

Residential Vacant Unit Tax Program Framework

**OVERVIEW**

Under O. Reg 458/22, the City of Hamilton has been granted authority by the Government of Ontario to impose a residential Vacant Unit Tax (VUT) under Part IX.1 of the *Municipal Act, 2001* on vacant units that are classified in the residential property class and that are taxable under the Act for municipal purposes.

The VUT is an annual tax payable by the owner of an eligible property that has been vacant for more than 183 days in the previous calendar year. All owners of eligible properties must submit an annual mandatory declaration on the status of their property. Failure to submit a mandatory declaration will result in the property being deemed vacant and made subject to the VUT.

Where an eligible property has more than one residential unit, a mandatory declaration will be required for each unit and the property will be deemed vacant if one or more of the residential units were vacant for more than 183 days in the previous calendar year. The VUT will be adjusted based on the number of vacant units on the property.

With the submission of an annual mandatory declaration, a principal residence will not be subject to the VUT.

Vacant residential land in the residential property tax class and residential properties with seven or more units assessed in the Multi-Residential and New Multi-Residential classes **are not subject to the VUT.**

**Table A  
Program Timeline**

<b>Date</b>	<b>Action</b>
Early November (*)	By-law approval*
Mid-December	Mandatory declarations are mailed
January 1	Mandatory declaration platform opens
March 31	Mandatory declaration deadline
April 1 to April 30	Late mandatory declarations will be accepted with a fee
First week of June	Tax bills are mailed
June 30	First payment due
July 2	Complaint period begins
September 30 <sup>th</sup>	Second payment due

\* For reference years beyond 2023, it is recommended that the by-law be passed at an earlier date.

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### DEFINITIONS

**Eligible Property:** Means property or a portion of a property which:

- is classified in the residential property class on the assessment roll;
- is assessed by Municipal Property Assessment Corporation (MPAC) in one of the property codes set out in Table “B”; and
- is taxable under the *Municipal Act*.

**Residential Unit:** A residential unit is a dwelling unit as delineated by the assessment of the property.

**Vacant Residential Unit:** A residential unit that has been unoccupied for more than 183 days during the previous calendar year or is deemed vacant by the City of Hamilton.

**Unoccupied Property:** A residential unit is unoccupied when it is not the principal residence of the owner or a permitted occupier and is not occupied for residential purposes by one or more tenants for more than 183 days during the previous calendar year.

**Principal Residence:** A property which is the housing unit where the person is ordinarily resident. An individual can only have one principal residence.

**Deemed Vacant:** A property may be deemed vacant by the City and subject to the VUT if the owner:

- failed to make a mandatory declaration by the prescribed deadline;
- made a false mandatory declaration;
- failed to provide information or to submit any evidence required by the City; or
- provides false information or submits false evidence to the City; and
- if at least one unit within the eligible property is unoccupied.

**Program Administrator:** A City employee responsible for the VUT Program including reviewing a list of the properties, or portions of properties, that are under dispute.

**Appellate Authority:** A City employee responsible for hearing any appeals of the Program Administrator’s eligibility decision under the Dispute Resolution process.

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**Table B  
Eligible Property Codes**

<b>Property Code</b>	<b>Code Description</b>
301	Single family detached (not on water)
302	More than one structure used for residential purposes with at least one of the structures occupied permanently
303	Residence with a commercial unit
304	Residence with a commercial/industrial use building
305	Link home - homes linked together at the footing or foundation by a wall above or below grade
309	Freehold townhouse / row house - more than two units in a row with separate ownership
311	Semi-detached residential - two residential homes sharing a common centre wall with separate ownership
313	Single family detached on water - year-round residence
322	Semi-detached residence with both units under one ownership - two (2) residential homes sharing a common centre wall
332	Typically, a Duplex - residential structure with two self-contained units
333	Residential property with three (3) self-contained units
334	Residential property with four (4) self-contained units
335	Residential property with five (5) self-contained units
336	Residential property with six (6) self-contained units
350	Row Housing, with three (3) to six (6) units under single ownership
360	Rooming or boarding house - rental by room / bedroom; tenant(s) share a kitchen, bathroom and living quarters
366	Student housing (off campus) - residential property licensed for rental by students
370	Residential condominium unit
471	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 six (6) or less apartments, older downtown core
473	Retail with more than one non-retail use
476	Commercial condominium (live / work)

**TAX RATE**

The amount of the annual VUT payable for a taxation year will be calculated as 1.0% of the assessed value (Current Value Assessment or CVA) of the residential property upon which the residential unit is located, on the most recently returned assessment roll.

**EXEMPTIONS**

If any of the following circumstances exist during the previous calendar year, a vacant residential unit shall be exempt from the VUT for that year.

**Death of an owner:** The exemption applies to the year of death plus one subsequent year only.

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**Major renovations:** Major renovations or redevelopment make occupation of a unit impossible for more than 183 days in the same calendar year, provided a building permit has been issued under the *Building Act*.

**Sale of the property:** The VUT shall not apply in the year of the sale, provided that the transfer is to an arm's length transferee.

If any of the following circumstances exist during the previous calendar year, the residential unit shall not be considered vacant during the exempt period.

**Principal Resident is in care, institutionalized or hospitalized:** Period when the principal resident of a residential unit resides in a hospital, long-term or supportive care facility.

**Court Order:** Court order prohibiting occupancy of the residential property is in effect.

### FEES, FINES, PENALTIES AND OFFENCES

**Late Mandatory Declaration Fee:** \$250

**Penalties and Interest:** The VUT charge is considered a lien on the property and will be subject to the same penalty and interest as property taxes. According to By-law No. 13-136, By-law to Impose Late Payment Charges for Non-Payment of Taxes, the penalty is 1.25% on the first day of default and interest is 1.25% per month.

**Other Offences:** Offences will be set in the following cases:

- making a false mandatory declaration;
- providing insufficient or false information or evidence;
- failure to Provide information or evidence requested; and
- otherwise violating the By-law containing the provisions of the VUT.

**Other:** Unpaid VUT will be added to the tax roll and collected in the same manner as property taxes.

### AUDITS

The Program Administrator will conduct regular audits to ensure the accuracy of the mandatory declarations and compliance with the program. Audits regarding the status of a property could be conducted for the current reference year plus the two most recent previous reference years. The City will audit mandatory declarations for accuracy on an annual basis. Audits will be conducted in the following scenarios:

- Properties that report an exemption;
- Properties declared occupied that were vacant the year previous;
- A complaint or tip;
- Random selection;

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- Targeted audit campaigns; and
  - Properties reported vacant in the Vacant Building Registry (registered and unregistered)
- If as a result of an audit, the property is deemed vacant, the property will be subject to the VUT. A notice of determination will be issued prior to the bill declaring the property as vacant.

Fines and penalties for non-compliance with the audit will apply as per provisions contained under the Fees, Fines, Penalties and Offenses section of this document.

### DEMAND FOR INFORMATION

The Program Administrator may require an owner to provide information and evidence in support of a status mandatory declaration at any time and for a period of up to two years after the applicable taxation year, respecting the following:

- the eligible property;
- the identity and address of the owner or any person occupying the eligible property, including tenants;
- the nature and duration of the occupancy of the eligible property during the relevant taxation year; and
- the nature of any exemption to the VUT.

Documents that may be required to support the mandatory declaration include, but are not limited to:

- Copies or certified copies of:
  - Ontario vehicle registration and vehicle insurance documentation of any occupant and owner;
  - Government-issued personal identification, including without limitation, driver's license and Ontario Identity Card of any occupant and owner;
  - Income tax returns and income tax notices of assessment of any occupant and owner;
  - Lease agreements for the property;
  - Death certificate;
  - Employment contracts, pay statements or records of employment of any occupant or owner;
  - Verification of residence in hospital, long term or supportive care facility in respect of an occupant or owner,
  - Court orders prohibiting the rental of the property;
  - Insurance certificates for homeowners or tenants' insurance; and
  - Agreement of Purchase and Sale.
- Statutory mandatory declarations or affidavits regarding the status of the property.

### DISPUTE RESOLUTION

The VUT will have a two-tier appeal mechanism. The first tier will be a complaint process and the second tier will be an appeal process.

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A property owner that has been charged the VUT may submit a notice of complaint in the following cases:

- If the City made an error or omission that resulted in the imposition of the VUT; or
- If the Owner made an error or omission in completing the property mandatory declaration that resulted in the imposition of the VUT.

A property owner who believes they have been charged the VUT in error will have 60 days after the tax bill or the audit determination notice has been received to submit a notice of complaint. The notice of complaint form will be available on the City’s website.

Upon receipt of a complaint, the Program Administrator may request additional information to support the claim. The complaint will only be considered if the requested information is received within a specified period.

If the complaint is successful, the City will issue a notice of determination and the VUT, including any penalties and interest, will be rescinded.

Property owners whose complaint has been denied can appeal the decision to the Appellate Authority within 60 days of the denial of the notice of complaint by submitting a Request for Review. The Appellate Authority will review the request and issue a decision within 60 days of receipt of the Request for Review or receipt of additional information requested by the Appellate Authority. A notice of determination issued by the Appellate Authority shall be final.

### **REPORTING**

An annual report of the Program will be required.