BY-LAW NUMBER 91-2024

A BY-LAW TO ESTABLISH A MUNICIPAL VACANT HOME TAX IN THE CITY OF WINDSOR

Passed the 27th day of May, 2024.

WHEREAS pursuant to the provisions of subsection 338.2(1) of the *Municipal Act, 2001* (the "Act"), Council may, by by-law passed in the year to which it relates, impose a tax in the municipality on the assessed value, as determined under the *Assessment Act*, of vacant units that are classified in the residential property class and that are taxable under the Act for municipal purposes;

AND WHEREAS Council of the City deems it appropriate to enact this by-law for the purpose of establishing a municipal vacant home tax on the unoccupied units that are classified in the residential property class in the City of Windsor;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

DEFINITIONS:

1.   In this by-law (the "By-law"):

"**Assessment Value**" means the value of a property as determined by the Municipal Property Assessment Corporation in the Vacancy Reference Year;

"**Billing Year**" means the year in which taxes will be billed and collected;

"**City**" means The Corporation of the City of Windsor;

"**City Treasurer**" means the City Treasurer of the City;

"**Council**" means the Council of the City;

"**Declaration of Occupancy Status Form**" means the form to be filled out by the owner of a Residential Unit that meets the definition of vacant, and any other property owner that is requested to do so by the City. The owner will declare whether the Residential Unit is occupied or vacant, and if vacant, they will indicate if it qualifies or not under any of the exemptions;

"**Listed for Rent Exemption**" means that a Vacant Property that was publicly listed for rent for a period up to twelve (12) consecutive months. If eligible, the unit will be exempt from VHT during this period;

"**Listed for Sale Exemption**" means that a Vacant Property was publicly listed for sale for up to twelve (12) consecutive months. If eligible, the unit will be exempt from VHT during this period;

"**Occupied**" describes a Residential Unit that was the Principal Residence of any of the following for at least 183 days during the reference year:

a) An assessed owner,

b) An immediate family member of an assessed owner, or

c) An individual who has entered into a formal residential lease or rental agreement (tenant) under a term of no less than 183 days;

"Principal Residence" means a person's legal/official place of residence regardless of how many days they were physically present at the property;

"Residential Unit" means a building, or self-contained portion of a building where one can live, sleep, bathe and prepare meals;

"Short-Term Rental" means a Residential Unit that is rented out by the owner on a short-term basis, for a period of less than 28 consecutive days to the same party;

"Tax Rate" means the percentage rate of taxation that will be applied to the assessment value of a property to determine the amount of VHT that will be levied. The Tax Rate approved by Council for 2024 and future years is 3%;

"Vacancy Reference Year" means the calendar year from which a property's occupancy status will be used to determine if it is liable for the VHT. This will be the year immediately preceding the billing year;

"Municipal Vacant Home Tax" or the **"VHT"** means a tax levied against unoccupied homes that meet a specific set of criteria defined by the City. The tax is calculated by applying the Tax Rate to the assessment value of the property in the Vacancy Reference Year;

"Vacant Property" means any Residential Unit unoccupied for more than 183 days in a taxation year;

INTERPRETATION BULLETINS AND GUIDELINES

2. In administering this By-law, the City Treasurer may issue such interpretation bulletins, guidelines, procedures and policies as the City Treasurer, from time to time, determines necessary or advisable.

FORMS

3. The City Treasurer may approve the use and format of forms for any purpose of this By-law and the forms may require the provision of such information as the City Treasurer deems necessary for the enforcement and proper administration of this By-law.

REPORTING OF OCCUPANCY STATUS

4. If a property owner determines that the occupancy status of their residential property makes them liable for the VHT for a taxation year, or if the City requests a property owner to do so, they will need to fill out and submit a Declaration of Occupancy Status Form.

EXEMPTIONS

5. The VHT imposed under this By-law does not apply to,

    (a)   Residential Units that are Occupied;

(b)   Residential Units undergoing active and ongoing repairs and renovations of which there is an open and active building permit(s) issued by the City;

(c)   Residential Units on land for which a development/redevelopment application has been approved by the City. The effective period would be retroactive to the date the application was filed until one (1) year after the date the application was approved;

(d)   A Residential Unit that is listed publicly for sale or rent for a period of up to 12 consecutive months. The Listed for Sale Exemption is limited to once per ownership term. The Listed for Rent Exemption may be claimed multiple times provided that the unoccupied periods are separated by a tenancy lasting no less than 12 months and verified by way of executed lease;

(e)   A Residential Unit that has changed ownership in whole by way of an arm's length transaction, shall not be subject to a VHT levy for the taxation year during which the transaction occurred;

(f)   A Residential Unit that is vacant for a period of up to two (2) years following the date the registered owner was admitted to care (hospitalization, long-term care);

(g)   A Residential Unit whose owner has died will be exempt from a VHT levy in the period of up to twenty-four (24) months beginning the month after the owner(s)' death, provided the Residential Unit was Occupied at the time of death. Applies to the legal estate or heir without any extension to the exemption period (24 months);

(h)   A Residential Unit used exclusively as a Short-Term Rental if Occupied for a minimum of 183 days during the taxation year. Eligible stays are limited to those in respect of which the City's Municipal Accommodation Tax has been paid. Cannot be claimed in conjunction with any other exemption;

(i)   A Residential Unit that is owned by a business and used exclusively as a part-time residence by their employees, directors, or clients for a minimum of 183 days during the taxation year. Cannot be claimed for a property used or offered as a Short-Term Rental during the year, and cannot be claimed in conjunction with any other exemption;

(j)   A Residential Unit with a court order preventing occupancy during the Vacancy Reference Year, unless the order is conditional on an action of the owner, or the state and condition of the property and the owner has not made reasonable efforts to remedy the circumstances that led to the order;

(k)   Multi-residential properties (more than 6 units); or

(l)   A Residential Unit that is managed or considered social or affordable housing and is in receipt of funding from the City.

BILLING

6.   When the occupancy of a Residential Unit has been declared or deemed to have been vacant during the Vacancy Reference Year, a bill will be issued to the property owner.

7.   The calculation will be the assessment value of the property in the Vacancy Reference Year multiplied by the Tax Rate. There will be no proration based on number of days vacant.

8.   The bill will be added to the property tax account and payable in one installment payment due within 90 days of the issue date of the bill. Any amount outstanding after the due date will be subject to penalty (1.25%) and interest calculated monthly at a rate of 1.25%.

COMPLIANCE AND AUDIT

9.   By virtue of this By-law, the City is authorized to request evidentiary documentation from property owners to determine occupancy status of a Residential Unit.

10.   Administration is authorized to take any and all action that is deemed necessary to enforce compliance, and to undertake audits and inspections as necessary relative to the collection and remittance of the VHT.

APPEALS AND DISPUTE RESOLUTION

11.   A property owner may file a Notice of Complaint form if they choose to dispute their VHT bill. The form, along with supporting documentation, must be received within 30 days of the date of the VHT bill.

12.   The submission from the Property Owner will be reviewed by the City and results outlined in a VHT Audit Determination Notice.

13.   Within 30 days of receiving the Determination Notice, the property owner will have the opportunity to appeal by filing a Request for Review. This Request will be reviewed by the Municipal Vacant Home Tax Review Committee. The committee will notify the owner via Notice of Decision, and this decision will be considered final.

PENALTY FOR FALSE DECLARATION

14.   A penalty of $3,500 is to be imposed for declarations determined to be deliberately false or misleading in order to avoid the VHT.

ANNUAL REPORTING

15.   A report to Council must be prepared annually to report on the status and results of the current year's VHT program and include recommendations for changes going forward.

GENERAL

16.   This By-law shall come into force and take effect on the day of the final passing thereof.

17.   The City Treasurer shall be responsible for the administration and enforcement of this By-law and may delegate the performance of any one or more of his or her functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke such delegation and may continue to exercise any function delegated during the delegation.

18. If any section or portion of this By-law is found to be invalid by a court of competent jurisdiction, all remaining sections and portions of the By-law continue in full force and effect.

19. This By-law may be referred to as the "Vacant Home Tax By-law".

DREW DILKENS, MAYOR

CITY CLERK

First Reading   - May 27, 2024
Second Reading - May 27, 2024
Third Reading   - May 27, 2024