

BY-LAW 79 OF 2017

THE CORPORATION OF THE TOWN OF ST. MARYS

Being a By-law to establish a heritage property tax rebate program for the Heritage Conservation District.

WHEREAS: The Council of The Corporation of the Town of St. Marys is authorized, pursuant to Section 365.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to pass a by-law establishing a program to provide tax relief in respect of eligible heritage properties;

AND WHEREAS: The Council of the Corporation of the Town of St. Marys deems it advisable and in the public interest to provide financial assistance on the terms set out in the By-law as an incentive to encourage property owners to renovate, restore and maintain heritage buildings in the Town of St. Marys;

NOW THEREFORE: The Council of The Corporation of the Town of St. Marys hereby enacts as follows;

1.0. DEFINITIONS

1.1. For the purpose of this By-law:

“Approved Renovation” means an Eligible Renovation for which the Director has given notice in writing that he or she has approved any portion of the budget in accordance with Section 3 of this By-law;

“Approved Renovation Cost” means the budget for an Approved Renovation that has been approved by the Director in accordance with Section 3 of this By-law;

“Charity Tax Rebate” means a property tax rebate as provided for in Town of St. Marys By-law No. 2002-67;

“Director” means the Director of Building and Planning of The Corporation of the Town of St. Marys, including an acting Director of Building and Planning, and his or her authorized representative(s);

“Eligible Property” means a Heritage Property which meets all of the eligibility requirements for either Program A or Program B as set out in Section 4 of this By-law;

“Eligible Renovation” means a significant renovation and / or significant rehabilitation which;

- i. Increases the number of residential dwelling units, or significantly improved existing, residential dwelling units, on one or more upper floors of a Heritage Property, and,

- ii. Maintains, preserves or restores the cultural heritage value or interest of the property;

“Heritage Property” means lands or buildings or a portion thereof that is;

- i. Located in the Town of St. Marys
- ii. Located in a Heritage Conservation District; and
- iii. Subject to a Heritage Conservation and Maintenance Agreement;

“Heritage Conservation and Maintenance Agreement” means a written agreement between the Owner of real property and the Town for the conservation and maintenance of the cultural heritage value or interest of the property;

“Heritage Conservation District” means an area defined as a Heritage Conservation District under Part V of the *Ontario Heritage Act* by a by-law of the Town;

“Heritage Property Tax Rebate” means a tax rebate that may be provided to the owner of an Eligible Heritage Property under this By-law;

“Ontario Heritage Act” means the *Ontario Heritage Act*, RSO 1990, c O.18, and the amendments thereto;

“Owner” means the registered owner or owners of real property;

“Program” means either Program A or Program B established under this By-law;

“Substantially Occupied” means that at least seventy-five percent (75%) of the units within the building were actually in use in the manner for which they were intended during the tax year in question;

“Town” means either The Corporation of the Town of St. Marys, or the geographic Town of St. Marys, as context dictates;

“Vacant Building Tax Rebate” means a property tax rebate as provided for in Town of St. Marys By-Law No. 21-2017;

2.0. GENERAL

- 1) The Owner of an Eligible Property who applies for a Heritage Property Tax Rebate in accordance with this By-law may receive a Heritage Property Tax Rebate in the tax year in respect of which the application was made, subject to the conditions set out in this By-law.
- 2) Where available, the Heritage Property Tax Rebate shall be given in the form of a credit applied to that property’s tax account for the tax year in respect of which the application was made.
- 3) The Heritage Property Tax Rebate Program set out in this By-law is subject at all times to the availability of funding for the Program and to the budget as it is allocated each annual year. Nothing in this By-law requires the Town to provide funding for this program and the Heritage Property Tax Rebate contemplated by this By-law may be eliminated by Council through repeal of the By-law at any time with no notice whatsoever to affected persons.

- 4) The Heritage Property Tax Rebate Program is subject to any regulations that the Minister of Finance may make governing by-laws on tax rebates and reductions for heritage properties.

3.0. APPROVED RENOVATIONS

- 1) The Owner(s) of an Eligible Property who plans to complete an Eligible Renovation and who wishes to apply for Program B under this By-law shall submit to the Director a Project Proposal no later than August 31 in the year for which the Eligible Renovation will be completed.
- 2) A Project Proposal shall be in the form supplied by the Town and shall include a description of the intended work, a concise explanation of how the intended work meets the eligibility criteria set out in Section 1 of this By-law, and a detailed budget for the intended work.
- 3) Applications will be processed in the order of receipt by the Town and funding will be awarded on a first come, first served basis. The Director shall consider all complete Project Proposals received before August 31 and shall either approve or refuse each.
- 4) If the Project Proposal is approved, the Director may approve any portion of the budget of the Eligible Renovation as the Director considers appropriate, up to the full budget for the Eligible Renovation.
- 5) The Director shall notify the Owner(s) of the Director's decision in writing.
- 6) Approval of a Project Proposal under this By-law is limited to the approval of funding for the Eligible Renovation as set out in this By-law. It does not constitute and shall not be taken to constitute any other permission or approval required by law for the Eligible Renovation. It is the sole responsibility of an Owner to ensure that an Eligible Renovation and all work undertaken in connection therewith complies with all applicable laws and by-laws, and to obtain all permissions, approvals, permits and licences which may be required including, but not limited to, permissions under the *Building Code Act*, the *Fire Protection and Prevention Act*, the *Planning Act*, the *Conservation Authorities Act*, and the *Environmental Protection Act*.

4.0. PROGRAM ELIGIBILITY

- 1) In order to qualify for a Heritage Property Tax Rebate, a Heritage Property must meet all eligibility conditions for either Program A or Program B.
- 2) No property is eligible for a tax rebate under this By-law if in the same tax year the same property is the subject of a Vacant Building Tax Rebate or a Charity Tax Rebate.
- 3) A maximum of one Heritage Property Tax Rebate will be given per Eligible Property per tax year.

Program A

- 4) A Heritage Property is an Eligible Property for Program A if:

- a) It is in the commercial property class as defined by the *Assessment Act*, RSO 1990 c A.31 and Ontario Regulation 282/98 thereunder, as amended;
- b) There is at least one building on the property, and all buildings on the property are substantially occupied;
- c) The Owner of the property permits any and all reasonable inspections which may be requested by the Director pursuant to Section 8 of this By-law and the results of any such inspections are satisfactory to the Director;
- d) The property is not the subject of any unpaid taxes, local improvement charges, fees, or other monies owed to the Town;
- e) The property is not the subject of any by-law contraventions, work orders, orders to comply, or outstanding municipal requirements; and,
- f) The property is not the subject of any current property standards non-compliance.

Program B

5) A Heritage Property is an Eligible Property for Program B if:

- a) It is in either the residential property class, the commercial property class or the multi-residential property class as defined by the *Assessment Act*, RSO 1990 c A.31 and Ontario Regulation 282/98 thereunder, as amended;
- b) The Owner of the property permits any and all reasonable inspections which may be requested by the Director pursuant to Section 8 of this By-law and the results of any such inspections are satisfactory to the Director;
- c) The building on the property has undergone an Approved Renovation in the tax year for which the Heritage Property Tax Rebate is sought and all work described in the Project Proposal has been substantially completed;
- d) There is at least one building on the property, and all buildings on the property are substantially occupied;
- e) The property is not the subject of any unpaid taxes, local improvement charges, fees, or other monies owed to the Town;
- f) The property is not the subject of any contraventions, work orders or outstanding municipal requirements; and,
- g) The property is not the subject of any outstanding property standards non-compliance.

5.0. APPLICATION PROCESS

- 1) The Owner of a Heritage Property may apply for a Heritage Property Tax Rebate by submitting a complete Application in the form provided by the Town to the Director no later than February 28 in the year following the year for which the Heritage Property Tax Rebate is sought.
- 2) An Application for Program A must include the following to be considered complete:

- a) Completed Application form, in the form provided by the Town, bearing the signature(s) of the Owner(s) of the property;
 - b) A copy of the signed Heritage Conservation and Maintenance Agreement;
 - c) High resolution, high quality colour photographs of all exterior elevations of the Eligible Property, each labelled with the date on which the photograph was taken; and,
 - d) Proof of adequate insurance on the Eligible Property, to the satisfaction of the Director, acting reasonably.
- 3) An Application for Program B must include the following to be considered complete:
- a) Completed Application form, in the form provided by the Town, bearing the signature(s) of the Owner(s) of the property;
 - b) A copy of the signed Heritage Conservation and Maintenance Agreement;
 - c) High resolution, high quality colour photographs of all exterior elevations of the Eligible Property, each labelled with the date on which the photograph was taken, including photographs taken before and after any changes in appearance of the exterior of the building as a result of an Approved Renovation;
 - d) High resolution, high quality colour photographs taken before and after any changes in the appearance of the interior of the building as a result of an Approved Renovation;
 - e) Proof of adequate insurance on the Eligible Property, to the satisfaction of the Director, acting reasonably;
 - f) A copy of the Project Proposal submitted pursuant to section 3(3) of this By-law, together with a copy of the Director's letter pursuant to section 3(4); and,
 - g) Original receipts, invoices and expense reports, together with proof of payment thereof to the satisfaction of the Director.
- 4) The Director shall consider all complete applications received before February twenty-eighth (28). If the Director determines that the Heritage Property is eligible for either Program, then the Heritage Property shall be enrolled in the appropriate Program and the Director shall provide written notice of same to the Owner. If the Director determines that the Heritage Property is not eligible for the Program applied for, then the Director shall provide written notice of same to the Owner.
- 5) Incomplete applications will not be considered. Applications received after February twenty-eight (28th) will not be considered.
- 6) The Owner(s) shall permit reasonable inspection of property by the Town to ensure Eligibility Criteria are met. If a request by the Director to inspect the property is refused by any Owner, then the application in respect of that Owner's property will not be considered.

6.0. AMOUNT OF TAX REBATE

Program A

- 1) The amount of the rebate provided for an Eligible Property under Program A shall be 20% of the taxes for municipal and school purposes levied on the property assessed in the commercial class that are attributable to:
 - a) The building or structure or portion of the building or structure that is the Eligible Heritage Property; and
 - b) The land used in connection with the Eligible Heritage Property, as determined by the Director.

Program B

- 1) The amount of the rebate provided for an Eligible Property under Program B shall be the portion of the Approved Renovation Cost which has actually been spent on the Approved Renovation and for which the Owner has submitted original invoices and proof of payment as required under section 5(3)(f), up to a maximum of 40% of the taxes for municipal and school purposes levied on the property assessed in the residential, commercial or multi-residential classes that are attributable to:
 - a) The building or structure or portion of the building or structure that is the Eligible Heritage Property; and
 - b) The land used in connection with the Eligible Heritage Property, as determined by the Director.
- 2) A Heritage Property Tax Rebate shall take the form of a credit applied to that property's tax account.

7.0. ASSESSMENT

- 1) Heritage Property Tax Rebate shall be calculated using the assessed value of the property, as returned, for the taxation year for which the application is made.
- 2) Where an Application has been submitted under Section 5(1) of this By-law, the Town may request information from the Municipal Property Assessment Corporation concerning the portion of a property's total assessment that is attributable to the building or structure, or portion of the building or structure, that is a Heritage Property, and the land used in connection with it.
- 3) If the assessed value of a property changes for any reason, including but not limited to demolition, damage, destruction addition, renovation, rehabilitation or proceedings under the *Assessment Act*, the Heritage Property Tax Rebate shall be re-determined using the new assessment value and the tax roll for the year shall be amended accordingly.

8.0. INSPECTION AND COMPLIANCE WITH THE HERITAGE PRESERVATION AND MAINTENANCE AGREEMENT

- 1) Subject to subsection (2), at any reasonable time, Town staff may, if an inspection is requested or approved by the Director, inspect any Heritage Property in respect of which a Project Proposal or Application has been received, to assess the merits of

the Application or Project Proposal, and / or the Heritage Property's compliance with the Heritage Preservation and Maintenance Agreement.

- 2) If the Heritage Property is a residential property and is occupied at the time of the planned inspection, at least 48 hours' notice shall be given to the Owner.
- 3) No property which is found not to be in compliance with the Heritage Preservation and Maintenance Agreement shall receive a Heritage Property Tax Rebate.
- 4) The determination of compliance with the Heritage Preservation and Maintenance Agreement is at the sole and absolute discretion of the Town.

9.0. REPAYMENT

- 1) If the Owner of a Heritage Property;
 - a) Demolishes a building on the Heritage Property;
 - b) Breaches the terms of the relevant Heritage Conservation and Maintenance Agreement;
 - c) Submits an Application under Program B for any costs not actually incurred by the Owner in completing an Approved Renovation; or,
 - d) Does not complete an Approved Renovation in the manner approved by the Director;

Then the Town may, in addition to any other remedy, revoke the Heritage Property's enrolment in either Program and require the Owner to pay the Heritage Property Tax Refund(s) provided to the Owner for the applicable year or years.

- 2) If the Town revokes a property's enrolment in either Program, then the Director shall provide the Owner with written notice of same.

10.0. APPEAL

- 1) An Owner who receives a written notice under Sections 3(5), 5(4) or 9(2) of this By-law may appeal the Director's decision to Council by delivering a Notice of Appeal in the form supplied by the Town to the Town Clerk within fifteen (15) days of receiving the written notice.
- 2) Appeals under Section 10(1) shall be conducted in accordance with the *Statutory Powers Procedure Act*, RSO 1990, c S.22, as amended.

11.0. NOTIFICATION OF MINISTER

- 1) The Town Clerk is hereby directed to provide notice to the Minister of Finance, the Ministry of Culture and Owners of designated properties within the Town of St. Marys within thirty days of the passing of this By-law.

Read a first and second time this 12th day of September, 2017.

Read a third and final time and passed this 12th day of September, 2017.

Mayor Al Strathee

Brent Kittmer, CAO / Clerk