

# Ohio Historic Preservation Tax Credit Program Administrative Code – Amended March 2010

## **122:19-1-01 Definitions.**

(A) "Amendment" means any modification to the project, as described in an approved application including, but not limited to, changes in ownership, scope of the project, timeline for completion, changes in financing, the rehabilitation activities or end use.

(B) "Applicable rehabilitation standards" means the secretary of the interior's standards for rehabilitation prescribed under 16 U.S.C.470, et seq., dated October 15, 1966 as amended, or any successor to that section, and 36 C.F.R. 67.7, dated February 26, 1990 or any successor to that section.

(C) "Detailed scoring criteria" means the attributes of historic preservation projects that are identified in the program policies employed to evaluate historic preservation tax credit for the appropriateness of tax credit assistance including, but not limited to, such measures as the potential economic impact of the project and regional distributive balance of the credits throughout the state of Ohio.

(D) "Director" means the director of the department of development of the state of Ohio.

(E) "High qualified rehabilitation expenditure application" means an application submitted for a historic preservation tax credit with estimated qualified rehabilitation expenditures above the average of the prior five calendar years rehabilitation costs of all federal historic preservation tax credit investment projects certified in the state of Ohio.

(F) "Low qualified rehabilitation expenditure application" means an application submitted for a historic preservation tax credit with estimated qualified rehabilitation expenditures at or less than the average of the prior five calendar years rehabilitation costs of all federal historic preservation tax credit investment projects certified in the state of Ohio.

(G) "Major factor" means the applicant's analysis of the project, or an increased investment in the project, which identifies receipt of the historic preservation tax credit as a factor that makes it more likely than not that rehabilitation of the historic building in compliance with the applicable rehabilitation standards would be economically feasible.

(H) "Officer" or "State Historic Preservation Officer" means the state historic preservation officer appointed by the governor under 16 U.S.C 470a.

(I) "Program policies" means the detailed guidelines for the Ohio historic tax credit program approved by the director and applicable for the application periods set forth in division (A)(9) of section 149.311 of the Revised Code.

(J) "Project" means the activities to be undertaken and costs identified as part of an application submitted for a historic preservation tax credit. The activities and costs include both qualified rehabilitation expenditures as defined in division (A) (2) of section 149.311 of the Revised Code and other rehabilitation costs that do not satisfy the definition of qualified rehabilitation expenditures identified in connection with the rehabilitation of a historic building. Consistent with federal regulation 36 C.F.R. 67, dated February 26, 1990 or any successor to that section, a project may include more than one building, such as an industrial or agricultural complex, provided there is historical evidence that the buildings functioned together during their time period of significance to serve an overall purpose. Row houses that were designed and constructed as a single building or complex shall be considered a single project provided the applicant owns each building included in the application.

(K) "Tax commissioner" means the commissioner of the department of taxation of the state of Ohio.

### **122:19-1-02 Application schedule and procedures.**

(A) During an application period an owner of a historic building may apply to the director to receive a historic preservation tax credit certificate on a form as approved and made available by the director. Specific application submission schedules shall be established by the director in the program policies published not less than one month prior to the beginning of each application period.

(B) The applicant must submit an application that complies with the program policies as established by the director to be evaluated for an historic preservation tax credit.

(C) The director shall review applications for completeness and may request that applicants provide missing or additional information following their application submission. An applicant may only submit missing information upon request from the director. If an application is incomplete, and the applicant does not submit the requested information within a timeframe established in the program policies, the director shall notify the applicant that the application has been rejected.

(D) A rejection issued by the director for a specific application period does not prohibit an applicant from submitting an application in a future application period.

### **122:19-1-03 Historic preservation tax credit eligibility.**

(A) Only the owner of a historic building may apply for an historic preservation tax credit for that building.

(B) An application for the historic preservation tax credit must include evidence, reasonably acceptable to the director, that the applicant is the current owner in fee simple title of the historic building.

(C) An application for the historic preservation tax credit must include documentation that the subject building is a historic building.

(D) All rehabilitation identified in the historic preservation tax credit application must meet applicable rehabilitation standards. An application for the historic preservation tax credit shall include, in a format acceptable to the officer and director, a description of the proposed project rehabilitation activities sufficient to determine whether the applicable rehabilitation standards will be met if the rehabilitation is undertaken as proposed in the application.

(E) An application for the historic preservation tax credit must include evidence, reasonably acceptable to the director, that the tax credit is a major factor in the applicant's decision to rehabilitate the historic building or to increase the level of the owner's investment in such rehabilitation.

#### **122:19-1-04 Selection of Approved Applications.**

(A) An application will be rated and considered by the director according to detailed scoring criteria published in the program policies.

(B) The director shall ensure that a mix of both high qualified rehabilitation expenditure and low qualified rehabilitation expenditure applications are approved in accordance with division (B)(2) of section 149.311 of the Revised Code. To fulfill this requirement, the director may consider an applicant's estimate of qualified rehabilitation expenditures set forth in the application in addition to the detailed scoring criteria in the program policies in making a final determination.

(C) The director shall notify each applicant in writing of the status of its application upon completion of the relevant application period.

#### **122:19-1-05 Amendments.**

(A) The director shall establish and make available the form to request amendments to an application.

(B) For a change to be effective, an applicant must request and receive approval of the director for any amendment to the application.

(C) The director has the discretion to reject or approve in whole or part an amendment request, and may issue a conditional approval of an amendment requiring additional materials or progress by a deadline established in the amendment determination. The director will notify the applicant in writing of the amendment notification. If the applicant does not meet the conditions of approval by the deadline established in the amendment determination, the amendment will be deemed to have been rejected for failure of the approval conditions. The director may, but shall not be obligated to, give written notice of rejection following failure of the approval.

#### **122:19-1-06 Tax Credit Certificates.**

(A) Within ninety calendar days after the project completion date, the owner of the historic building must notify the director in a format acceptable to the director as established in the program policies, that the project is complete in accordance with the application and request a historic preservation tax credit certificate be issued.

(B) The director may issue a historic preservation tax credit certificate to the owner of a project approved during an application period once the owner has provided the following evidence to the director:

- (1) The certified amount of qualified rehabilitation expenditures paid or incurred during the rehabilitation period;
- (2) Information concerning the tax status of the owner of the historic building, including but not limited to the type of entity, individual, partnership or corporation. Pass through entities such as partnership, S-corporation, limited liability company (LLC), or other such pass through entity shall provide a list of partners or members, including for each the correct legal name, taxpayer identification number, and proportion of ownership interest in the entity for allocation of the tax credit. The owner may provide written evidence of a mutually agreed upon alternative distribution or special allocation to its members for allocation of the tax credit;
- (3) All required approvals from the state historic preservation officer, including that the project has been completed in compliance with the secretary of the interior's standards for rehabilitation; and
- (4) Any additional information as may be required by the program policies.

(C) The certificate issued by the director shall include the name of the owner, the address and location of the project, the amount of qualified rehabilitation expenditures as certified by the owner to the director, the amount of the historic preservation tax credit (which may be less than the certified qualified rehabilitation expenditures) and any additional information as established in the program policies for the application period.

(D) The historic preservation tax credit is not transferable to any individual or entity.

(E) The credit is to be applied to the tax liability of the owner, or if the owner is a pass through entity, to the partners or members of the pass through entity, as provided under sections 5725.151, 5733.47 or 5747.76 of the Revised Code.

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Certification

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