

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 102 - 2009

A BY-LAW TO ESTABLISH A PROPERTY TAX REBATE
PROGRAM FOR CHARITABLE ORGANIZATIONS

WHEREAS subsection 361(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (hereinafter referred to as the "Act"), requires that every municipality, other than a lower-tier municipality, shall have a tax rebate program for eligible charities for the purposes of giving them relief from taxes or amounts paid on account of taxes on eligible property they occupy;

AND WHEREAS subsection 361(2) of the Act provides that a charity is eligible if it is a registered charity as defined in subsection 248(1) of the Income Tax Act (Canada) that has a registration number issued by the Canada Customs and Revenue Agency, and a property is eligible if it is in one of the commercial classes or industrial classes within the meaning of subsection 308(1) of the Act; and

THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. By-law 9055-98 is hereby repealed.

2. Definitions

2.1 In this by-law:

- a) "Application" means an application for a rebate;
- b) "Area Municipality" means a lower-tier municipality within The Regional Municipality of Niagara;
- c) "Eligible Charity" means either a Charitable Organization as in c) or Similar Organization as in d);
- d) "Charitable Organization" means a registered charity as defined in subsection 248(1) of the Income Tax Act (Canada) that has a registration number issued by the Canada Customs and Revenue Agency;
- e) "Similar Organization" means an organization such as a Navy League or Veterans group as more particularly defined under sections 6.0 and 6.1 of the Assessment Act;

- f) “Eligible Property” means any one of the following:
- 1) “Commercial Property” means a real property for which taxes are charged at the commercial tax rate in The Regional Municipality of Niagara;
 - 2) “Industrial Property” means a real property for which taxes are charged at the industrial tax rate in The Regional Municipality of Niagara;
 - 3) “Residential Property” means a real property for which taxes are charged at the residential tax rate in The Regional Municipality of Niagara;
 - 4) “Rebate” means a rebate of taxes or amounts paid on account of taxes in accordance with this by-law;
 - 5) “Treasurer” means the Treasurer of an Area Municipality.

3. Eligibility Criteria

- 3.1 To be eligible for a property tax Rebate a Charitable Organization must meet the following criteria:
- a) Comply with the definition of a Charitable Organization as established in this by-law;
 - b) Be occupying a Commercial Property or Industrial Property as defined in this by-law;
 - c) If leasing, be able to identify the amount of taxes included in their lease payments;
 - d) Complete and return an approved Application form for “Tax Rebates for Charitable Organizations” to the Area Municipality in which the property on which the rebate is sought is situated.
- 3.2 To be eligible for a property tax rebate a Similar Organization must meet the following criteria:
- a) Comply with the definition of a Similar Organization as established in this by-law;
 - b) Be occupying a Residential Property, Commercial Property or Industrial Property as defined in this by-law;
 - c) If leasing, be able to identify the amount of taxes included in their lease payments;
 - d) Complete and return an approved Application form for “Tax Rebates for Charitable Organizations” to the Area Municipality in which the property on which the rebate is sought is situated.

4. Application Procedure

- 4.1 An Eligible Charity that pays taxes or amounts on account of taxes on Eligible Property which it occupies may make application to the Area Municipality in which the Eligible Property is located for a rebate. The Eligible Charity must apply for the tax rebate on an annual basis as follows:
- a) Submit an Application to be accepted and processed by the Area Municipality in which the organization is located;
 - b) Applications will be addressed to the Treasurer of the Area Municipality;
 - c) Applications will be accepted between January 1st of the taxation year and February 28th of the following year;
 - d) Applications from an Eligible Charity re-locating within the year will be accepted up until February 28th of the following year for rebates for the current taxation year;
 - e) Applications must be made on the standard application form which will be available at the offices of each Area Municipality and The Regional Municipality of Niagara.

5. Amount of the Tax Rebate

- 5.1 Tax rebates for Similar Organizations will be one hundred percent (100%) of the taxes paid, providing that all eligibility criteria in Section 3 are met.
- 5.2 Tax Rebates for Charitable Organizations will be forty percent (40%) of the taxes paid providing that all eligibility criteria in Section 3 are met.
- 5.3 That notwithstanding Sections 5.1 and 5.2, if the Eligible Charity is required to pay an amount under section 367 or 368 of the Act, which deal with gross leases and flowing through of taxes, the amount of the rebate shall be the total of the amounts the Eligible Charity is required to pay under those sections.

6. Payment of Tax Rebates

6.1 Payments of tax rebates will be made by the Area Municipality in which the organization is located as follows:

- a) A rebate relating to the taxation year shall be paid as follows:
 - 50% within 60 days of the Area Municipality receiving application
 - 50% within 120 days of the Area Municipality receiving application

6.2 That where an Eligible Charity moves into eligible property during the taxation year and otherwise meets the eligibility criteria, the amount of the rebate will be determined from the date of occupancy through to the remainder of the year.

6.3 That an Eligible Charity that moves to another Area Municipality (either within or outside The Regional Municipality of Niagara) after receiving a tax rebate pursuant to this by-law shall repay a prorated amount of that rebate to the Area Municipality that issued the tax rebate in accordance with the requirements of that Area Municipality.

6.4 That an Eligible Charity that moves to another location within the same Area Municipality may be required to repay a prorated amount of that rebate to the Area Municipality that issued the tax rebate in accordance with the requirements of that Area Municipality.

7. General

This by-law shall come into force and take effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

(Peter Partington, Regional Chair)

(Kevin Bain, Regional Clerk)

Passed: December 3, 2009