



By-law No. 2009-148

“A By-law to Establish a Heritage Property Tax Relief Program to Provide Tax Refunds in Respect of Eligible Heritage Property Under the Municipal Act, 2001, S.O. 2001, Chapter 25, Section 365.2, as Amended”

**Originally Passed and Enacted September 14, 2009**

| <b>Amended By By-law:</b> | <b>Passed On:</b> |
|---------------------------|-------------------|
| 2016-148                  | October 17, 2016  |
|                           |                   |

***Consolidated Version***  
*Revised and Verified October 18, 2016*

*Consolidated for Convenience Only*

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracies of these by-laws, they are not official versions or legal documents. The original by-laws should be consulted for all interpretations and applications on this subject. For more information or original signed copies of by-laws please contact the City Clerk's Department.

**BY-LAW NO. 2009 - 148**

**THE CORPORATION OF THE CITY OF OWEN SOUND**

**A BY-LAW TO ESTABLISH A HERITAGE PROPERTY TAX RELIEF PROGRAM TO PROVIDE TAX REFUNDS IN RESPECT OF ELIGIBLE HERITAGE PROPERTY UNDER THE MUNICIPAL ACT, 2001, S.O. 2001, CHAPTER 25, SECTION 365.2, AS AMENDED**

WHEREAS Section 365.2 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, authorizes the Council of a municipality to enact a By-Law to establish a Heritage Property Tax Relief Program to provide tax reductions or refunds in respect of eligible heritage property, and

WHEREAS the Council of The Corporation of the City of Owen Sound deems it advisable and in the public interest to provide financial assistance on the terms set out in this By-law as an incentive to encourage property owners to conserve and maintain heritage buildings in the City of Owen Sound.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

**SECTION 1 - SHORT TITLE**

1.1 This By-law may be cited as the City of Owen Sound Heritage Property Tax Relief Program By-law.

**SECTION 2 - DEFINITIONS**

2.1 In this By-law, the following definitions shall apply:

2.1.1 "**Conservation**" or "**Conserve**" means safeguarding a heritage property so it retains its cultural heritage value or interest, integrity or appearance and its physical life is extended. Activities include identification, protection, interpretation, management, use, preservation, stabilization, repair and maintenance.

2.1.2 "**Contravention**" means an offence under a municipal by-law, Act or regulation for which enforcement proceedings have been commenced that relates specifically to the building or land for which a Heritage Property Tax Refund is sought or given, and includes non-compliance with a Heritage Conservation and Maintenance Agreement.

2.1.3 "**Council**" means the Council of The Corporation of the City of Owen Sound.

2.1.4 "**Eligible Heritage Property**" means a property that:

2.1.4.1 is located in the City of Owen Sound.

2.1.4.2 is 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*.

2.1.4.3 is subject to an easement agreement with the Municipality under section 37 of the *Ontario Heritage Act*; is subject to an easement agreement with the Ontario Heritage Trust under section 22 of the *Ontario Heritage Act*; or is subject to a Heritage Conservation and Maintenance agreement with the Municipality respecting the property, and

2.1.4.4 complies with any additional eligibility criteria set out in this By-law.

- 2.1.5 **“Heritage Property Tax Refund”** means the amount of property tax that may be refunded by the Municipality in respect of an eligible heritage property.
- 2.1.6 **“HCMA”** means a Heritage Conservation and Maintenance Agreement.
- 2.1.7 **“Maintain”** or **“Maintenance”** means mitigating natural wear and deterioration without altering the cultural heritage value or interest, integrity or appearance of a heritage property. It includes both routine and cyclical activities.
- 2.1.8 **“Municipal”** or **“Municipality”** means The Corporation of the City of Owen Sound.
- 2.1.9 **“Owner”** means the registered owner of the eligible heritage property and includes a corporation or partnership, and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.
- 2.1.10 **“Program”** means the Heritage Property Tax Relief Program.

### **SECTION 3 – AMOUNT OF TAX REFUND**

- 3.1 The amount of Heritage Property Tax Refund provided by the Municipality is 20% of the taxes for lower-tier municipal and school purposes levied on the property that is attributable to:
- 3.1.1 the building or structure or portion of the building or structure that is the eligible heritage property, and
- 3.1.2 the land used in connection with the eligible heritage property, as determined by the Municipality.
- 3.2 The Municipality 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 the eligible heritage property and the land used in connection with it.
- 3.3 If the assessment or taxes of a property for a year changes as a result of proceedings under the *Assessment Act* or the *Municipal Act*, the Heritage Property Tax Refund shall be determined using the new assessment or taxes and the tax roll for the year will be amended to reflect the determination.
- 3.4 The Municipality shall deliver a copy of this By-law to the Minister of Finance within 30 days of passing. The Province of Ontario shares in the cost of this program by funding the education portion of the Heritage Property Tax Refund.
- 3.5 The Municipality shall notify The Corporation of the County of Grey of the passing, and provide a copy, of this By-law and the amount of Heritage Property Tax Refund. The County of Grey may pass a By-law to authorise a similar tax refund on the portion of taxes levied for upper-tier purposes. If the County of Grey passes such a by-law, the tax refund must be shared by both municipalities and the school boards in the same portion that they share in the revenue from taxes from the properties to which the tax refund relates.
- 3.6 Subject to funding availability, each year Council shall set a maximum budgeted amount refunded in that year.
- 3.7 Where funding is insufficient in any year to provide a refund to every eligible applicant, applications shall be pro-rated. No priority will be given to applicants who have previously obtained a refund. Where a property is receiving any other form of property tax relief, the amount of the relief shall be calculated on the adjusted taxes, less the other rebates.

- 3.8 Subject to the conditions set out in this By-law, one Heritage Property Tax Refund may be paid annually for each eligible heritage property in any property class. If multiple easement and/or conservation and maintenance agreements are registered on one property, multiple refunds will not be provided.
- 3.9 The Heritage Property Tax Refund will be paid for an individual property only if the eligible refund amount is equal to or greater than \$250 in any taxation year. If the eligible refund amount is less than \$250 then no refund will be payable for that taxation year.
- 3.10 The refund will be in the form of a cheque to the eligible heritage property owner. In the event of a land ownership transfer, the refund amount shall be paid to the program applicant. A new owner of an eligible heritage property must apply to the Program to initiate or continue the Heritage Property Tax Refund for years subsequent to the land ownership transfer.
- 3.11 An owner of an eligible heritage property may retain the benefit of any tax refund obtained under this section, despite the provisions of any lease or other agreement relating to the property.

#### **SECTION 4 – ELIGIBILITY CRITERIA**

- 4.1 In order to be eligible to apply to the Program, heritage properties must meet the following criteria:
- 4.1.1 property is located in the City of Owen Sound.
- 4.1.2 property is 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*; if located in a heritage conservation district, only those identified in the district plan as being of 'medium' to 'high' heritage value would be eligible.
- 4.2.3 property is subject to an easement agreement with the Municipality under section 37 of the *Ontario Heritage Act*; subject to an easement agreement with the Ontario Heritage Trust under section 22 of the *Ontario Heritage Act*; or subject to a Heritage Conservation and Maintenance Agreement with the Municipality respecting the property.
- 4.2.4 the designation referred to in subsection ii) above and the HCMA referred to in subsection iii) above must be authorised by By-law by the Municipality by December 31 of the first taxation year for which a refund is sought.
- 4.2.5 property is occupied and in good and habitable condition.
- 4.2.6 property is not the subject of any contraventions, work orders or outstanding municipal requirements.
- 4.2.7 there are no outstanding municipal fines, arrears of taxes, fees or penalties assessed against the property or the owner.
- 4.2 Should a subject property become ineligible at any time during Program participation, the owner shall automatically forfeit any rights to the Heritage Property Tax Refund and the property will be cancelled from the Program until such time as the situation is satisfactorily remedied. The remedy may require a new application with payment of the required initial fee.

## **SECTION 5 – HERITAGE CONSERVATION & MAINTENANCE AGREEMENT**

- 5.1 Before making application for a Heritage Property Tax Refund, the owner must meet the eligibility criteria in Section 4. If the property is not subject to an easement agreement with the Municipality or the Ontario Heritage Trust, the owner must enter into a Heritage Conservation and Maintenance Agreement (HCMA) with the Municipality which details the Municipal expectations for use of the Heritage Property Tax Refund.
- 5.2 The HCMA will be drafted by staff in co-ordination with the property owner with recommendations for consideration by the Community Planning & Heritage Advisory Committee and final approval by Council.
- 5.3 The HCMA will include a plan for conservation and maintenance of the eligible heritage property. The plan is renewable every five (5) years or until the program is terminated or until non-compliance of the program criteria occurs, whichever come first.
- 5.4 The HCMA will cease to have effect when the owner sells the property.

## **SECTION 6 – APPLICATION PROCESS**

- 6.1 All Heritage Property Tax Refund Applications must be completed in full on the prescribed forms and include the following to be considered for the Program:
  - 6.1.1 proof that a HCMA has been approved by Council for the subject eligible heritage property.
  - 6.1.2 current photographs of all elevations of the eligible heritage property.
  - 6.1.3 proof of insurance on the eligible heritage property in an amount equal to that of the replacement of the building in the event of fire or other damage.

*Amended by By-law No. 2016-148*

- 6.2 *The owners of eligible heritage properties must apply every year, between January 1 and no later than the last day of May after the year for which the owner is seeking relief; payouts will be within 120 days of receiving a completed application.*
- 6.3 An application fee of \$100 is required for first-time applicants.
- 6.4 Applications will be reviewed by staff with recommendations for consideration by the Community Planning & Heritage Advisory Committee and final approval by Council.
- 6.5 Applications received in the second and subsequent years of an eligible heritage property's participation in the Program will include a heritage maintenance report outlining the previous year's conservation and maintenance activities and costs.
- 6.6 Upon application, the owner must consent to the Municipality conducting an inspection of the interior (if interior elements are identified in the description of the property's heritage attributes for designation under Part IV of the *Ontario Heritage Act*) and exterior of the eligible heritage property at any reasonable time, if required, to ensure that the HCMA is being complied with and to ensure that the eligibility criteria can be met.

**SECTION 7 – LIMITATIONS & RESTRICTIONS**

- 7.1 The Heritage Property Tax Refund set out in this By-law is subject at all times to the availability of funding for the Program. Nothing in this By-law requires the Municipality to provide funding for the Program and the Heritage Property Tax Refund 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.
- 7.2 The Program is subject to any regulations that the Minister of Finance may make governing by-laws for a tax reduction or refund for eligible heritage properties.
- 7.3 No Heritage Property Tax Refund will be given under this By-law where the Municipality determines that the HCMA is not being complied with to the satisfaction of the Municipality.

**SECTION 8 – PENALTIES**

- 8.1 If the owner demolishes the eligible heritage property or breaches the terms of an agreement described in Section 4.1.iii, the Municipality may require the owner to repay part or all of any Heritage Property Tax Refund(s) provided to the owner for one or more years under this By-law.
- 8.2 The Municipality may require the owner to pay interest on the amount of any repayment required under Section 8.1, at the lowest prime rate reported to the Bank of Canada calculated from the date Heritage Property Tax Refunds were provided.
- 8.2 Any amount paid under Sections 8.1 or 8.2 to the Municipality in respect of a property must be shared by the municipalities and school boards that share in the revenue from taxes on the property, in the same proportion that they shared in the cost of the tax refund on the property.

This By-law shall come into full force and effect upon the final passing thereof.

FINALLY PASSED AND ENACTED this 14<sup>th</sup> day of September, 2009.

\_\_\_\_\_  
*Signature on file*  
Mayor

\_\_\_\_\_  
*Signature on file*  
Clerk