

## **Document 3 – Vacant Unit Tax By-law**

### **BY-LAW NO. 2022-XX**

A by-law of the City of Ottawa to establish a Vacant Unit Tax for the City of Ottawa.

WHEREAS section 338.1 of the *Municipal Act*, SO 2001, c25, as amended (“Act”) provides that the Minister of Finance may, by regulation, designate municipalities as having the ability to pass a by-law to impose a tax in the municipality on the assessed value, as determined under the *Assessment Act*, RSO 1990, cA.31, as amended (“Assessment Act”), of vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes;

AND WHEREAS on \*, 2022, the Minister of Finance enacted Regulation \*, thereby designating the City of Ottawa as a municipality that may impose a vacancy tax in accordance with the Act and the applicable regulations;

AND WHEREAS at its meeting of \*, 2022, Council approved the establishment of a vacant unit tax by-law effective January 1, 2022, as further described in the Regulation and subject to the eligibility requirements in this by-law;

AND WHEREAS section 338.2(2) of the Act further provides that a by-law established by a designated municipality to impose a vacancy tax shall satisfy the criteria contained within that section;

AND WHEREAS section 338.2(3) of the Act further provides that a by-law established by a designated municipality to impose a vacancy tax may establish additional requirements as Council considers appropriate;

THEREFORE the Council of the City of Ottawa enacts as follows:

## **SECTION 1**

### **INTERPRETATION**

#### **1. DEFINITIONS**

In this by-law:

“Arm’s Length” means a transaction between two independent parties in which both parties are acting in their own self-interest. Both parties are independent, possess equal bargaining power, are not under pressure or duress from the opposing party, and are acting in their own self-interest to attain the most beneficial deal;

“Business Day” means any day other than a Saturday, Sunday or a holiday;

“Late Declaration Notice” means a notice issued to an Owner who has not submitted a declaration by the required due date;

“Notice of Complaint” means a notice of complaint submitted by an Owner pursuant to section 6 of this by-law;

“Occupier” means an Owner or a person who occupies a Residential Property with the permission of the Owner but is not a tenant or subtenant;

“Principal Residence” means:

(a) the Residential Property, that is owned or rented by a person, alone or with others, where the person is ordinarily resident, makes their home, and conducts their daily affairs including, without limitation, paying bills and receiving documentation related identification, taxation and insurance purposes, driver’s licenses, income tax returns, medical plan documentation, vehicle registration and voter registration, or similar information; and

(b) where the person has no other property designated as such within the City of Ottawa or any other jurisdiction;

“Owner” means the person(s)/corporation listed on the property tax roll as the registered owner of the property, or his or her authorized agent;

“Program Administrator” means the Program Manager – Revenue Support, or an authorized staff person acting in such capacity to exercise the powers, duties and functions set out in this by-law;

“Residential Property” means property classified as residential property under the *Assessment Act*;

“Residential Unit” or “Unit” means a Residential Property and each dwelling unit included within the residential assessment of an individual Residential Property;

“Sublease Agreement” means an agreement:

(a) under which:

(i) the tenant of a rental unit transfers the tenant’s rights under the Tenancy Agreement to a subtenant for a period shorter than the term of the tenant’s Tenancy Agreement, and

(ii) the subtenant agrees to vacate the rental unit at the end of the term of the Sublease Agreement, and

(b) that specifies the date on which the tenancy under the Sublease Agreement ends;

“ VUT Audit Determination Notice” means a notice issued to an Owner in respect of one or more eligible vacant Units subject to the Vacancy Unit Tax which confirms as the result of an audit the Vacancy Unit Tax will be imposed on the residential assessment and issued on a supplementary tax bill in accordance with this by-law.

“Taxable Assessed Value” means the current years’ assessment value supplied by the Municipal Property Assessment Corporation “MPAC”;

“Tax Year” means the calendar year in which the Vacant Unit Tax is imposed;

“Tenancy Agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit;

“Unpredictable” means that one could have no prior knowledge of the event concerned;

“Unpreventable” means that one could do nothing reasonably in their power to prevent such an event;

“Vacancy Reference Period” the calendar year prior to the applicable Tax Year for which the property status must be declared;

“Vacant Unit Tax” means the tax imposed at a rate set out in accordance with this By-law and shall be imposed on all properties considered to be eligible property subject to the tax.

## **SECTION 2**

### **ELIGIBILITY REQUIREMENTS**

2.1 A Residential Property is considered an eligible property and the Owner is required to declare its vacancy status if:

(a) it is assessed as a Residential Property at the time of the assessment roll return provided by MPAC; and

(b) it is categorized by MPAC in one of the property codes set out in Schedule “A” of this by-law.

### **Vacant Unit Tax**

2.2 The Vacant Unit Tax shall be imposed on every eligible Residential Unit that is determined to be vacant in accordance with this By-law.

### **Vacant Residential Property or Unit – Conditions of Vacancy**

2.3 A Residential Unit is considered to be vacant if:

(a) it has been unoccupied for more than the aggregate of 184 days during the previous calendar year, is not the Principal Residence of an Occupier, and it is not occupied for residential purposes by a tenant under a Tenancy Agreement, or by a subtenant under a Sublease Agreement, for a term of at least 30 consecutive days; or

(b) it is deemed to be vacant unit by the City of Ottawa in accordance with this by-law.

### **Vacant Unit Tax Rate**

2.4 The rate of the Vacant Unit Tax is set out in Schedule “B” of this by-law.

### **Vacant Unit Tax Payment**

2.5 The amount stated as due and payable on the corresponding tax bill issued pursuant to this by-law is due and payable according to the due dates set established under by-law 2021-151 as amended.

### **Date for payment pursuant to supplementary vacancy tax bill**

2.6 The amount stated as due and payable on a supplementary tax bill for the Vacant Unit Tax issued pursuant to this By-law is due and payable on the due date set out in the Supplementary Vacancy Tax Notice.

### **Penalty and Interest Charges - Failure to Pay Vacant Unit Tax**

2.7 A Vacant Unit Tax, or any portion thereof, which is due and payable and remains unpaid as per the due date in 2.5 and 2.6 of this by-law, shall be charged interest and penalty in the same manner established under by-law 2021-151 as amended;

### **Penalty for failure to pay pursuant to supplementary vacancy tax notice**

2.8 The Vacant Unit Tax, together with any interest levied for failure to pay the tax in accordance with this by-law, will be collected as real property taxes and added to the tax roll for the property, pursuant to the applicable provisions of the Act.

## **SECTION 3**

### **EXEMPTIONS**

3.1 A vacant Residential Unit will be exempt from the Vacant Unit Tax for that Tax Year if, during the Vacancy Reference Period:

1. it was unoccupied for more than 184 days because of the death of the Owner of the Residential Property;
  - a. this exemption applies when the death occurs during the reference period year and can be claimed again the following year.
2. it was unoccupied for more than 184 days to redevelop or safely carry out major renovations to the property:
  - a) for which permits have been issued by the City under the Ontario *Building Code Act*; and
  - b) which, in the opinion of the Chief Building Official, or his or her delegate, are being carried out diligently and without unnecessary delay.
3. it was unoccupied for more than 184 days because all Occupiers or tenants who were previously occupying the Unit or all tenants or subtenants who were previously occupying the Unit as a principal residence are currently residing in a hospital, long term or supportive care facility.
4. the transfer of 100 percent of the legal interest in the property was registered in the Land Title Office to an Arm's Length party.
5. it was unoccupied for more than 184 days solely because a court order, court proceedings or order of a governmental authority prohibits its occupancy, provided that the court proceedings or any conditions or requirements set out in any court order or order of a governmental authority are being diligently pursued without unnecessary delay by the Owner and within any stated timelines and provided that the Owner does not have an order imposed due to neglect of maintaining the property.
6. it was, for a combined period of at least 184 days:
  - a) unoccupied in order to redevelop or safely carry out of major renovations to the property:
    - (i) for which permits have been issued by the City, and
    - (ii) which, in the opinion of the Chief Building Official, are being carried out diligently and without unnecessary delay; and
  - b) occupied for residential purposes by an Arm's Length tenant under a Tenancy Agreement, or by an Arm's Length subtenant under a Sublease Agreement, for a term of at least 30 consecutive days either:

- (i) prior to the issuance of such permits by the City, where the tenant or subtenant gave notice to end their tenancy, or
- (ii) after the redevelopment or renovation work has been completed.

7. it was used as a short-term cottage rental and:

- a) The owner has a host rental permit;
- b) The Unit was rented for more than 100 days with proof of revenue; and
- c) The property is located in one of the following rural zones: AG – Agricultural, RC – Rural Commercial, RR – Rural Residential, RU – Rural Countryside other than subzones AG4 to AG8, inclusive..

## **SECTION 4 ADMINISTRATION**

### **Administrator**

4.1 The Program Administrator will administer the collection of the Vacant Unit Tax and enforcement under this by-law.

### **Completion of Property Status Declaration**

4.2 For each real property tax roll, an Owner must complete either on-line or by other accessible format and return the property status declaration(s) to the City of Ottawa in the form and manner required by the Program Administrator on or before the due date for the declaration period as the same due date for interim tax-bills established in By-law 2021-151, as amended.

### **Review of completed property status declaration**

4.3 Revenue Services will review each completed property status declaration form and determine whether the information provided by an Owner is sufficient, to establish the status of a residential property during the Vacancy Reference Period.

### **Request for Further Information**

4.4 The Program Administrator may require an Owner to provide information at any time and for a period of up to two years after the applicable Vacancy Reference Period respecting:

- (a) the property;
- (b) the identity and address of the Registered Owner;

- (c) the identity and address of any person occupying the property;
- (d) the status of the property; and/or
- (e) the nature of the occupancy of the property during the vacancy reference period.

### **Requirement to Submit Evidence**

4.5 The Program Administrator may require the owner to submit evidence to verify a property status declaration and the status of the Residential Unit.

4.6 The information or evidence required by the Program Administrator pursuant to this by-law may include but is not limited to:

- (a) copies or certified copies of:
  - i. vehicle insurance and MTO registration;
  - ii. government-issued personal identification, including, without limitation, driver's license, Ontario Identity Card;
  - iii. Proof of OHIP coverage or valid Health card;
  - iv. income tax returns and notices of assessment;
  - v. Tenancy Agreements;
  - vi. wills, grants of probate, or grants of administration;
  - vii. employment contracts, pay statements or records of employment;
  - viii. verification of residence in long term or supportive care;
  - ix. insurance certificates for homeowners or tenants insurance;
  - x. separation agreements;
  - xi. relevant court orders;
  - xii. Medical Services Plan or ambulance invoice;
  - xii. Agreement of Purchase and Sale; and
- (b) statutory declarations or affidavits regarding the status of the property.

### **Power to Request Particulars**

4.7 The Program Administrator may require the property owner who has not submitted a completed property status declaration to provide information or submit evidence in accordance with subsection 4.4, 4.5 or 4.6.

### **Inspection Power**

4.8 The Program Administrator may inspect a Residential Unit for the purpose of confirming or determining the status of a Residential Unit and whether the Unit is subject to the Vacant Unit Tax. The Program Administrator will first send a letter to the Owner at the address appearing on the real property tax roll, advising of the time and date of the inspection.

## **SECTION 5**

### **RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNER(S)**

#### **Requirement for Annual Declaration**

5.1 Owners shall submit to the City of Ottawa, in the prescribed form, an annual status declaration in respect of the previous calendar year, by the due dates outlined in Schedule "C" advising the City whether the Residential Unit was:

- a) a vacant Residential Unit; and
- b) whether it met the criteria of any of the exemptions set out in subsection 3.

#### **Late or Failure to Submit Declarations**

5.2 Owners who submit a statutory declaration after the prescribed due date, or fail to submit a statutory declaration, will be charged a Late declaration fee outlined in the City of Ottawa Revenue Services User Fee By-law (2021-391), as amended.

#### **Deemed Vacancy**

5.3 The Program Administrator will accept late declarations up until April 30<sup>th</sup> of the year the declaration is due, subject to the administrative fee set out in subsection 5.2. If the Program Administrator does not receive a declaration by April 30<sup>th</sup>, the Residential Unit shall be deemed vacant and will therefore be charged the Vacant Unit Tax on the final property tax bill.

#### **False Declaration**

5.4 An Owner shall not submit a false property status declaration.

(a) False declarations may be subject to prosecution under section 9 of this by-law.

#### **Providing Information or Evidence**



## 5.5 An Owner:

- a) shall provide any information or submit any evidence that is required in accordance with this by-law;
- b) shall provide the information or submit the evidence in the form and within the time stipulated by the Program Administrator; and
- c) shall not provide false information or submit false evidence to the City of Ottawa.

## **SECTION 6**

### **DEEMED VACANCY**

#### **Property considered to be Vacant**

6.1 A Residential Unit will be deemed vacant and subject to the Vacant Unit Tax if the Owner:

- a) fails to make a status declaration by April 30<sup>th</sup> of the applicable Tax Year;
- b) submits a false status declaration;
- c) fails to provide information or fails to submit any evidence requested by the Program Administrator in accordance with this by-law; or
- d) provides false information or submits false evidence to the City.

## **SECTION 7**

### **COMPLAINTS AND REVIEW PROCESS**

#### **Notice of Complaint**

7.1 A complaint regarding the decision of the Program Administrator to impose the Vacant Unit Tax ("Notice of Complaint") may be submitted by an Owner or the Owner's authorized agent (the "Complainant") who has been charged the Vacant Unit Tax on the final tax bill or received a Supplementary Vacancy Tax Notice charging a Vacant Unit Tax, to the Program Administrator, on one of the following grounds:

- I. an error or omission on the part of the City resulted in the imposition of the Vacant Unit Tax; or
- II. an error or omission on the part of the Owner in completing the property status declaration resulted in the imposition by the Program Administrator of the Vacant Unit Tax.

#### **Complaint Process**

7.2 A Notice of Complaint may be submitted to the Program Administrator:

- a) as a result of a property that is deemed to be vacant and the Vacant Unit Tax being levied on the final tax bill, on or before September 15<sup>th</sup> of the year in which the Vacant Unit Tax is due and payable.
- b) In the case of a VUT Audit Determination Notice, within 90 days of the date that the notice is issued.

7.3 The Notice of Complaint shall be submitted in the prescribed form to the Program Administrator.

### **Request for Further Information or Evidence**

7.4 Upon receiving a Notice of Complaint, the Program Administrator may require the Complainant to provide further information to support the complaint. Failure to do so may result in a refusal by the Program Administrator to consider the complaint. Such refusal will be sent by Program Administrator in writing to the Complainant.

### **Determination**

7.5 The Program Administrator, will review a Notice of Complaint and will make a determination within 90 days of receipt of a Notice of Complaint or receipt of the additional information as set out in subsection 7.4.

7.6 The Program Administrator will advise the Complainant of their determination in writing by mailing a copy of the determination regarding the Notice of complaint by mail to the Complainant.

7.7 If the Complainant is successful, Revenue Services will rescind, fully or proportionally as required, the fees and charges related to the Vacant Unit Tax or Supplementary Vacancy Tax within 120 days of the date the determination is made and issue any applicable refunds in accordance with the provisions of this by-law.

## **SECTION 8**

### **REVIEWS**

#### **Review Process**

8.1 A request for review of the Program Administrator's determination under subsection 7.5 may be made by the Owner or the Owner's authorized agent ("Requestor") in accordance with the procedure set out in this section.

8.2 The Requestor shall submit their request for review in the prescribed form to the Deputy City Treasurer, Revenue Services within 60 days of the date a determination is mailed.

#### **Request for Further Information or Evidence**

8.3 Upon receiving a request for review in the prescribed form, the Deputy City Treasurer may require the Requestor to provide further information to support the review. Failure to do so may result in a refusal by the Deputy City Treasurer to consider the review.

### **Decision**

8.4 The Deputy City Treasurer will review the request and make a decision within 90 days of the receipt of the request for review or receipt of the additional information as set out in subsection 8.3.

8.5 The Deputy City Treasurer will advise the Requestor of their decision in writing by mailing a copy of the decision by mail to the Requestor.

8.6 The decision will be deemed to have been received four Business Days after the date of mailing.

8.7 If the Requestor is successful, Revenue Services will rescind the fees and charges related to the Vacant Unit Tax or Supplementary Vacancy Tax within 120 days of the date the determination is made and issue any applicable refunds in accordance with the provisions of this by-law.

8.9 Decisions made by the Deputy City Treasurer under subsection are final.

## **SECTION 9**

### **FEES AND OFFENCES**

9.1 An administrative fee will be charged to an Owner for:

- (a) failing to submit a statutory declaration in accordance with this by-law; or
- (b) submitting a statutory declaration after the prescribed due date in accordance with this by-law; and
- (c) The "Late Declaration Fee" will be charged as outlined in the City's Revenue Services - User Fee By-Law.

9.2 A person who violates any provision of this by-law, or who permits or allows any other person to violate this by-law, is guilty of an offence.

9.3 An offence under section 9.2 will be punishable on conviction by a fine of not less than \$500.00 and not more than \$10,000.00 for each offence.

## **SECTION 10.0**

### **AUDIT**

#### **Audit Reporting**

10.1 Revenue Services will perform regular audits to ensure compliance with the by-law and provide periodic reports to Council on compliance levels and audit findings.

10.2 Revenue Services has the right to perform audits regarding the declarations for the current reference year plus the two most recent previous reference years.

### **Audit Documentation**

10.3 The Program Administrator may conduct an audit to verify that the Residential Property continues to meet the requirements set out in this by-law, the information provided in the declaration is accurate and the property is in fact occupied. For the purposes of this audit, the Program Administrator may request additional documentation under subsection 4.6 of this by-law and may conduct an inspection under subsection 4.11 of this by-law:

### **Non-Compliance**

10.4 If Program Administrator determines that an owner of a Residential Property has not complied with an audit conducted under 12.2,

- (a) The property owner shall be provided with a notice of determination; and
- (b) The property shall be reviewed with consideration for additional fines and penalties as applicable under this by-law.

### **Vacancy Determination**

10.4 If, as the result of the audit, the Program Administrator has determined that the property is Vacant; the property will receive a VUT Audit Determination Notice and a corresponding Supplementary Tax Bill with the Vacant Unit Tax levy.

## **SECTION 11.0**

### **EXCEPTIONS**

11.1 Deadlines in relation to 7.2 (a), 7.2 (b) and 8.2 may be extended for the following reasons:

(a) Extenuating Circumstances due to unpredictable or unpreventable circumstances that prevented the application(s) from adhering to prescribed deadlines within this bylaw. These circumstances are limited to:

- (i) extreme sickness resulting hospitalization, or
  - (ii) natural or manmade disasters that disrupted services;
- (b) An error by the City

Schedule "A" and "B" attached hereto shall be and form a part of this by-law.

This by-law comes into force and effect on \*, 2022.

ENACTED AND PASSED this XX day of XXXX 2022.

DEPUTY CITY CLERK

MAYOR

## Schedule "A" – Eligible Property Codes

Code Description	Property Code
Farm with residence – with or without secondary structures; no farm outbuildings	201
Farm with residence – with or without secondary structures; with farm outbuildings	211
Single family detached (not on water)	301
More than one structure used for residential purposes with at least one of the structures occupied permanently	302
Residence with a commercial unit	303
Residence with a commercial/industrial use building	304
Link home - homes linked together at the footing or foundation by a wall above or below grade	305
Boathouse with residence above	306
Freehold townhouse/row house - more than two units in a row with separate ownership	309
Semi-detached residential - two residential homes sharing a common centre wall with separate ownership	311
Single family detached on water - year round residence	313
Semi-detached residence with both units under one ownership - two residential homes sharing a common centre wall	322
Typically a Duplex - residential structure with two self-contained units	332
Residential property with 3 self-contained units	333
Residential property with 4 self-contained units	334
Residential property with 5 self-contained units	335
Residential property with 6 self-contained units	336
Row Housing, with 3 to 6 units under single ownership	350
Rooming or boarding house - rental by room/bedroom; tenant(s) share a kitchen, bathroom and living quarters	360
Student housing (off campus) - residential property licensed for rental by students	366
Residential condominium unit	370
Mobile home—one or more mobile home on a parcel of land, which is not a mobile home park operation	381
Multi-type complex – defined as a large multi-use complex consisting of retail/office and other uses (multi res/condominium/hotel)	470
Retail or office with residential unit(s) above or behind – less than 10,000 s.f. gross building area (GBA), street or onsite parking, with 6 or less apartments, older downtown core	471
Retail with more than one non-retail use	473
Commercial condominium (live/work)	476

### **Schedule “B” – Annual Tax Rate**

1. The rate will be charged on the assessed value of a vacant eligible Residential Property. For properties with multiple dwelling units per municipal assessment, the Vacant Unit Tax will be prorated based on the number of units that are vacant over the number of total Residential Units.
2. The rate of the Vacant Unit Tax shall be 1% of the Taxable Assessed Value of a parcel of vacant Residential Property.