

Authority: Item 15, General Issues Committee
Report 18-002 (FCS18005)
CM: January 24, 2018
Ward: City Wide
Bill No. 135

CITY OF HAMILTON

BY-LAW NO. 18-135

A By-law to Provide Full Deferral of Taxes to Low Income Seniors and Low Income Persons with Disabilities who are Owners of Real Residential Property in the City of Hamilton

WHEREAS for the purposes of relieving financial hardship, section 319 of the *Municipal Act, 2001, 2001* requires the City of Hamilton to pass a by-law providing for deferrals or cancellations of, or other relief in respect of all or part of the tax increases on property in the residential property class for persons assessed as Owners who are, or whose Spouses are Low Income Seniors or Low Income Persons with Disabilities as defined in the by-law; and

WHEREAS The Council of the City of Hamilton considers it to be in the interests of the municipality to offer a property tax deferral to eligible older adults and persons with disabilities as a financial support to allow them to remain in their homes; and

WHEREAS The Council of City of Hamilton approved a Full Tax Deferral Program as set out in Report FCS18005.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

A. Definitions

1) In this by-law,

- a. "Aggregate Total Income" means the total income from all sources as set out in the Notice of Assessment prepared by Canada Revenue Agency for all the registered Owners of an Eligible Property for the taxation year immediately preceding the City Taxation Year in which a credit is claimed under this By-law;
- b. "Application" means an application for a property tax Deferral pursuant to this By-law in a form and content as determined by the Treasurer;
- c. "Assessment Cap" means 40% of the assessed value of the Eligible Property;
- d. "City Taxation Year" means the calendar year during which real property tax is levied within the City;
- e. "Common Law Spouse" means either of two persons who are not married to each other and have cohabited continuously for a period of not less than three years;

- f. "Current Value Assessment" means the assessed value of a property determined by the Municipal Property Assessment Corporation (MPAC) pursuant to section 19 of the Assessment Act;
- g. "Deferral" means a deferral or deferrals granted pursuant to the provisions of this By-law of the Eligible Amount of property taxes;
- h. "Deferred Amount" means the accumulated Eligible Amounts deferred pursuant to a Deferral and added to a Deferral Account for an Eligible Property;
- i. "Deferral Account" means the general ledger account where the Deferral Amount is accumulated for accounting purposes;
- j. "Eligible Amount" means the total property taxes for any single year including municipal and education taxes, excluding other charges such as but not limited to local charges, water arrears, property standards charges that have added to the tax roll;
- k. "Eligible Person" means the Owner for a period of not less than one year immediately preceding their Application for a property tax deferral under this by-law, of an Eligible Property, who is a Low Income Senior, a Low Income Person with Disabilities, or the Spouse of such person, who is not participating in any other City of Hamilton property tax relief program;
- l. "Eligible Property" means property which or of which:
 - i) for the purposes of the *Assessment Act*, is classified in the residential property class;
 - ii) is the principal residence within the meaning of the Income Tax Act (Canada), of the Owner of the property or of the Spouse; and
 - iii) is located within the City of Hamilton;
- m. "Guaranteed Income Supplement" means the monthly non-taxable benefit payable by the Government of Canada to Old Age Security pension recipients who have a low income and are living in Canada;
- n. "Interest Rate" means a variable interest rate determined annually as of January 1st for each City Taxation Year in which a Deferral applies, that is equal to interest rate determined by the City through the City's external debt forecasting assumptions;
- o. "Low Income" means the Aggregate Total Income of all applicants of an Application that does not exceed 150% of the Guaranteed Income Supplement Maximum Annual Income (combined), as published by the Government of Canada for the 4th quarter of the previous year for individuals whose Spouse receives the full Old Age Security pension;

- p. "Low Income Person with Disabilities" means a person who is in receipt of assistance paid under the Ontario Disability Support Program or a disability amount paid under the Guarantee Income Supplement (GIS) or an amount paid under the Canadian Pension Plan disability benefit;
 - q. "Old Age Security Pension" means the monthly payment available from the Government of Canada to seniors aged 65 and older who meet the Canadian legal status and residence requirements as established by the Government of Canada;
 - r. "Owner" means a person liable to assessment, in accordance with the provisions of the *Assessment Act* in respect of real property located within the geographic boundaries of the City of Hamilton;
 - s. "Senior" means a person who is 65 years of age or older in the year preceding the City Taxation Year in which the Deferral would be granted;
 - t. "Spouse" has the same meaning as in subsection 1(1) of the Family Law Act, R.S.O. 1990 c.F.3 and shall include Common Law Spouse as defined in this By-law; and
 - u. "Tax Account" means the account corresponding to the roll number of the Eligible Property in the City's tax billing system;
 - v. "Treasurer" means the City's General Manager, Finance and Corporate Services or his or her designate;
- 2) In this By-law,
- a. words importing the masculine gender shall include the feminine and neutral genders and vice versa.;
 - b. a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa; and
 - c. a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefore or amendment thereof.
- 3) An Application must be made prior to last Business Day of September in the City Taxation Year to which the Deferral would apply.
- 4) An Application shall only apply for the Eligible Amount for the City Taxation Year in which the Application is made. In order to receive a Deferral for any other or subsequent City Taxation Year an Eligible Person must make a separate Application. If a Deferral or Deferrals have previously been granted for a previous City Taxation Year or City Taxation Years and an Application is not received for the subsequent City Taxation Year, any Deferred Amount will remain in the Deferral Account until the Eligible Property to which the Deferred Account applies is transferred to a different Owner at which time the Deferred Amount will be

transferred to the Tax Account for the Eligible Property and become payable as provided for in section 22.

- 5) If a Deferral or Deferrals have previously been granted for a previous City Taxation Year or City Taxation Years and an Application is not received for the subsequent City Taxation Years the property taxes for the subsequent City Taxation Years are payable in accordance with all applicable City of Hamilton By-laws and the *Municipal Act, 2001*.
- 6) The Owner, the Owner's Spouse and all registered Owners must apply and qualify in order for a Deferral to be granted.
- 7) An Application shall be made to the Treasurer, and shall be in such form and provide such information as the Treasurer may prescribe from time to time.
- 8) An Application must include documentation establishing that the applicant is an Eligible Person and that the residential property with respect to which the Application is made is an Eligible Property. The Application shall include copies of the Eligible Person and the Eligible Person's Spouse's Notices of Assessment issued by the Canada Revenue Agency for the City Taxation Year preceding the Application which will be used to verify their respective total incomes.
- 9) An Application must include an authorization signed by the applicant authorizing the release by third parties of all information the Treasurer may require to verify the accuracy of any information submitted with the Application.
- 10) An Application shall not be approved if the property taxes for City Taxation Years prior to the Application are in arrears on the date the Application is submitted to the City.
- 11) Applications for partial Deferrals shall be permitted.
- 12) The applicant shall pay a non-refundable Application fee as set out in the City of Hamilton User Fee by-law applicable to the year in which the Application is made.
- 13) After an initial Application, the applicant shall pay a non-refundable renewal fee for each subsequent Application as set out in the City of Hamilton User Fee by-law applicable to the City Taxation Year for each subsequent Application.
- 14) Upon receipt of an Application, the Treasurer shall review the Application and determine whether or not the applicant and property are eligible.
- 15) This By-law shall be administered by the Treasurer and any questions as to the application of this By-law may be referred to the Treasurer whose determination shall be final.

- 16) The Treasurer may, at any time, request that an applicant for a Deferral provide such additional information or documentation or both as he or she may require to evaluate the Application and the Application shall not be further processed until the requested information or documentation or both has been received.
- 17) In the event that an applicant fails to provide the information or documentation or both requested by the Treasurer within one month of the date of the request, the Application shall be deemed to have been abandoned and shall not be further processed.
- 18) Upon the determination by the Treasurer that an applicant and property to which the Application applies meet all the requirements for a Deferral, a Deferral shall be granted.
- 19) All Eligible Amounts subject to a Deferral shall be added to the Deferral Account for the Eligible Property to which they apply and the Deferred Amount shall accrue interest at the Interest Rate until it becomes payable as provided for in section 22.
- 20) If an Eligible Person who submitted an Application ceases to be an Eligible Person no additional Deferral will be granted unless the person can meet the requirements for Deferral and any Deferred Amount which applies to the Eligible Person's Eligible Property shall remain in the Deferral Account until the transfer of the Eligible Property which results in the Eligible Person no longer being the Owner at which time the Deferred Amount shall be transferred to the Tax Account of the Eligible Property and shall be payable as provided for in section 22.
- 21) When the Deferred Amount accumulates in the Deferral Account for an Eligible Property to a value that equals the Assessment Cap no further Deferrals will be provided regardless of any changes to the Current Value Assessment for the Eligible Property and any Deferred Amount which applies to the Eligible Property will remain in the Deferral Account until the transfer of the Eligible Property to a different Owner at which time the Deferred Amount shall be transferred to the Tax Account of the Eligible Property and shall be payable as provided for in section 22.
- 22) If an Eligible Property to which a Deferral applies is transferred to a different Owner the Deferral shall cease to apply to the Eligible Property for the City Taxation Year in which the Eligible Property is transferred and the Deferred Amount and accrued interest shall be payable and shall be added to the Tax Account for the Eligible Property to which Deferred Amount applies for the City Taxation Year in which the Eligible Property is transferred. When the Deferred Amount is transferred to the Tax Account for the Eligible Property to which the Deferral applied the Deferred Amount shall accrue interest and be subject to penalties in accordance with City of Hamilton By-law 13-136 and the *Municipal Act, 2001*.

- 23) A Deferral provided pursuant to this By-law for any City Taxation Year is limited to one dwelling unit on an Eligible Property.
- 24) Where an Eligible Person and the Eligible Person's Spouse each own an Eligible Property, collectively they shall only be permitted one Deferral in respect of one property and the Eligible Person and Eligible Person's spouse shall designate in the Application which Property shall be the subject of the Deferral
- 25) Where a designation has been made under subsection 24, the designation shall not be changed without the consent of the Treasurer, which consent may be withheld for any reason.
- 26) Deferrals apply only to property tax amounts levied against an Eligible Property including municipal and education taxes and do not include other charges such as but not limited to local charges, water arrears, property standards charges that have added to the tax roll for the Eligible Property.
- 27) Interest at the Interest Rate shall accrue on a Deferred Amount while it remains in a Deferral Account, from the date(s) a Deferred Amount would, in the absence of a Deferral, have otherwise been payable until the Deferred Amount is transferred to a Tax Account where the Deferred Amount will accrue interest and be subject to penalties in accordance with City of Hamilton By-law 13-136 and the *Municipal Act, 2001*.
- 28) If a Deferral is granted penalties and interest in respect of the City Taxation Year to which the Deferral applies and which were added to the tax roll for the property to which the Deferral applies before the Application will be cancelled and not payable.
- 29) If prior to the granting of a Deferral, property taxes for the City Taxation Year to which the Deferral applies have been paid, the payment shall be refunded.
- 30) If an Application is submitted and denied penalties and interest incurred before an Application is rejected and which have been applied to the tax roll shall not be cancelled and will payable.
- 31) Where the Deferred Amount become payable pursuant to section 22 and is not immediately repaid, such outstanding Deferred Amount shall be subject to interest and penalties in accordance with the City of Hamilton By-law 13-136 and the *Municipal Act, 2001*.
- 32) In accordance with subsections 319(14) and 349(3) of the *Municipal Act, 2001*. The Deferred Amount and interest and penalties on such amounts are special lien on the Eligible Property to which the Deferred Amount applies. *Municipal Act, 2001*
- 33) Deferred Amounts plus accumulated interest shall be shown on tax certificates in accordance with Section 319(8) of the *Municipal Act, 2001*.

34) This by-law is deemed to have come into force on January 1, 2018.

PASSED this 23rd day of May, 2018.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk