

# **FINANCIAL**

## **Chapter 399**

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The Council of the Corporation of the City of Kitchener is empowered by section 365.2 of the *Municipal Act, 2001*, c.25, as amended, to pass a by-law establishing a program to provide heritage tax refunds in respect of eligible heritage properties.

**Article 1**  
**INTERPRETATION**

**399.1.1 Built heritage resource - defined**

“built heritage resource” means a building or structure of historic or architectural value that reveals some of the broad architectural, cultural, social, political, economic or military patterns of our local history or that has some association with specific events or people that have shaped the details of that history.

**399.1.2 City - defined**

“City” means The Corporation of the City of Kitchener.

**399.1.3 Council - defined**

“Council” means the Council of The Corporation of the City of Kitchener.

**399.1.4 Eligible heritage property - defined**

“eligible heritage property” means a property or portion of a property:

- (a) that is located in the City of Kitchener;

- (b) that is designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
- (c) that is subject to either an easement agreement with the City under section 37 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 an easement agreement with the Ontario Heritage Foundation under section 22 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 or an agreement with the City respecting the preservation and maintenance of a built heritage resource on the property.

#### **399.1.5 Heritage tax refund - defined**

“heritage tax refund” means an amount of tax that may be refunded in respect of an eligible heritage property. The amount of a heritage tax refund, unless otherwise specified, shall be 40% 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 City.

#### **399.1.6 Municipality - defined**

“municipality” means the City of Kitchener and not the Regional Municipality of Waterloo.

#### **399.1.7 Owner(s) - defined**

“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.

#### **399.1.8 Person(s) - defined**

“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.

## **Article 2**

### **HERITAGE TAX REFUND PROGRAM**

#### **399.2.1 Subject to funding - elimination without notice**

The heritage tax refund program set out in this Chapter, is subject at all times to the availability of funding for the program. This Chapter does not require the City or Council to provide funding for this program and the heritage tax refund contemplated by this Chapter may be eliminated by Council through repeal of the enabling by-law at any time with no notice whatsoever to affected persons.

**399.2.2 Program - subject to regulations**

This heritage tax refund program is subject to any regulations that the Minister of Finance may make governing by-laws on tax refunds and reductions for heritage properties.

**399.2.3 Paid annually - for each agreement - residential - farm**

Subject to the conditions set out in this Chapter, one heritage tax refund may be paid annually for each easement or preservation and maintenance agreement in respect of an eligible heritage property in the property tax class of residential/farm as defined by the *Assessment Act*, and Ontario Regulation 282/98 thereunder as amended.

**399.2.4 Paid annually - each agreement - maximum number**

Subject to the conditions set out in this Chapter, one heritage tax refund may be paid annually to a maximum of ten refunds for each eligible easement or preservation and maintenance agreement in respect of an eligible heritage property in the property tax class of industrial, commercial or multi-residential as defined by the *Assessment Act* and Ontario Regulation 282/98, as amended.

**399.2.5 Multiple agreements - one property - restriction**

If multiple easement and/or preservation and maintenance agreements are registered on one parcel of land, multiple refunds will not be provided in respect of the same heritage features.

**399.2.6 Property's total assessment attributable - calculation**

The portion of a property's total 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 City.

**399.2.7 Application - eligibility - time frame**

The owner of an eligible heritage property must make application on the prescribed form 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. Applications received outside of this time frame, whether earlier or later, will not be considered.

**399.2.8 Funding insufficient - paid as received**

Where funding is insufficient to give a heritage tax refund to each otherwise eligible applicant, 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.

**399.2.9 Funding insufficient - award criteria**

If available funds are insufficient to award the next otherwise eligible applicant a full heritage tax refund, but would be sufficient to award a lesser amount of at least 10% of the taxes for municipal and school purposes levied on the property that are attributable to the building or structure or portion of the building or structure that is the eligible heritage property and the land used in connection with the eligible heritage property as determined by the City, the entire remaining heritage tax refund program funds for that year shall go to that applicant. If the remaining funds would not be sufficient to award this minimum amount, that applicant will not receive a heritage tax refund that year and the next applicant will be considered using the same criteria.

**399.2.10 Application - annually**

An application for a heritage tax refund must be made for every year that an owner wishes a property to be considered for a heritage tax refund.

**399.2.11 Application submitted - inspection required**

Upon application, the owner must consent to the City conducting an inspection to ensure that the relevant easement agreement or maintenance and preservation agreement is being complied with.

**399.2.12 Refund refused - agreement non-compliance**

No heritage tax refund will be given under this Chapter where the City determines that the relevant easement agreement or maintenance and preservation agreement is not complied with to the satisfactions of the City.

**399.2.13 Refund - how calculated**

Heritage tax refunds shall be calculated using the assessed value of the property for tax purposes.

**399.2.14 Assessment changes - refund re-calculated**

If the assessment of a property for a year changes as a result of proceedings under the *Assessment Act*, the heritage tax refund shall be redetermined using the new assessment and the tax roll for the year shall be amended to reflect the determination.

**399.2.15 Demolition - breach of agreement - refund to City**

If the owner of an eligible heritage property demolishes the eligible heritage property or breaches the terms of the relevant easement or preservation and maintenance agreement, the City may require the owner to repay part or all of any heritage tax refund(s) provided to the owner for one or more years under Section 399. 2.15 through Section 399.2.17 inclusive.

**399.2.16 Refund to City - interest calculated**

The City may require the owner to pay interest on the amount of any repayment required under Section 399. 2.15 through Section 399.2.17 inclusive, at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule 1 of the *Bank Act* (Canada), calculated from the date or dates the heritage tax refund(s) were provided.

**399.2.17 Repayment - revenue shared**

Any amount repaid under Section 399. 2.15 through Section 399.2.17 inclusive, will be shared by the City and school boards that share in the revenue from taxes on the property, in the same proportion that they shared in the cost of the heritage tax refund(s) on the property.

**399.2.18 Tax arrears - rebate**

If tax arrears are attributable to a property, a heritage tax rebate may be given in lieu of the heritage tax refund or in lieu of a portion of the heritage tax refund set out in this Chapter. Such rebate will be subject to the same terms as a heritage tax refund.

**399.2.19 Tax arrears - rebate applied to tax liability**

If tax arrears are attributable to a property, any refund or rebate granted under this Chapter will first be applied against the outstanding tax liability in respect of the property.

**399.2.20 Notice of passing - to Minister of Finance - by clerk**

The clerk is hereby directed to give notice of the enabling by-law to the Minister of Finance within thirty days of the date it is passed.

**399.2.21 Refund - notice to Region of Waterloo - by treasurer**

The Treasurer is hereby directed to inform the Region of Waterloo of the amount of taxes to be refunded by the City under this Chapter. By-law 2003-20, 27 January, 2003.