



**Subject: Development and Implementation of a City Wide Vacant Home Tax Program – City Wide**

**Reference:**

Date to Council: November 27, 2023

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Taxation & Financial Projects

Report Date: November 9, 2023

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**To:** Mayor and Members of City Council

**Recommendation:**

THAT this report with regards to the Design and Implementation of a Vacant Home Tax **BE RECEIVED**; and further,

THAT City Council **ADOPT** a Municipal Vacant Home Tax (VHT) program pursuant to Part IX.1 of the *Municipal Act, 2001* (the Act); and,

THAT City Council **AUTHORIZE** Administration to submit an application to the Minister of Finance to be designated as a municipality that has the power to impose a tax on residential vacant units, per Part IX.1 section 338.1 of the Act;; and further,

Subject to receiving Ministerial consent to becoming a designated municipality in the regulations under the Act, THAT the City of Windsor's VHT program **BE EFFECTIVE** January 1, 2024; and further,

THAT City Council **ESTABLISH** the vacancy reference period to be the prior taxation year; and further,

THAT City Council **APPROVE** a tax rate of 3% to be applied to the prior year's assessment value as determined by the Municipal Property Assessment Corporation (MPAC) to calculate the amount of VHT to be charged; and further,

THAT City Council **APPROVE** the definition of "vacant" and the recommended exemptions listed in the Discussion section of this report, for the purposes of identifying properties that would be subject to the Vacant Home Tax; and further,

THAT City Council **SUPPORT** one new Property Tax Clerk position (L543 09) and one new Property Assessor position (L543 14) as permanent additions to the Assessment Division staff complement, which will be funded through revenue collected through the VHT program; and further,

THAT the CFO/City Treasurer **BE DIRECTED** to amend the 2024 staff complement to reflect the addition of the two (2) permanent staff required for the administration of the VHT program; and further,

THAT City Council **DIRECT** any resulting surplus in revenue, after all Administrative costs have been recovered, be transferred to the City's Housing Reserve (Fund 216) to be used for purposes of housing related programs, projects and initiatives; and further,

THAT City Council **ESTABLISH** a penalty of \$2,500 to be imposed for declarations determined to be false or misleading; and further,

THAT where appropriate, any amounts which are considered due and payable to the municipality **BE ADDED** to property taxes and collected in the same manner as property taxes; and further,

THAT City Council **AUTHORIZE** Administration 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 as outlined in this report; and further,

THAT upon the City of Windsor receiving consent to be a designated municipality in the regulations under the Act, the City Solicitor **BE AUTHORIZED** to prepare the VHT By-law.

### **Executive Summary:**

N/A

### **Background:**

As part of the Fair Housing Plan announced in 2017 by the former Ontario government, municipalities were provided with an ability to impose a tax on vacant homes. The intent of this program is to stimulate affordable housing by making it less attractive for a property owner to allow a residential property to remain unused. By either selling the home or renting it out, the property owner will contribute to increasing the supply of available housing in the community.

Due to the significant need for housing in Windsor, a report was brought to Council in December 2021 to provide information regarding the power to impose a VHT and request approval to further research and develop a program to be brought back to Council for approval prior to implementation. Council Decision B38/2021 granted this approval.

Currently in Ontario only the City of Toronto under s. 302.1 of the *City of Toronto Act, 2006*, the City of Hamilton and the City of Ottawa under s. 338.2 of the *Municipal Act, 2001*, have been authorized to impose by by-law a VHT on vacant residential units. Administration has researched the Ontario programs currently operating in Ottawa, Toronto, and Hamilton, as well as the similar program in Vancouver.

The author was part of a working group with the Ministry of Finance to discuss the major considerations with these programs to assist the Province in formulating a Regulation regarding the VHT. Municipalities involved in the working group include Ottawa, Toronto, Hamilton, York Region, Markham, Kitchener, Burlington, Halton, Peel Region, London, Waterloo, Aurora, and Windsor. Per correspondence with the lead of the working group on May 11, 2023, the Ministry is still discussing this matter internally with no expected date at this time for release of any related Regulations. As such, Administration has developed a framework for the implementation of a VHT program for the City of Windsor should it be approved as a designated municipality in the Regulations under the Act, and is seeking City Council's approval for the key components of the program.

## **Discussion:**

The municipalities that have operating VHT programs have designed them similarly with respect to the definition of vacancy and exceptions, required elements to be included in By-laws (mainly audit, enforcement and inspection authority), tax rates, declaration methodology, which year's CVA to use when calculating the taxes, and verification and audit processes. This report outlines to City Council the program parameters that would be applied in regards to the administration of a VHT program for the City of Windsor, which have been developed based upon those existing programs. The recommendations in this report regarding the key elements are required for purposes of the required By-law, which will be finalized following approval and acceptance of this report and designation by Ministry.

In early May, Council for the Region of York decided to defer the consideration of the VHT based on a report from Administration citing too many unknowns. Reasons given: the program will have to comply with the Ministry's Regulation which as mentioned, is still being drafted; the difficulty in estimating the number of properties that actually qualify as "vacant" after considering all of the exceptions; the recent implementation of the 1% Vacant and Underused Housing Tax by the Federal Government which applies to non-resident, non-Canadian owners of Canadian residential properties that are vacant more than 6 months in a calendar year; and the impact of high interest rates.

Recently, the City of Hamilton implemented their VHT program with much scrutiny from the taxpayers and media mainly due to the lack of clarity about the program in their communications. Should Windsor decide to implement a VHT program, it will be imperative that Administration provide the community with clear and concise information in advance of the start of the program.

The main concept of a VHT is to impose a fee to owners of residential properties where the home has been declared, or deemed to be, "vacant". A VHT rate will be applied to the assessment value of the property (determined by MPAC) to calculate the amount owing each year. This additional cost is intended to serve as a motivation for property owners to rent out or sell the property to someone who will occupy it or rent it thereby contributing to the housing supply in the City.

Should Council approve the implementation of the program and the City of Windsor be approved as a designated municipality in the Regulations under the Act, the effectiveness and elements of the program will be reviewed internally on a regular basis. Should changes be required, those changes would be reported to City Council. It should be noted that if the program works as planned, the amount of VHT collected annually will likely decrease and could result in an annual operating deficit after offsetting administrative costs of the program. The intention of a VHT program is not to be a revenue generator.

### **Key Considerations of a Vacant Home Tax Program**

As there are no provincial regulations attached to current legislation, it is up to designated municipalities to decide on the key elements of the program and state them in the By-law. Part IX.1 subsection 338.2 (2) states the two required criteria for the By-law – the tax rate and the conditions of vacancy that make a unit subject to the tax. Subsection 338.2(3) gives the designated municipality the choice to include in the By-law other elements they consider appropriate.

These program elements, as defined below and as recommended by Administration, will form the basis upon which the By-law will be prepared and will be reviewed annually.

#### **The Definition of “Vacant”**

For the purpose of this program, Administration is recommending the following definition:

A vacant property will be defined as any residential unit unoccupied for more than 183 days in a taxation year.

#### **Exemptions to the definition would include the following:**

- Principal Residences
- Residential units that are considered to be under construction, renovation, or redevelopment as supported by permits issued by the City’s building department
- Residential units that are vacant for a period of up to 2 years following the death of the registered owner in the year
- Residential units that are vacant for a period of up to 2 years following due to the registered owner being admitted to care (hospitalization, long-term care)
- Residential units that are listed for lease or sale for a period of up to 1 year
- Transfer of ownership of property during the year
- Residential units that are vacant due to Court order/proceedings
- Multi-residential properties (more than 6 units)
- Residential units that are managed or considered social or affordable housing and are in receipt of funding from the City

While there may be additional reasons for a property to remain vacant, Administration will review those situations on a case-by-case basis and attempt to resolve through the program appeal process noted below.

### **Vacancy Reference Period**

There are two options for which year is referenced for the period of vacancy; the current taxation year or the prior taxation year. With consideration to the definition and exemptions of vacancy, use of the current year as the vacancy reference period would delay the verification process and as such preparation of VHT bills would have to occur late in the year or early the following year. While using the prior year may create some initial challenges in terms of verification, once the program has been implemented this issue can be mitigated through ongoing inspections and timely follow up to public tips. For these reasons, it is recommended that the program reference the prior tax year for the vacancy reference period.

### **Identification of a Vacant Unit**

The City of Ottawa identified three primary methods of identifying vacant units being:

- Mandatory declaration – a process by which all residential property owners would be required to declare annually if the property is occupied either as a principal residence, rental or other. The program could provide that a failure to respond results in the property being “deemed” vacant
- Vacant unit declaration – a process by which only those residential property owners who have a vacant property will be required to notify the municipality
- Complaint based enforcement – vacant residential properties will be identified at the time that a complaint is received or tip is received from the public

At this time, Administration recommends that the City of Windsor adopt a complaint based program whereby properties identified as vacant via complaints or tips received from the public would be reviewed for vacancy. Properties identified by City staff (in various departments such as Taxation, Licencing and Building) that possibly meet the criteria for vacancy will also be reviewed.

Initially, a letter and declaration form would be mailed out to the owners of identified residential properties, explaining the VHT program, the definition of “vacant” under this program, acceptable exemptions, the Vacancy Reference Period, and the deadline to submit the form. The declaration form would be available for them to manually fill out and mail in, and the letter would also provide a link to access the form online which they can submit by email. Administration would set up an email address specifically for VHT. Only one declaration per property would be accepted regardless of the number of owners. Should more than one declaration, indicating different occupancy status be received, staff would be assigned to follow up directly with the property owners. Declaration forms would be due 30 days from the date of the letter. When a form is not received by the deadline, Administration would deem the property to be vacant and proceed to bill the VHT. Forms received that declare the property to be vacant will be billed the VHT.

## **Tax Rate**

The VHT is calculated using a percentage rate multiplied by the prior year's assessment value of the home. The decision regarding the percentage tax rate to charge is a difficult one, as the goal of the program is to encourage owners of vacant residential properties to either rent out or sell the home thereby creating available homes. What amount of additional tax will accomplish this goal is not the same for all owners depending on their financial circumstances and/or their reason for keeping the property in its current state.

The cities of Vancouver, Ottawa, Toronto and Hamilton all implemented the VHT using a 1% tax rate in year one. Vancouver implemented their program in 2017 and raised their tax rate to 1.25% in 2020 and then to 3% in 2021. The City of Toronto is increasing their tax rate to 3% in 2024.

In January of this year, the Assessment Division solicited community input via a Vacant Home Tax Survey. According to the results, 46.8% of participants felt the tax would need to be higher than 2% to succeed in creating more housing. Any rate less than that would not accomplish that goal but would be perceived as just another source of revenue to the City.

The City of Windsor's approved 2023 residential property tax rate is 1.939661%. Administration is recommending that a rate of 3% be approved for purposes of the VHT, essentially 1.5 times the amount of the annual property tax levied against a residential vacant home. VHT would be payable in addition to the annual property tax levy.

## **Billing Process**

When a property has been declared or deemed to have been vacant during the Vacancy Reference Period, a bill will be issued to the property owner. The calculation will be the assessment value of the property for the taxation year of vacancy multiplied by the rate. There will be no proration based on number of days vacant. The bill will be payable in one instalment payment due within 90 days of the issue date of the bill. Any amount outstanding after the due date will be added to property taxes and will be subject to penalties and interest accordingly.

## **Audit Process**

All declarations that are received claiming one or more of the exemptions from vacancy will be reviewed by staff. Property owners would be contacted to provide supporting documentation prior to a decision being made regarding eligibility. To ensure compliance with the program, Administration is recommending that all declarations for residential properties be considered open and subject to review for a period of up to two years after the Vacancy Reference Period. This will allow Administration to retroactively bill a property owner should the declaration be found false or inaccurate.

## **Appeal Process**

If the property owner chooses to dispute a VHT charge, a Notice of Complaint form would be made available to be filled out by the owner and submitted to the Assessment Division along with supporting documentation within 30 days of the date of the VHT

charge bill. This form would be an option for those owners that were charged the VHT tax and would include reasons such as: 1) did not declare by the deadline and the property was deemed vacant; 2) no/inadequate documentation was received by the owner to confirm the exemption status; 3) a declaration of occupied was proven false through the audit process; and 4) any other reason the owner deems valid. A review of the information and communication with the owners would have to take place, and a VHT Audit Determination Notice would be issued. Administration would make every effort to respond to Notices within 90 days from the date of receipt. In those cases, where an error has been made, the VHT and penalties would be reversed and any payment refunded.

Once the VHT Audit Determination Notice has been sent, the owner would have 60 days to file a "Request for Review". These requests would be reviewed by the Deputy Treasurer, Taxation, Treasury & Financial Projects who would make every effort expeditiously to review the information received to date, request more information, make a decision as to whether the property qualifies as vacant or not, and notify the owner via "Notice of Decision". The decision of the Deputy Treasurer would be considered final.

### **Additional Penalty for False Declaration**

Where it is determined that a false declaration has been deliberately made to avoid the VHT, Administration is recommending that a penalty of \$2,500 be charged in addition to the VHT for the year.

### **Staffing Requirements**

Current staffing levels within the Assessment division are not able to absorb all of the added duties required to administer a VHT program. Administration is seeking approval for two (2) permanent additional staff resources which would be required to administer the program on an ongoing basis including any rebate process, the performance of random audits and dispute resolution.

One Property Tax Clerk – (L543 Gr 09) – addition of one FTE to staff compliment

- Monitor the VHT Inbox
- Handle general VHT inquiries
- Assist with letters, mail-outs and other clerical functions

One Property Assessor – (L543 Gr 14) – addition of one FTE to staff compliment

- Follow up on exemptions and Notices of Complaint
- Process billings for properties declared as vacant
- Conduct audits of and inspections

One Senior Tax Analyst - (NU10) –existing position

- Overall program administration

Existing staff within the Assessment division will also assist with processing payments, decisions on appeals, monitoring revenue and expenses of the program, and reporting to Council as required.

### **Timeline of Development / Implementation of the Vacant Home Tax Program**

The following section outlines the timeline for program development and community engagement. It also outlines the next steps in terms of program implementation should City Council accept the recommendations in this report.

#### **January 16 – February 19, 2023 – Community Consultation**

From January 16<sup>th</sup> to February 19<sup>th</sup> 2023, Administration posted a survey on the “Let’s Talk Windsor” platform of the City website. An invitation to participate in the survey was sent to every property owner in the City of Windsor, included with the Interim Tax Bills.

The survey included questions related to key elements of the VHT program such as: how many months should a home be empty to be considered vacant; should there be exemptions; what tax rate should be charged; how should we handle the declaration process, etc.

790 participants took part in the survey with the majority residing in Wards 1 through 6.

#### **Results:**

- 89.5% of participants own their principal residence
- 74.1% are in support of a vacant home tax
- 37.1% (majority) of participants felt that the identification of vacant homes should be handled through a mandatory declaration process, whereby every residential property owner has to declare whether the property is vacant or not.
- 46.8% (majority) felt that the rate of tax applied should be more than 2% of the assessed property value
- 41.6% (majority) felt that a property should be unoccupied for at least 6 months in a calendar year to be considered vacant
- 75.4% thought that the City should grant exemptions in certain circumstances

#### **February 20<sup>th</sup> – June 12<sup>th</sup>, 2023**

Results of the VHT survey were reviewed and tabulated for purposes of reporting back to Council and consideration of the community’s concerns and suggestions.

Further research has been conducted through review of the programs already in place in the cities of Vancouver, Ottawa, Toronto, and Hamilton. Consultation and discussions with the VHT Working Group took place from the end of December 2022



through March 2023. The working group was formed by the Ministry of Finance to discuss the pertinent issues with VHT programs and which elements the Ministry should consider for inclusion in legislation. As mentioned earlier, many Ontario cities took part in the working group; those that have established a program and those that are considering it. Representatives from Ottawa and Toronto responded to many questions and offered great feedback and suggestions to the group.

### **End of November 2023**

Should Council approve the recommendations in this report, Administration will file a formal application to the Minister of Finance requesting designation to impose the Vacant Home Tax commencing in 2024. Should the Minister of Finance approve the City of Windsor as a designated municipality, a By-law will be formulated with the assistance of Legal, outlining the VHT program and procedures including audit and possible inspection authority.

### **December 2023 and January 2024**

Once consent is received from the Ministry, the VHT By-law will be written and presented to Council. Extensive communication and education of the program will be shared with the public through the media, the City website, social media platforms, and messaging via the My Property Tax portal.

Additional staff identified in the report will be recruited. Existing staff will commence documenting proper procedures, handling inquiries, creating all of the necessary forms, and the tracking sheet.

New and existing staff in the Taxation and 311 areas, would be trained on the new VHT, procedures and processes.

### **February 2024 and beyond**

Full implementation of the VHT program would commence following completion of the actions noted above. Program launch is mainly dependant upon Ministerial approval and adoption of the required By-law.

### **Risk Analysis:**

There are certain risks associated with the implementation of a new tax including but not limited to the following items. The degree to which each of these risks affect the program or can be mitigated by program parameters which have been detailed below.

- Possible negative reaction resulting from the implementation of a VHT on residential property owners. Given that the municipalities of Ottawa, Toronto and Hamilton have operating programs, and given the importance of ensuring housing availability, the requirement to pay a tax will likely become more widely

adopted. An extensive communications strategy is also important to properly inform the community.

- Hesitancy from residential property owners in declaring a vacant unit or in remitting the tax that is levied. Once approved by Council, the tax will become mandatory. False declarations would be subject to a penalty. Risks associated with receipt of revenue would be mitigated through penalty and interest charges as well as any audit and enforcement provisions.
- Given external factors that may affect the number of vacant units each year, there may be a financial impact in that the amount collected may fluctuate year over year.

## Climate Change Risks

### Climate Change Mitigation:

N/A

### Climate Change Adaptation:

N/A

## Financial Matters:

### Tax Rate and Estimated Revenue

Using the current four-year assessment cycle, which has set property values based upon a January 1, 2016 market, the average assessment value for a residential home in the City of Windsor was \$168,000. Homes which have been left vacant for extended periods of time and subject to negative elements, such as inclement weather, vandalism etc., typically require a significant amount of investment to restore to an occupied use. As such, the assessment value is generally lower than the average. Using a reduced value of \$100,000, the below noted chart illustrates a per unit revenue potential from of a vacant unit tax rate ranging from 1.0% to 3%.

Average Residential Assessment	Vacant Unit Tax Rate	Vacant Unit Tax
\$100,000	1.0%	\$1,000
\$100,000	2.0%	\$2,000
\$100,000	3.0%	\$3,000

As mentioned, all municipalities that have implemented the program started with a 1% tax rate. Vancouver has gradually increased their tax rate from 1% in 2017 to 3% in 2021. The City of Toronto is increasing their tax rate from 1% to 3% in 2024.

Considering that the majority of participants in the community survey thought that the tax rate should be greater than 2% for the program to be effective, Administration is recommending that a 3% tax rate be used when calculating the VHT. At this tax rate,

the expectation is that the incentive is greater to residential owners to rent out or sell their vacant properties quickly. It is important that the community understands that the City is committed to this program as a tool to assist with the housing crisis and not as a revenue generator.

At this time, and until more information is received through the program, there is no ability for Administration to estimate the total revenue that could be received in a given year. In anticipation of the implementation of the VHT program, revenue in the amount of \$100,000 was added to the Assessment operating budget. This base revenue was considered net of any operating expenditures required to fund the program. Based on the projected costs to administer the program, Administration has estimated that 82 properties valued at \$100,000 and taxed at 3% would generate enough revenue to reach the net budgeted revenue of \$100,000 for 2024. There are approximately 77,000 residential properties in Windsor so it is expected that the number of vacant properties could be much higher.

**Administrative Costs**

There would be initial start-up costs associated with the development of the VHT program including the preparation of a full submission to the Minister of Finance. Two new permanent positions in Finance would be required for start-up and to administer the program as outlined in the Discussion section. Communication and documentation mailing costs will also be incurred.

With the exception of the additional permanent staffing being requested, all other functions will be completed using existing resources and operating budgets.

Costs expected in 2023 would only be consulting fees to submit the application to the Ministry. These can be absorbed through the existing budget for consulting services.

**2024 Projected Operating Budget Impact**

An amount of \$100,000 has been established as part of the 2023 operating budget. This amount can be further broken down as follows:

Estimated Revenue (82 properties @ \$100,000 x 3%)	\$246,000
Estimated Program expenses:	
One Property Tax Clerk – (L543 Gr 09) including fringes	\$ 61,668
One Property Assessor – (L543Gr 14) including fringes	\$ 74,156
Program expenses *	<u>\$ 10,176</u>
Total expense	\$145,824
Budgeted Net Revenue	\$100,000

- Program expenses include office set up, postage, mileage, etc.

Since the intention of this program is to improve housing options for residents, it is being recommended that any surplus, above what is provided for within the current operating budget of \$100,000, as a result of this program, be transferred to the City's Housing Reserve (Fund 216). In this regard, the City will be able to utilize this funding in support of housing related programs, projects and initiatives.

**Consultations:**

Kate Tracey, Senior Legal Counsel  
 Kirk Whittal, Executive Director, Housing & Children Services

**Conclusion:**

Municipalities have been provided with the power to impose a tax on vacant residential units with the intention of stimulating affordable housing by making it less attractive for a property owner to allow a residential property to remain unused.

**Planning Act Matters:**

N/A

**Approvals:**

Name	Title
Janice Guthrie	Commissioner Corporate Services/CFO & City Treasurer
Mark Nazarewich for	City Solicitor
Joe Mancina	Chief Administrative Officer

**Notifications:**

Name	Address	Email

**Appendices:**