

B Y - L A W N U M B E R 164-2015

A BY-LAW TO PROVIDE FOR TAX
REDUCTIONS IN RESPECT OF ELIGIBLE
HERITAGE PROPERTY

Passed the 7th day of December, 2015.

WHEREAS Section 365.2 of the *Municipal Act*, S.O. 2001, c.25, provides that a local municipality may establish a program to provide tax reductions in respect of eligible heritage property;

AND WHEREAS it is desirable to conserve the City of Windsor's heritage resources for the benefit of the community and posterity in a manner which respects their architectural, historical, and contextual significance and ensures their future viability as functional components of the City of Windsor's urban environment;

AND WHEREAS it is desirable to use property tax reduction as a tool to encourage owners of heritage property to invest in the proper conservation and restoration of identified heritage attributes of their property to ensure the public benefit of the City of Windsor's built heritage for present and future generations;

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

DEFINITIONS

1. In this by-law:

- (a) "**City**" means The Corporation of the City of Windsor;
- (b) "**Council**" means the Council of The Corporation of the City of Windsor;
- (c) "**eligible heritage property**" means a property or portion of a property,
 - i. that is located in Windsor,
 - ii. that is designated under Part IV of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18,
 - iii. that is subject to either an easement agreement with the City under section 37 of the *Ontario Heritage Act*, an easement agreement with the Ontario Heritage Foundation under section 22 of the *Ontario Heritage Act*, or an agreement with the City respecting the preservation and maintenance of a built heritage resource on the property,
 - iv. that is insured with all-risk, replacement cost insurance,
 - v. that is subject to an application from the owner,
 - vi. that is subject to property taxation; and

- vii. that at no time any portion of the property is either,
 - 1. exempt from taxation; and/or
 - 2. subject to a “Payment in Lieu of Taxes” as defined under section 306 of the *Municipal Act, 2001*.
- (d) “**Eligible Work**” means Eligible Work as defined in Appendix A.
- (e) “**heritage property tax reduction program**” means the heritage tax reduction available to owners of eligible heritage property under this by-law;
- (f) “**heritage tax reduction**” means a reduction up to a maximum of thirty percent (30%) per year of the taxes for municipal and school purposes levied on eligible heritage property that are attributable to,
 - i. the building or structure or portion of the building or structure that is the eligible heritage property; and
 - ii. the land used in connection with the eligible heritage property, as determined by the City;
- (g) “**owner(s)**” means the owner(s), from time to time, of an eligible heritage property, and includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.

SUBJECT TO AVAILABLE FUNDING

2. The heritage property tax reduction program set out in this by-law is subject at all times to the availability of funding. This by-law does not oblige the City or Council to provide funding for this program, and the heritage tax reduction contemplated by this by-law may be eliminated by Council through repeal of this by-law at any time with no notice whatsoever to any affected persons.

MINISTER OF FINANCE

3. The heritage property tax reduction program is subject to any regulations that the Minister of Finance may make governing by-laws on tax reductions for heritage properties.

ANNUAL TAX REDUCTION

4. Subject to the conditions set out in this by-law, an owner may receive a heritage tax reduction for each year in which the owner meets all of the requirements of this by-law.

APPORTIONMENT BY MUNICIPAL PROPERTY ASSESSMENT CORPORATION

5. 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 eligible heritage property, and the land used in connection with it, may be determined by the Municipal Property Assessment Corporation at the request of the City.

AMOUNT OF TAX REDUCTION

6. (1) The amount of heritage tax reduction provided shall be up to a maximum of thirty percent (30%) per year of the taxes for municipal and school purposes levied on eligible heritage property that are attributable to (i) the building or structure or portion of the building or structure that is the eligible heritage property; and (ii) the land used in connection with the eligible heritage property, as determined by the City.

6. (2) If the cost of Eligible Work exceeds 30% of the property tax for that year, the amount over the 30% will be rebated for up to two additional years, not to exceed 30% of the property tax in any year. For Eligible Work that exceeds 30% of property taxes in the final two years of the heritage property tax reduction program, the difference will be carried forward for heritage tax reduction even if the program is terminated.

APPLICATION

7. The owner of an eligible heritage property may make an application for the heritage tax reduction once every year by following the two-step process outlined in Appendix A.

CALCULATION

8. (1) Heritage tax reductions shall be calculated using the assessed value of the property for tax purposes.

8. (2) If the assessment of a property for a year changes as a result of proceedings under the *Assessment Act*, R.S.O. 1990, c. A.31, the heritage tax reduction shall be re-determined using the new assessment and the tax roll for the year shall be amended to reflect the determination.

NON-COMPLIANCE

9. (1) If the owner of an eligible heritage property demolishes the eligible heritage property, or breaches the terms of the relevant easement or preservation and maintenance agreement, the City may require the owner to repay part or all of any heritage tax reduction provided to the owner for one or more years under this by-law.

9. (2) The City may require the owner to pay interest on the amount of any repayment required under this by-law, at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the Banks listed in Schedule I of the *Bank Act (Canada)*, S.C. 1991, c. 46 calculated from the date or dates the heritage tax reduction was provided.

9. (3) Any amount repaid to the City by the owner pursuant to this by-law shall be shared by the City, and the school boards that share in the revenue from taxes on the property, in the same proportion that they share in the cost of the heritage tax reduction on the property.

TAX ARREARS LIABILITY

10. If tax arrears are attributable to a property, any heritage tax reduction granted under this by-law will first be applied against the outstanding tax arrears liability in respect of the property.

NOTICE TO MINISTER OF FINANCE

11. The Clerk of the City is hereby directed to give notice of this by-law to the Minister of Finance within thirty (30) days of the date this by-law is passed.

ADMINISTRATION

12. The heritage property tax reduction program shall be administered by the City Planner and the City Treasurer.

TERM

13. The heritage property tax reduction program shall be available for a period of ten (10) years from the passing of this by-law.

EFFECTIVE DATE

14. This by-law shall come into force and effect on the day it is passed.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - December 7, 2015
Second Reading - December 7, 2015
Third Reading - December 7, 2015

APPENDIX A to By-Law 164-2015

The owner of an eligible heritage property may make an application for the heritage tax reduction by following the two-step process set forth below:

Step One of the application process is the “Project Proposal.” The Project Proposal will outline the scope of the project that the owner intends to undertake during the tax year. Proposals must be prepared by a qualified heritage professional and will provide detail as to the type of work proposed, the specifications for completion, and estimated costs. Project Proposals can be submitted to the City Heritage Planner prior to August 31 of the year for which reduction is sought. The following will be required as part of the Project Proposal:

- i. A Rehabilitation Rebate Project Proposal Form
- ii. A copy of the conservation agreement or easement
- iii. Photographs of the property in its current state
- iv. Detailed specifications of all proposed eligible work
- v. Complete architectural plans and elevations for any work involving development, interior, or exterior structural alterations affecting the structure or gross floor area of the property
- vi. Detailed cost estimates for all eligible work, with a breakdown of costs by item of the Statement of Eligible Work

The City Heritage Planner will review project proposals to ensure the proposed work meets the eligibility requirements of the program, conforms to the Official Plan and is consistent with the *Standards and Guidelines for the Conservation of Historic Places in Canada*.

The City Heritage Planner may approve work eligibility if tax reduction amounts on a property are less than \$20,000 in a three-year period.

If tax reduction amounts on a property exceed \$20,000 in a three-year period, the latest proposal requires review by the appropriate standing committee and approval by City Council.

If approved, the City Heritage Planner will issue a Statement of Eligible Work. Work must be completed as outlined in the Statement of Eligible Work and in keeping with all other program requirements.

What is “Eligible Work?”

“Eligible Work” includes the restoration of heritage attributes identified in a designation by-law and heritage conservation agreement or easement.

Specifically, Eligible Work is defined as the actions and materials required to repair, restore, preserve, rehabilitate, and stabilize identified heritage attribute which may include:

- Chimneys
- Exterior stairs
- Exterior walls and facades
- Exterior windows and doors
- Foundations
- Porches/verandas
- Recreation of lost historic features (based on ample documented evidence)
- Roofs
- Studies including engineering, architectural, or planning studies focused on conservation, if they are required to complete eligible work and the related eligible work is completed
- Other features included in the designation by-law
- Other work determined by the City's Heritage Planner to be eligible

What is "Ineligible work?"

The following examples are of work that is not eligible as part of the program:

- Additions of new features, fixtures, or fittings
- Building moving
- Carpeting
- Conservation Plans or Heritage Impact Assessments
- Decks
- Demolition
- Development feasibility studies
- Electrical and wiring
- Financing, acquisition, or leasing costs
- Furniture or chattels
- Heating, air conditioning, or ventilation
- Landscaping, fencing or paving (that is not a documented lost original feature or identified in the designation by-law and/or conservation agreement or easement as a heritage attribute)
- Lighting
- New construction that is not restoration
- New windows, doors and fixtures, except when restoring historic features that are lost and documented with sufficient evidence
- Plumbing and sprinklers
- Sand-blasting or high-pressured water-blasting
- Signage
- Studies required as part of an agreement or development application
- Upgrades for accessibility, thermal performance, or compliance with the Ontario Building Code
- Window treatments

Step Two is the "Heritage Property Tax Rebate Application" which will document the work that has been completed since the Project Proposal was approved. Rebate Applications may be submitted once each year, and are due on the last day of February following the tax year in which the work was completed.

The following will be required for the Rebate Application:

- i. A completed Heritage Property Tax Rebate Application Form
- ii. Photographs of the property showing the completed Eligible Work
- iii. Invoices from contractors, marked as paid, with a breakdown of the costs by each skilled trade and/or type of work
- iv. A certificate of insurance to show that the property is insured

Upon final approval, the heritage tax reduction is issued.