heritage Easement Agreement and required as a condition of zoning by-law approval.
 - g. To provide that, where applicable, upon completion of Eligible Maintenance and Conservation Work the owner or applicant must provide a letter from a qualified heritage consultant confirming that the authorized Eligible Maintenance and Conservation Work was completed according to the requirements of the Statement of Authorized Eligible Expenses.

2. The City Solicitor be authorized to introduce the necessary bill in Council to amend Chapter 103, Article VII of the Municipal Code to give effect to Council's decision.

Financial Impact

There are no new financial impacts resulting from the adoption of this report. The budget allocation for the program is currently set at \$2,000,000 for the municipal portion.

DECISION HISTORY

City Council on July 8, 2014 approved the adoption of a new structure for the heritage property tax rebate program.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.15>

The HPTRP provides tax rebates for costs related to eligible maintenance and conservation work for commercial and industrial properties that are designated under either Part IV or V of the Ontario Heritage Act (OHA). The program incentivizes the maintenance and conservation of eligible heritage properties by providing property owners with tax rebates of 50% of the cost of eligible work up to maximum rebate amounts.

City Council on April 2, 2015 enacted a new by-law for the Heritage Property Tax Rebate Program. This by-law encoded the changes approved by Council in PG34.15.

<http://www.toronto.ca/legdocs/bylaws/2015/law0357.pdf>

ISSUE BACKGROUND

At its meeting on April 2, 2015, City Council enacted a new by-law to amend the Toronto Municipal Code, Chapter 103 for the HPTRP. After completing a full year of program operation under the new program structure, staff have determined that portions of the Toronto Municipal Code, Chapter 103 which define program requirements should be revised to more clearly state the intent of the program.

A clear definition of eligible maintenance and conservation work and clear program requirements are fundamental to the transparent and efficient functioning of the HPTRP. Applicants propose work projects which, if eligible, are pre-approved by staff through the issuance of a Statement of Authorized Eligible Expenses. Tax rebates are calculated based on the cost of the completed work in conjunction with the amount of property taxes paid.

The provincial government shares the cost of heritage property tax rebates with the City at a general rate of 47%, the provincial education portion of property taxes paid by commercial and industrial properties.

COMMENTS

City of Toronto Municipal Code Chapter 103 was amended in April, 2016 in accordance with PG34.15 adopted by City Council at its meeting held on July 8, 2014. After a full year of operation under the new program structure, portions of the Municipal Code

Chapter 103 have been identified which would benefit from revision to further strengthen the program.

As projected, the new program structure has created clear tracking measures connected to the completion of approved conservation work, increased transparency and predictability with regards to the calculation of rebates, and streamlined processing. The new program structure has assisted property owners in developing maintenance and conservation programs consistent with Official Plan goals for heritage incentive programs and heritage conservation excellence.

The program is growing. For the 2015 taxation year, nine designated heritage properties participated in the program, and, after heritage property tax rebates, invested approximately \$1.2 million in approved maintenance and conservation work. Two property owners entered into Maintenance and Conservation Agreements, providing further protection to their properties' heritage resources. In 2016, a total of 13 properties have submitted project proposals which, after the heritage property tax rebates, will result in an estimated \$6.5 million in maintenance and conservation work.

Proposed Changes

1. Description of Eligible Maintenance and Conservation Work

Currently, Chapter 103 states that Eligible Maintenance and Conservation Work is work required to repair, restore and preserve an eligible heritage property. For greater clarity this definition should be revised in accordance with PG34.15 to clarify that the program will fund only work related to the conservation of identified Heritage Attributes.

2. Eligibility related to retention of designated property

Currently, Chapter 103 states that Eligible Properties must retain all façades facing a street or open space. Staff have determined that eligibility criteria should be revised in accordance with PG 34.15 to include the retention of the designated heritage property, including 50% of the gross floor area as it existed when the property was designated. These requirements, as identified in PG 34.15, will allow the program to provide a stronger incentive for owners of eligible properties to conserve their whole designated property.

3. Eligibility related to retention of designated property where a project proposal relates to alterations

The HPTRP is intended to incentivize better heritage conservation and to encourage property owners undertaking the development of their property to retain more of a heritage property than might otherwise be financially feasible. Currently, Chapter 103 achieves this intent by requiring that property owners submitting HPTRP applications within one year of any application related to significant alterations retain 50 percent of the existing gross floor area related to, or supporting the heritage attributes, and 50 percent of the existing exterior walls, plus all façades facing a right of way or open space. If property owners achieve these requirements, they are eligible to receive a heritage property tax rebate against proposed conservation work.

Staff have determined that this provision should be extended beyond a time limitation of within one year of any other application in order to strengthen the incentive to conserve. This change will ensure that, if a property owner waits for one year after an application to alter is submitted, they will still be held to the additional conservation requirements if the proposed work relates to those alterations.

4. Eligibility related to commencement of work

The intent of the program is to require approval of proposed work through the issuance of a Statement of Authorized Eligible Expenses prior to commencement of work. The requirement to have work approved before its commencement is important to the predictability and transparency of the program. It allows staff to more accurately forecast the budget requirements of the program for each taxation year. Equally important, the pre-approval requirement gives staff and applicants the opportunity to, where possible, shape proposed work plans and specifications to meet eligibility requirements, including consistency with the Standards and Guidelines for the Conservation of Historic Places in Canada and compliance with heritage conservation district plans, as set out in Chapter 103.

Finally, the requirement of approval prior to commencement of the work provides both staff and applicants with clear expectations regarding what work will be eligible for a rebate prior to significant financial investment in the work on behalf of the owner.

5. Eligibility related to types of work listed in Schedule A

The HPTRP is designed to incentivize excellence in heritage conservation. It is not designed to fund work unrelated to the conservation of a property's heritage resources, or to fund alterations related to, for example, upgrades to mechanical systems. For this reason, s103-33.2 explicitly identifies types of work that are excluded from the program, as identified in Schedule A (Attachment 1).

While it is clear that the HPTRP will not fund items in Schedule A, staff have encountered questions about whether the HPTRP would fund repairs of heritage attributes that have been damaged as a result of items in Schedule A. The intent of the program is to consider as ineligible any work listed in Schedule A, and any work resulting from items listed in Schedule A. The purpose of this restriction is to ensure that the HPTRP does not incentivize damage to heritage attributes by sharing the cost of repairs arising from ineligible work.

6. Eligibility related to work required by the City of Toronto

Staff have determined that the list of excluded work in Schedule A should be revised to prevent the HPTRP from sharing the cost of conservation work that is required by the City of Toronto in accordance with a s37 agreement, within an existing zoning by-law amendment, or secured in an Heritage Easement Agreement and required as a condition of zoning by-law approval.

The HPTRP is intended to incentivize better heritage conservation and to encourage and enable property owners undertaking the development of their property to retain more of a heritage property than might otherwise be possible.

The HPTRP program is not intended to assist property owners with the costs of items required by the City as the result of the identified negotiated development agreements. Such costs are the responsibility of the property owner. For this reason, Schedule A of Chapter 103 currently lists as ineligible work "heritage studies required as part of an agreement or development application under the Planning Act."

7. Requirements of Rebate Application

Staff recommend that Chapter 103 also be amended to require, at the discretion of the Senior Manager, Heritage Preservation Services, that heritage property tax rebate applications must include confirmation from a qualified heritage consultant that the authorized Eligible Maintenance and Conservation Work was completed in accordance with the requirements of the Statement of Authorized Eligible Expenses.

This is already a routine requirement of property owners who are completing work as a result of a Conservation Plan secured by the City. The review of completed work by a qualified heritage professional ensures that the work has been completed to the highest standards of conservation, as agreed upon in the Statement of Authorized Eligible Expenses.

CONTACT

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SIGNATURE

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ATTACHMENT

Attachment 1 – Schedule A

ATTACHMENT 1

TORONTO MUNICIPAL CODE CHAPTER 103, HERITAGE SCHEDULE A

[Added 2015-04-02 by By-law No. 357-2015]

- 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*.