

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2012-122

A By-law to provide for tax refunds or reductions in respect of eligible heritage property

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

THEREFORE the council of The Corporation of the Town of Amherstburg enacts as follows:

PART 1 - DEFINITIONS

1.1 In this By-law, unless otherwise specified in this By-law:

- (a) "assessment corporation" means the Municipal Property Assessment Corporation.
- (b) "Chief Building Official" means the officer appointed by council as the Chief Building Official pursuant to the *Building Code Act, 1992*, S.O. 1992 c. 23, as amended, and includes a Building Inspector.
- (c) "Council" means the council of The Corporation of the Town of Amherstburg.
- (d) "eligible heritage property" means a property or portion of a property:
 - (i) that is located in the Town of Amherstburg;
 - (ii) that is designated under Part IV of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 as amended, or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
 - (iii) that is subject to either an easement agreement with the Town 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 a preservation and maintenance agreement with the Town.
 - (iv) that is in compliance with the agreement under clause (iii) and Town of Amherstburg Property Standards By-laws;
 - (v) that is not owned by a Federal, Provincial, or Municipal Government Agency;
 - (vi) that has received approval from the Amherstburg Municipal Heritage Committee for all work on the character defining elements of a designated property;
 - (vii) that has not received a Heritage Property Tax Refund pursuant to this By-law, in the two (2) previous years;
 - (viii) that has no unpaid taxes, local improvement charges, fees or other monies owing to the Town of Amherstburg;
 - (ix) that is not currently receiving other grants or tax refunds from the Town of Amherstburg.

- (e) "eligible work" means financial costs associated with Maintenance of an Eligible Heritage Property and for which there is documentation and any work which conserves or enhances the character defining elements of the Eligible Heritage Property, including but not limited to: the conservation of existing elements; the reconstruction of existing feature(s) that are beyond repair or conservation; and the accurate reproduction of significant feature(s) which no longer exist(s), but for which clear documentary material exists. Any work which seeks to conserve the character defining elements of a property must be performed in accordance with a permit issued pursuant to the Ontario Heritage Act to qualify as Eligible Work under this By-law. The reproduction of significant features may include, but is not limited to:
- (i) Repair or restoration of the exteriors of buildings including roofs, windows, doors, masonry;
 - (ii) Interior work when included as part of the reasons for designation;
 - (iii) Historical landscaping projects; and
 - (iv) Restoring/repairing original windows.
- (f) "heritage tax refund or reduction" means a refund or reduction of forty per cent (40%) of the taxes for municipal and school purposes levied on the 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 Town.
- (g) "Maintenance" is considered routine, cyclical and/or non-destructive actions, necessary to slow the deterioration of an Eligible Heritage Property. Maintenance includes the following actions: periodical inspection; property cleanup; gardening and repair of landscape features; replacement of glass in broken windows; minor exterior repairs (including replacement of individual asphalt shingles where there is little or no change in colour or design); repointing areas of wall space under 1.5 square metres; and/or any work defined as maintenance within a designating bylaw.
- (h) "owner(s)" 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.
- (i) "person(s)" 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.
- (j) "property standards" means an acceptable level of maintenance as determined by the Chief Building Official and generally thru regular care and maintenance.
- (k) "Town" means the Town of Amherstburg.

PART 2 - APPLICATIONS

- 2.1 The owner of an eligible heritage property must make an application on the form prescribed by the Town no earlier than the first business day of February and not later than the last day of February in the year following the year for which the owner is seeking to obtain the heritage tax refund or reduction. Applications received outside of this time frame, whether earlier or later, will not be considered.
- 2.2 A Heritage Tax Refund is only available for Eligible Heritage Properties where the owner has performed Eligible Work on the property in the calendar year for which a Heritage Tax Refund is sought, and must satisfy the following requirements:

- (a) Only applications approved by Council are eligible to receive Heritage Tax Refunds;
 - (b) Only one (1) Heritage Tax Refund shall be paid once every three (3) years per Eligible Heritage property;
- 2.3 The Amherstburg Heritage Committee will make recommendations to Council related to the application for a Heritage Tax Rebate.
- 2.4 Council may approve or deny the application for a Heritage Tax Rebate.
- 2.2 An application for a heritage tax refund or reduction must be made for every year that an owner wishes an eligible heritage property to be considered for a heritage tax refund or reduction.

PART 3 - COMPLIANCE WITH AGREEMENTS

- 3.1 Upon application, the owner of an eligible heritage property must provide his, her or its written consent to the Chief Building Official conducting an inspection of the eligible heritage property to ensure compliance with an easement agreement or preservation and maintenance agreement or Town of Amherstburg property standards by-laws as described in section 1.1(d).
- 3.2 No heritage tax refund or reduction will be awarded under this By-law where the Chief Building Official, in his or her absolute discretion, determines that an owner of eligible heritage property is not in compliance with an easement agreement or preservation and maintenance agreement or Town of Amherstburg property standards by-laws as described in section 1.1(d).

PART 4 - AVAILABILITY

- 4.1 The heritage tax refund or reduction program set out in this By-law is subject at all times to:
- (a) the availability of funding;
 - (b) any regulations that the Minister of Finance may make governing by-laws on tax refunds and reductions for heritage properties; and
 - (c) inspection and compliance as determined by the Chief Building Official.
- 4.2 This By-law does not require the Town or council to provide funding for this program and the heritage tax refund or reduction 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.
- 4.3 Where funding is insufficient to award a heritage tax refund or reduction to every applicant who otherwise complies with the terms of this By-law, applications will be considered in the order they are received. No priority will be given to applicants who have previously obtained a heritage tax refund or reduction.
- 4.4 If the circumstances contemplated in section 4.3 exist, then the next received application for a heritage tax refund or reduction which otherwise complies with the terms of this By-law may, notwithstanding section 1.1(f), be awarded a heritage tax refund or reduction of least ten per cent (10%) of the taxes for municipal and school purposes levied on the property that are attributable to:
- (a) the building or structure or portion of the building or structure that is the eligible heritage property; and
 - (b) the land used in connection with the eligible heritage property, as determined by the Town.

If there are insufficient funds to pay a heritage tax refund or reduction in respect of that next received application in the manner described in this section, then that applicant will not receive a heritage tax refund or reduction and the next received application for a heritage tax refund or reduction which otherwise complies with this By-law shall be considered for a heritage tax refund or reduction in the same manner. This process will continue until a heritage tax refund or reduction is awarded pursuant to this section or all applications which otherwise comply with the terms of this By-law have been considered.

PART 5 - CLASSES OF PROPERTY

- 5.1 One (1) heritage tax refund or reduction may be paid once every three (3) years in respect of each easement agreement or preservation and maintenance agreement in connection with an eligible heritage property within the property tax class of residential / farm as defined by the *Assessment Act*, R.S.O. 1990, c. A.31 and Ontario Regulation 282/98 thereunder, as amended.
- 5.2 One (1) heritage tax refund or reduction may be paid once every three (3) years for a maximum of five (5) payments in respect of each easement agreement or preservation and maintenance agreement in connection with an eligible heritage property within the property tax class of industrial, commercial or multi-residential as defined by the *Assessment Act*, R.S.O. 1990, c. A.31 and Ontario Regulation 282/98 thereunder, as amended.
- 5.3 Notwithstanding section 5.1 and 5.2, if multiple easement agreements and/or preservation and maintenance agreements as described in section 1.1(d) are registered in connection with one (1) property, multiple heritage tax refunds or reductions will not be awarded if the easement agreements and/or preservation agreements are, in the opinion of the Chief Building Official, in respect of the same heritage features.

PART 6 - BASIS OF CALCULATION

- 6.1 Heritage tax refunds or reductions shall be calculated based upon the value of the property as assessed by the assessment corporation.
- 6.2 The portion of the property's 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 assessment corporation at the request of the Town.
- 6.3 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 refund or reduction shall be redetermined using the new taxes on property for the year based on the new assessment and the tax roll for the year shall be amended to reflect the determination.

PART 7 - REPAYMENT

- 7.1 If the owner of an eligible heritage property demolishes the building or structure that is the eligible heritage property or breaches the terms of any easement agreement or preservation and maintenance agreement as described in section 1.1(d), the Town may require the owner to repay part or all of any heritage tax refunds or reductions provided to the owner for one (1) or more years under this By-law.
- 7.2 The Town may require the owner to pay interest on the amount of any repayment required under this Part, 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), calculated from the date or dates the heritage tax refunds or reductions were provided.

PART 8 - TAX LIABILITY

- 8.1 If any tax liability is attributable to a property, any heritage tax refund or reduction granted under this By-law shall first be applied against the outstanding tax liability in respect of the property.

PART 9 - NOTICE TO MINISTER OF FINANCE

- 9.1 The Clerk of the Town is hereby directed to give notice of this By-law to the Minister of Finance within thirty (30) days of the date it is passed.

PART 10 - ENACTMENT

- 10.1 By-law No. 2006-18 is hereby appealed.
10.2 This By-law comes into force on the day it is passed.

READ a first and second time this 13th day of December 2012.

READ a third time and finally passed this 13th day of December 2012.


MAYOR - WAYNE HURST


CLERK - BRENDA M. PERCY