



**THE CORPORATION OF THE TOWN OF GODERICH
BY-LAW NO. 104 OF 2016**

**BEING A BY-LAW TO ESTABLISH A TAX REFUND PROGRAM FOR ELIGIBLE
PROPERTIES DESIGNATED UNDER THE PROVISION OF THE ONTARIO
HERITAGE ACT, R.S.O 1990, AS AMENDED.**

WHEREAS Section 365.2 of the Municipal Act, R.S.O. 2001, as amended, provides local municipalities with the authority to establish programs to provide tax refunds or refunds in respect to eligible heritage property.

AND WHEREAS the Council of the Corporation of the Town of Goderich is desirous of establishing a program to provide tax refunds to owners of eligible heritage properties who have undertaken restoration or preservation projects on their properties;

**THE COUNCIL OF THE CORPORATION OF THE TOWN OF GODERICH ENACTS
AS FOLLOWS:**

1. That properties that are designated under Part IV or part of a heritage conservation district under Part V of the Ontario Heritage Act, R.S.O. 1990, as amended are eligible on a first come first serve basis for a property tax refund of 20% of taxes for municipal and school purposes per year to a maximum of \$15,000 per property owner subject to the terms and conditions in Schedule 'A' attached hereto and subject to budget approval on an annual basis.
2. That \$15,000 be transferred from the Goderich Heritage Enhancement Fund to initially fund this program. Future funding for this program will be considered on an annual basis through budget allocations.
3. That the Clerk be instructed to forward a copy of this by-law to the Minister of Finance and to the Corporation of the County of Huron.

**READ FOR A FIRST, SECOND, THIRD TIME TO BE PASSED AND ENACTED THIS
26th DAY OF SEPTEMBER, 2016.**

MAYOR, Kevin Morrison

CLERK, Dwayne Evans

Tax Refund Program for Designated Heritage Properties
SCHEDULE 'A'

1. Definitions

For the purposes of this by-law, the following terms are defined:

'Eligible Property Taxes' means the assessment value multiplied by the applicable tax rates and does not include local improvement charges and levies such as, but not limited to, BIA levies.

'Contributing' means the building or structure supports the character of the area through compatible design (e.g., vernacular design and materials); historical associations (e.g., constructed during key stages in the town's development or associated with key themes in the town's history); and/or physical or visual links to its surroundings (e.g., part of a related row of commercial buildings or part of a cohesive residential streetscapes with consistent massing or setbacks).

'Significant' means the building or structure is designated under Part IV or V of the Ontario Heritage Act; is listed on the Municipal Register as a non-designated property; meets criteria set out in Ontario Regulation 9/06 (e.g., displays a high degree of craftsmanship or artistic merit); defines character of the area (e.g., landmark building) and/or supports the character of the area (e.g., constructed in the late-19th century and early 20th-century).

2. Eligibility

To be eligible to apply for the heritage tax refund program the applicant must satisfy the following criteria:

- a) The property must be designated under Part IV of the Ontario Heritage Act or is part of a heritage conservation district under Part V of the Ontario Heritage Act;
- b) If the property is part of a heritage conservation district, it must be identified in the district plan as being 'significant' and 'contributing' to be eligible for the program;
- c) The owner must undertake restoration or preservation work on heritage features attributable to the designation of the property;
- d) The owner must undertake restoration or preservation work that will generate a grant refund of not less than 10% of the current year eligible property taxes, as defined;
- e) The owner must enter into an agreement with the Town of Goderich respecting the preservation and maintenance of the property; and
- f) All taxes and fees owing to the Town must be paid in full prior to approval. The agreement and/or payments will be terminated and/or payments may be reclaimed should taxes or fees fall into arrears at any time.

3. Application Process

To be considered for a tax refund, the owner of an eligible property must submit to the Town Treasurer an application for restoration and preservation and a \$50 non-refundable fee prior to commencing a project. The Municipal & Marine Heritage Committee must be consulted on all projects and Council's approval is required prior to the commencement of the project. The tax refund will be issued to the applicant in the form of a grant. Applications will be considered on a first come, first serve basis.

4. Amount and Form of Relief

- a) Qualified heritage properties will be eligible for a tax refund of up to 20% of the municipal and school taxes per year to a maximum of \$15,000.
- b) Qualified heritage properties within a Community Improvement Plan Area may apply for either the Community Improvement Plan Program or the Heritage Property Tax Relief Program, not both. If a Community Improvement grant was previously approved by Council for the property, the property is ineligible for the Heritage Property Tax Relief program.

- c) Properties with an existing registered Heritage Property Tax Relief agreement are not eligible.
- d) Loans from the Goderich Heritage Enhancement Fund can be considered for properties receiving funds through a Heritage Property Tax Relief agreement.
- e) Qualified heritage properties will be eligible for a tax refund of upper tier taxes subject to an authorization by-law passed by the Corporation of the County of Huron.
- f) Eligible municipal taxes shall not include local improvement charges and levies such as, but not limited to, BIA levies.
- g) Tax relief is not permitted to be retroactive, and only restoration and preservation commencing following the adoption of the Heritage Property Tax Relief By-law will be considered.
- h) Tax refunds granted shall be limited to the amount approved by Council and shall not exceed 50% of the actual cost of the restoration or preservation project to a maximum of \$15,000. The applicant shall submit to the Treasurer of the Town of Goderich, a copy of all invoices and proof of payment. A tax refund not exceeding 20% of the current year's property taxes levied for municipal and school purposes shall be refunded to the property owner each year until the eligible tax refund amount has been paid out in full.
- i) The 20% refund does not continue to apply in the event that the property changes ownership.

**Agreement Respecting the Preservation and Maintenance
Of Designated Heritage Properties
SCHEDULE 'B'**

This agreement made this [day] day of [month] 20.

BETWEEN: [property owner name(s)]

(Hereinafter referred to as "Property Owner")

OF THE FIRST PART

AND

The Corporation of the Town of Goderich

(Hereinafter referred to as "Town")

OF THE SECOND PART

WHEREAS the Property Owner is the registered owner of certain lands and premises situated in the Town of Goderich and Province of Ontario, more particularly described as [legal description], now known as [civic address] (hereinafter called the "Property") on which is erected a building with heritage attributes known as [name of property] (hereinafter called the "Building"); and

WHEREAS the Town has enacted By-law of 2015 to establish a Heritage Property Tax Relief Program (hereinafter called the "Program") to provide tax refunds in respect of eligible heritage property in accordance with Section 365.2 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended; and

WHEREAS by Section 37.(1) of the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended, the Town is entitled to enter into agreements with owners of real property for the conservation of property of cultural heritage value or interest; and

WHEREAS the Property Owner wishes to enter into an agreement with the Town respecting Heritage Conservation and Maintenance of the Property; and

WHEREAS the Property Owner wishes to receive Heritage Property Tax Refunds under the Program and commits to conserving and maintaining the subject property for the duration of this agreement; and

WHEREAS the Property subject of this Agreement was designated under Part IV or Part V of the *Ontario Heritage Act* by the Town of Goderich By-law No. [number]; and

WHEREAS the Property Owner and the Town recognize the heritage value of the Property as set out in the Statement of Cultural Heritage Value attached hereto as Schedule 'C'; and

WHEREAS the heritage character defining features of the Building that contribute to the heritage value of the Property (hereinafter called the "Heritage Features") are described in Schedule 'D' attached hereto; and

WHEREAS the Property Owner has applied for approval of a Heritage Conservation and Maintenance Plan under the Program, the particulars of which are set out in Schedule 'E'; and

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereby covenant, promise, and agree with each other as follows:

1. DUTIES OF PROPERTY OWNER

1.1 Preservation and Maintenance of the Building

The Property Owner shall at all times preserve and maintain the Heritage Features, the Building and the Property in as good and sound a state of repair as a prudent Property Owner would normally do, so that no deterioration in the Building's condition and appearance shall take place, including, without limiting the generality of the foregoing, taking all reasonable measures to secure and protect the building from vandalism, fire and damage from inclement weather.

1.2 Alterations

- (a) The Property Owner shall undertake construction, reconstruction, alteration or remodeling in accordance with Schedule E.
- (b) The Property Owner shall not undertake or permit any demolition, construction, reconstruction, alteration, remodeling, or any other thing or act which would materially affect the appearance or construction of Heritage Features, without the prior written consent of the Council of the Town.

1.3 Emergencies

Notwithstanding the provisions of Clause 1.2, the Property Owner may undertake such temporary measures in respect of the Building as are reasonably necessary to deal with an emergency situation which puts the security or integrity of the Building at risk of damage or occupants of the Building at risk of harm provided that:

- (a) such measures are in keeping with the purpose of this Agreement;
- (b) such measures are consistent with the conservation of the Heritage Features;
- (c) the requirements of the *Building Code Act*, S.O. 1992, c.23 as amended or re-enacted from time to time are complied with; and
- (d) where time permits, the Town is consulted before any such measures are undertaken.

In any case, the Property Owner shall advise the Town forthwith when it undertakes temporary measures in respect of the Building in an emergency situation.

1.4 Insurance

- (a) The Property Owner shall at all times during the currency of this Agreement keep the Property insured against normal perils that are coverable on an all risk policy basis, including fire, in an amount equal to the replacement cost of the Building. The Property Owner shall provide evidence of insurance, completed and certified by its insurance company and deliver it to the Town on execution of this Agreement, and thereafter evidence satisfactory to the Town of the renewal of insurance shall be delivered to the Town from time to time upon request by the Town.
- (b) If the Property Owner fails to so insure the Property, or if any such insurance on the Property is cancelled, the Town may effect such insurance in accordance with the requirements of Clause 1.4(a) and any sum paid in so doing shall forthwith be paid by the Property Owner to the Town, or if not, shall be a debt owing to the Town and recoverable from the Property Owner by action in a court of law or in like manner as municipal taxes.
- (c) All proceeds receivable by the Property Owner under the aforementioned insurance policy or policies on the Property shall, upon the written demand and in accordance with the requirements of the Town, be applied to replacement, rebuilding, restoration or repair of the Heritage Features, to the fullest extent possible having regard to the particular nature of the Building and the cost of such work. The Property Owner's financial liability to replace, rebuild, restore or repair the Building if it has been damaged or destroyed shall not exceed the proceeds receivable by the Property Owner under the aforementioned insurance policy or policies, provided the Property Owner has complied with the requirements under Clause 1.1. The Town acknowledges and agrees that replacement, rebuilding, restoration or repair of the Heritage Features shall only be required to the extent that same is reasonably possible.
- (d) In the event that the proceeds receivable by the Property Owner under the aforementioned insurance policy or policies are insufficient to effect a partial or complete restoration of the Building together with the Heritage Features, the Property Owner may apply to the Town for additional monies towards the replacement, rebuilding, restoration, or repair costs, in order to effect a partial or complete restoration of the Building together with its Heritage Features. The Town is not obligated to provide any additional monies.

1.5 Demolition

- (a) The Property Owner shall notify the Town of any damage or destruction affecting the Heritage Features within seven (7) clear days of such damage or destruction occurring.
- (b) In the event that the Building is damaged or destroyed and the replacement, rebuilding, restoration or repair of it is impractical because of the financial costs involved or because of the particular nature of the Building, the Property Owner shall, in writing within fifteen (15) days of the giving by the Property Owner of notice of such damage or destruction, request written approval of the Town to demolish the Building and in the event of receiving the written approval of the Town, be entitled to retain any proceeds from the insurance hereinbefore mentioned and to demolish the Building. Such approval shall be deemed to have been received upon failure of the Town to respond in writing to a written request for it within ninety (90) days or such extended time as may be agreed upon. This procedure is in addition to and does not replace the requirements and permissions necessary for demolition of any building.

1.6 Reconstruction by Property Owner

- (a) If the Town does not grant written approval to demolish, referred to in Clause 1.5(b) or if the Property Owner has not requested written approval to demolish referred to in Clause 1.5(b), the Property Owner shall replace, rebuild, restore or repair the Building and its Heritage Features to the limit of any proceeds receivable under the aforementioned insurance policy or policies on the Building and of any additional monies contributed by the Town towards the replacement, rebuilding, restoration or repair of the Heritage Features under the provisions of Clause 1.4(d) to effect a partial or complete restoration of the Building and its Heritage Features. The Heritage Features shall only be restored to the extent that same is reasonably possible.
- (b) Before the commencement of such work, and within 120 days following the damage or destruction occurring to the Building, the Property Owner shall submit an application for a building permit, together with all plans and specifications for the replacement, rebuilding, restoration or repair of the Building and its Heritage Features. The Property Owner agrees the Town needs to consent to all plans and specifications in order for this agreement to remain in effect. In the event the Town does not consent, this agreement becomes null and void.
- (c) The Property Owner shall not commence or cause any restorative work to be commenced on a Building and its Heritage Features prior to Town approval of any plans and specifications. Approval may consist of issuance of a building permit. The restorative work shall be performed upon such terms and conditions as the Town may reasonably stipulate in the permit.

2. APPROVALS

Where any request for approval required under this Agreement is made, the determination of the Town may be based upon choice of materials, architectural design, and/or historical authenticity, not limited to purely architectural design or historical grounds, but the Town's approval shall not be unreasonably withheld, unless otherwise stated.

3. REMEDIES

- (a) If the Town, in its sole discretion, is of the opinion that the Property Owner has neglected or refused to perform any of its obligations set out in this Agreement, the Town may, in addition to any of its other legal or equitable remedies, serve on the Property Owner a notice setting out particulars of the breach. The Property Owner shall have thirty (30) days from receipt of such notice to remedy the breach or make arrangements satisfactory to the Town for remedying the breach. If within those thirty (30) days the Property Owner has not remedied the breach, or made arrangements satisfactory to the Town for remedying the breach, or if the Property Owner does not carry out or complete the said arrangements within a reasonable period of time, of which the Town shall be the sole and final judge, this agreement becomes null and void.

4. WAIVER

The failure of the Town at any time to require performance by the Property Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Town of the performance of any obligation under this Agreement be taken or be held to be a waiver of the performance of the same or any other obligation under this Agreement at any later time. Any waiver must be in writing and signed by the Town.

5. EXTENSION OF TIME

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Property Owner and the Town, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit. Any waiver must be in writing and signed by the Town.

6. USE OF BUILDING

The Property Owner expressly reserves for itself, its heirs, executors, representatives, successors and assigns the right to use the Building in accordance with the Town's Zoning By-law.

7. INSPECTION OF THE PROPERTY

The Town or its duly authorized representatives or agents shall be permitted to enter upon and inspect the Property upon prior written notice to the Property Owner of at least 48 hours.

8. SEVERABILITY OF COVENANTS

The Property Owner and the Town agree that all covenants, easements and restrictions contained in this Agreement shall be severable, and that should any covenant, easement or restriction in this Agreement be declared invalid or unenforceable, the validity and enforceability of the remaining covenants, easements and restrictions shall not be affected.

9. NOTICE

Except in the event of an interruption in the postal service, any notices, requests for approval, or grants of approval (collectively referred to as "notice") required under this Agreement shall be delivered in person or sent by regular mail addressed to the parties at their respective addresses as set out in Clause 10. In the event that notice is delivered in person, the party receiving the notice shall forthwith acknowledge receipt of same in writing, and in that event, the notice shall be deemed to have been received on the date of such acknowledgement. In the event that a party refuses to sign an acknowledgement of receipt of the notice, the person delivering the notice may swear an affidavit of service, and the notice shall be deemed to have been received on the date of service as set out in such affidavit. In the event that notice is sent by regular mail, it shall be deemed to have been received on the fifth business day following the day on which the notice was sent.

10. ADDRESS FOR NOTICE

The respective addresses of the parties for such purposes presently are as follows:

The Property Owner:

[property owner name]
[property owner address]

The Town: Clerk
Town of Goderich

57 West Street
GODERICH, ON N7A 2K5

The parties agree to notify each other immediately, in writing, of any changes of address from those set out above.

11. TRANSFER

The Owner of the Property shall immediately notify the Town in the event that they divest themselves of the fee simple title to or of their possessory interest in the Property or the Building.

12. ENTIRETY

This written Agreement embodies the entire agreement of the parties with regard to the matters dealt with in this Agreement, and no understandings or agreements, verbal, collateral or otherwise, exist between the parties except as expressly set out in this Agreement.

13. COVENANTS TO CEASE UPON SALE THE OF PROPERTY

The covenants, easements and restrictions set out in this Agreement shall cease upon a change of ownership of the Property.

14. HEADINGS

The headings in the body of this Agreement form no part of this Agreement, but shall be deemed to be inserted for convenience of reference.

15. OTHER APPLICABLE LAW

Nothing in this Agreement excuses the Property Owner from the requirement to comply with other applicable law, including but not limited to the *Ontario Heritage Act*, the *Building Code Act*, the Town's Property Standards By-law, the Town's Zoning By-law, etc.

Signature of Property Owner:

[Property Owner's name]

Signature of Witness:

Date: _____

Signed on behalf of The Corporation of the Town of Goderich:

Mayor

Clerk

Date: _____

SCHEDULE 'C'

Statement of Cultural Heritage Value or Interest

SCHEDULE 'D'

Description of the Property's Heritage Features

SCHEDULE 'E'

(sample for discussion purposes only)

Heritage Conservation and Maintenance Plan

Building Elevation:	Item No.	Historic Feature:	Description of Feature:	Current Condition	Description of Work	Anticipated Completion Date
NSEW	1	Exterior Walls	2½ storey irregular massing of red brick walls resting on stone foundations	Good	Repointing and repair when and as required	Ongoing
NSEW	2	Roof	Hip, with gable ends and dormers, soffits & fascia, & multi-flue chimneys, including small rear porch & front verandah	Good	Reshingling and repair when and as required	Ongoing
NSEW	3	Fenestration	Includes: all wood sash windows, stained/leaded glass & transoms	Good	Reglazing, repainting and repair when and as required	Ongoing
NSEW	6	Trim & Doors	Includes: doors & trim on exterior of original house, including small rear porch & front verandah	Good	Repair when and as required	Ongoing