

CITY OF VANCOUVER BRITISH COLUMBIA



VACANCY TAX BY-LAW NO. 11674

This By-law is printed under and
by authority of the Council of
the City of Vancouver

(Consolidated for convenience only
to July 11, 2017)

VACANCY TAX BY-LAW

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BY-LAW NO. 11674

A By-law to impose and collect a vacancy tax

[Consolidated for convenience only,
amended to include By-law No. 11855,
effective July 11, 2017]

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

SECTION 1
INTERPRETATION

Name of By-law

1.1 The name of this By-law, for citation, is the "Vacancy Tax By-law".

Definitions

1.2 In this by-law:

"business day" means any day other than a Saturday, Sunday or a holiday;

"heritage property" means property that:

(a) in the opinion of a person or body authorized to exercise a power under the *Vancouver Charter* in relation to the property, has sufficient heritage value or heritage character to justify its conservation; or

(b) is protected heritage property;

"occupier" means a registered owner or a person who occupies residential property with the permission of the registered owner but is not a tenant or subtenant;

"notice of complaint" means a notice submitted by a registered owner pursuant to section 6.4;

"phased development" means the development of one or more parcels of residential property where the Director of Planning has agreed that the development will be undertaken in phases over time under more than one development permit;

"principal residence" means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills;

"registered owner" means the person or persons registered in the land title office as entitled to the fee simple or, in the case of a leasehold strata unit created by a leasehold strata plan, means the leasehold tenant as defined in the Strata Property Act, S.B.C 1998, c.43, provided that such leasehold tenant is recorded as taxable on the real property tax roll;

"residential property", "residential property", subject to any applicable regulations, means real property classified only as class 1 property (residential) under the British Columbia *Assessment Act* and its regulations, but does not include phased development parcels or land or improvements or both used solely for nursing homes, rest homes, cookhouses, strata accommodation property or child daycare purposes (including group daycares, preschools, special needs daycares, family daycares, out of school care, residential care, emergency care and child minding), as may be further described in the British Columbia *Assessment Act* and its regulations;

"supplementary vacancy tax notice" means a notice issued to a registered owner of residential property where the Collector of Taxes has determined after the 10th business day of March of the current tax year, that a vacancy tax notice should have been issued for a parcel of residential property for either the current tax year or one or both of the two most recent tax years;

"taxable assessed value" means the assessment value used in setting the City's real property tax rates under sections 373 and 374 of the Vancouver Charter;

"taxable property", in relation to a vacancy tax, means residential property that is all of the following:

- (a) vacant property;
- (b) not exempt from taxation under either section 373 or 396 of the Vancouver Charter; and
- (c) not exempt from the vacancy tax under this by-law;

"tax year" means a calendar year;

"vacancy reference period" means the twelve months of a tax year;

"vacancy tax notice" means a notice issued to a registered owner of taxable property setting out the vacancy tax that is imposed on that taxable property in accordance with this by-law;

"vacancy tax review officer" means the person appointed by Council to administer complaints made in accordance with the vacancy tax review provisions of this by-law and his or her delegates; and

"vacancy tax review panel" means the panel appointed by Council to administer reviews in accordance with the vacancy tax review provisions of this by-law.

Table of contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Severability

1.4 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

SECTION 2 VACANCY TAX

Vacancy tax

2.1 A vacancy tax shall be imposed on every parcel of taxable property in accordance with this By-law.

Unoccupied property

2.2 Residential property is considered to be unoccupied in the following circumstances:

- (a) the residential property is not the principal residence of an occupier; or
- (b) the residential property is not occupied by a tenant or subtenant for a term of at least 30 consecutive days.

Vacant property

2.3 Residential property is considered to be vacant property if:

- (a) it has been unoccupied for more than 180 days during the vacancy reference period; or
- (b) it is deemed to be vacant property in accordance with this by-law.

Vacancy tax rate

2.4 The rate of the vacancy tax is 1 % of the taxable assessed value of a parcel of taxable property.

Date for payment of vacancy tax

2.5 The amount stated as due and payable on a vacancy tax notice issued pursuant to this by-law is due and payable by the registered owner of taxable property on or before the 10th business day of April of the year that the vacancy tax notice is issued.

Date for payment pursuant to supplementary vacancy tax notice

2.6 The amount stated as due and payable on a supplementary vacancy tax notice issued pursuant to this by-law is due and payable by the registered owner of taxable property on the due date set out in the supplementary vacancy tax notice.

Penalty for failure to pay vacancy tax

2.7 A vacancy tax which is due and payable and remains unpaid as of the 10th business day of April of the year in which it is due and payable is to incur and bear a penalty of 5%.

Penalty for failure to pay pursuant to supplementary vacancy tax notice

2.8 A vacancy tax which is due and payable and remains unpaid as of the due date set out in the supplementary vacancy tax notice is to incur and bear a penalty of 5%.

Vacancy tax is levy

2.9 A vacancy tax, together with any penalties levied for failure to pay the tax in accordance with this by-law, is a levy that may be lawfully inserted in the real property tax roll and may be collected as real property taxes, pursuant to Sections 409(2) and (3) of the Vancouver Charter.

SECTION 3 EXEMPTIONS

Property forming part of estate of deceased

3.1 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period because the last registered owner of the residential property on title is deceased and neither a grant of probate of the will of the deceased, nor a grant of administration of the estate of the deceased has been provided.

Property undergoing redevelopment or major renovations

3.2 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period in order to do one or more of the following:

- (a) redevelop or safely carry out major renovations to the property:
 - i. for which permits have been issued by the City, and
 - ii. which, in the opinion of the Chief Building Official, are being carried out diligently and without unnecessary delay, or;
- (b) carry out either redevelopment or initial development of residential property that is unimproved with any dwelling units, or the rehabilitation and conservation of heritage property:
 - i. for which a complete rezoning enquiry or application, development permit application or heritage alteration permit application has been submitted by or on behalf of the registered owner and is under review by the City, and

- ii. which, in the opinion of the Director of Development Services, is being diligently pursued and without unnecessary delay, or;
- (c) carry out either redevelopment or initial development of a parcel of residential property which is unimproved with any dwelling units and is part of a phased development which either:
 - i. has not been rezoned, where a complete rezoning enquiry or rezoning application for at least one of the parcels of residential property which comprise the phased development has been submitted by or on behalf of the registered owner and is under review by the City during the vacancy reference period, or
 - ii. has been rezoned, where either:
 - (A) a complete development permit application has been submitted for at least one parcel of residential property which is part of the phased development and is under review by the City during the vacancy reference period; or
 - (B) a development permit has been issued by the City for at least one parcel of residential property which is part of the phased development and work under the development permit is, in the opinion of the Director of Development Services, being diligently pursued and without unnecessary delay.

Property of owner in care

3.3 A vacancy tax is not payable under this By-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period because the occupier or tenant or subtenant is undergoing medical care or is residing in a hospital, long term or supportive care facility, except that this exemption shall not be allowed for more than two consecutive vacancy reference periods.

Rental restriction or prohibition

3.4 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period because:

- (a) the residential property is a strata unit in a strata development;
- (b) prior to the date of enactment of this by-law, the by-laws of the strata either prohibited rentals altogether or restricted the number of strata units that may be rented; and
- (c) rental of the residential property is not permitted because the maximum allowable number of permitted strata rentals for the strata development has already been reached.

Transfer of property

3.5 A vacancy tax is not payable under this by-law for a parcel of residential property if the title to the residential property was transferred during the applicable vacancy reference period.

Occupancy for full-time work

3.6 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was not the principal residence of a registered owner during the vacancy reference period, but was occupied by a registered owner for a minimum of 180 days during the vacancy reference period because the registered owner worked in the City.

Court order

3.7 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period solely because a court order, court proceedings or order of a governmental authority prohibits its occupancy.

Limited use residential property

3.8 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than 180 days during the vacancy reference period because:

- (a) the lawful use of the property is limited to vehicle parking; or
- (b) as a result of the size, shape or other inherent limitation of the parcel, a residential building cannot be constructed on the parcel.

SECTION 4 ADMINISTRATION

Administrator

4.1 The Collector of Taxes is authorized to administer this by-law.

Property status declaration form

4.2 On or before the 31st day of December of each year, the Collector of Taxes must cause to be mailed to each registered owner of residential property whose name appears on the real property tax roll, to the address appearing on the real property tax roll, either a property status declaration form or instructions to make a property status declaration.

Record of mailing

4.3 The Collector of Taxes must keep a record of the date of mailing of the property status declaration form or the instructions to make the property status declaration.

Deemed receipt

4.4 A property status declaration form mailed in accordance with this by-law is deemed to have been received by the registered owner four days after mailing.

Completion and return of property status declaration

4.5 For each real property tax folio, a registered owner or his or her agent or authorized representative must complete and return only one property status declaration to the City in the form and manner required by the City on or before the 2nd business day of the February following the receipt of the property status declaration form or instructions to make the property status declaration.

Review of completed property status declaration

4.6 The Collector of Taxes must review each completed property status declaration and determine whether the information provided by a registered owner is sufficient, in the opinion of the Collector of Taxes, to establish the status of a residential property during the vacancy reference period.

Requirement for further information

4.7 The Collector of Taxes may require a registered owner to provide information at any time and for a period of up to two years after the applicable vacancy reference period respecting:

- (a) the property;
- (b) the identity and address of the registered owner;
- (c) the identity and address of any person occupying the property;
- (d) the status of the property; and
- (e) the nature of the occupancy of the property during the vacancy reference period.

Requirement to submit evidence

4.8 The Collector of Taxes may require a registered owner to submit evidence to verify a property status declaration and the status of the property.

Type and form of information and evidence

4.9 The information or evidence required by the Collector of Taxes pursuant to this by-law may include but is not limited to:

- (a) copies or certified copies of:
 - i. ICBC vehicle insurance and registration,

- ii. government-issued personal identification, including, without limitation, driver's license, BCID card, British Columbia Services Card,
 - iii. Medical Services Plan or ambulance invoice,
 - iv. income tax returns and notices of assessment,
 - v. tenancy agreements,
 - vi. wills, grants of probate, or grants of administration,
 - vii. employment contracts, pay statements or records of employment,
 - viii. verification of residence in long term or supportive care,
 - ix. verification of educational enrolment form,
 - x. separation agreements,
 - xi. court orders,
 - xii. insurance certificates for homeowners or tenants insurance,
 - xiii. strata by-laws, minutes of strata meetings or records prepared or maintained by the strata; and
- (b) statutory declarations or affidavits regarding the status of the property.

Power to request particulars from registered owner

4.10 The Collector of Taxes may require a registered owner who has not submitted a completed property tax declaration form, to provide information or submit evidence in accordance with 4.7, 4.8 or 4.9 of this by-law.

Power of entry

4.11 The Collector of Taxes, and anyone authorized to act on behalf of the Collector of Taxes, is authorized to enter onto residential property for the purpose of determining the status of the property and whether the property is subject to the vacancy tax, except that the Collector of Taxes must first:

- (a) send a registered letter to the registered owner at the address appearing on the real property tax roll, advising of the time and date of the inspection; and
- (b) post a copy of the registered letter on the residential property.

Determination of taxable property

4.12 The Collector of Taxes must review the property status declaration, and all information and evidence collected in regards to a parcel of residential property and must determine whether or not the parcel is taxable property that is subject to the vacancy tax,

except that, in the case of a parcel of residential property deemed to be vacant under this by-law, the Collector of Taxes must consider the parcel to be vacant property and subject to the vacancy tax.

Vacancy tax notice

4.13 Subject to Section 4.14, the Collector of Taxes must cause a vacancy tax notice to be mailed to each registered owner of taxable property on or before the 10th business day of March of each year.

Supplementary vacancy tax notice

4.14 If the Collector of Taxes determines at any time after the 10th business day of March that a vacancy tax notice should have been issued for a parcel of residential property for either the current tax year or one or both of the two most recent tax years to which this by-law applies, the Collector of Taxes must cause a supplementary vacancy tax notice to be mailed to the registered owner of the taxable property for the applicable tax year or years.

Record of mailing

4.15 The Collector of Taxes must keep a record of the date of mailing of vacancy tax notices and supplementary vacancy tax notices.

Deemed receipt

4.16 A vacancy tax notice or a supplementary vacancy tax notice mailed in accordance with this by-law is deemed to have been received by the registered owner four days after mailing.

Record of taxable properties

4.17 The Collector of Taxes must prepare a record of all taxable properties listing all of the parcels of residential properties in respect of which a vacancy tax notice has been issued, on or before the 10th business day of March each year.

Corrections to taxable property record

4.18 If a parcel of residential property that has been listed on the record of taxable properties is subsequently determined not to be taxable property or if a supplementary vacancy tax notice has been issued for a residential property in accordance with this by-law, the Collector of Taxes must correct and update the record of taxable properties.

Refunds for overpayment

4.19 The Collector of Taxes must refund to a registered owner any excess amount of vacancy tax paid by the registered owner and any amount of penalty and interest paid pursuant to this by-law on the excess amount.

No payment of interest

4.20 No interest is payable on any refund authorized by this by-law.

**SECTION 5
RESPONSIBILITIES OF THE OWNER**

Requirement for declaration

5.1 A registered owner of residential property must not fail to make a property status declaration in accordance with this by-law.

Due date for submission

5.2 A registered owner of residential property must submit a completed annual property status declaration to the City on or before the 2nd business day in February of each year.

False declaration

5.3 A registered owner must not:

- (a) make a false property status declaration; or
- (b) fail to correct a false property status declaration.

Providing information or evidence

5.4 A registered owner:

- (a) must provide any information or submit any evidence that is required by the Collector of Taxes in accordance with this by-law;
- (b) must provide the information or submit the evidence in the form and within the time stipulated by the Collector of Taxes; and
- (c) must not provide false information or submit false evidence to the Collector of Taxes.

**SECTION 6
COMPLAINTS AND REVIEW PROCESS**

Vacancy tax review officer

6.1 The vacancy tax review officer is authorized to administer the applicable provisions of this by-law.

Complaint to vacancy tax review officer

6.2 A registered owner who has received a vacancy tax notice or supplementary vacancy tax notice may submit a complaint regarding the decision to impose the vacancy tax, to the vacancy tax review officer, on one or more of the following grounds:

- (a) an error or omission on the part of the City resulted in the imposition of the vacancy tax; or

- (b) an error or omission on the part of the registered owner in completing the property status declaration resulted in the imposition of the vacancy tax.

Complaint process

6.3 A registered owner may submit a complaint to the vacancy tax review officer by submitting a notice of complaint:

- (a) in the case of a vacancy tax notice, on or before the 10th business day of April of the year in which it is due and payable; and
- (b) in the case of a supplementary vacancy tax notice, within 28 days of the date of issue noted on the supplementary vacancy tax notice;

unless such time period is extended by the vacancy tax review officer.

Notice of complaint

6.4 The notice of complaint must:

- (a) identify the residential property in respect of which the complaint is made;
- (b) include the full name of the complainant and a telephone number or email address at which the complainant may be contacted during regular business hours;
- (c) indicate whether the complainant is the registered owner of the property to which the complaint relates;
- (d) if the complainant is an agent acting on behalf of the registered owner, include information regarding the nature of their terms of agency and authority to act on behalf of the registered owner;
- (e) include an address for delivery where the City may send any notices in respect of the complaint;
- (f) state the grounds on which the complaint is based under Section 6.2;
- (g) state why the parcel should not be subject to the vacancy tax based on the grounds of complaint; and
- (h) provide supplementary information and evidence to substantiate the reasons for the complaint.

Request for further information or evidence

6.5 Upon receiving a notice of complaint, the vacancy tax review officer may require the registered owner to provide any of the information or evidence that is set out in Sections 4.7, 4.8 and 4.9.

Refusal for failure to comply with section 6.3, 6.4 or 6.5

6.6 The vacancy tax review officer may refuse a complaint if the registered owner or complainant fails to comply with the provisions of section 6.3, 6.4 or 6.5 of this by-law.

Consideration of complaint

6.7 Subject to the provisions of this by-law, the vacancy tax review officer must, within a reasonable time, consider the notice of complaint and any supplementary information and evidence, make a determination on the complaint, advise the registered owner in writing of the determination and, if the complaint is successful, rescind the vacancy tax notice.

Determination to be mailed

6.8 The vacancy tax review officer must advise the registered owner of the determination by mailing a copy of the determination to the registered owner at the address provided by the registered owner pursuant to Section 6.4(e).

Deemed receipt of determination

6.9 A determination of the vacancy tax review officer that has been mailed in accordance with this by-law is deemed to have been received by the registered owner four days after mailing.

Review by vacancy tax review panel

6.10 A registered owner who has received a determination of the vacancy tax review officer may request a review of that determination by the vacancy tax review panel.

Review process

6.11 A registered owner who wishes a review by the vacancy tax review panel must submit a review request to the vacancy tax review panel within 21 days of the date of deemed receipt of the determination of the vacancy tax review officer.

Review request

6.12 The review request must:

- (a) identify the residential property in respect of which the request is made;
- (b) include the full name of the requestor and a telephone number email address at which the requestor may be contacted during regular business hours;
- (c) indicate whether the requestor is the registered owner of the property to which the request relates;
- (d) if the requestor is an agent acting on behalf of the registered owner, include information regarding the nature of their terms of agency and authority to act on behalf of the registered owner;
- (e) include an address for delivery where the City may send any notices in respect of the request;

- (f) state the grounds on which the review request is based;
- (g) include a copy of the vacancy tax review officer's determination; and
- (h) provide the supplementary information and evidence that was previously provided to the vacancy tax review officer to substantiate the reasons for complaint.

Refusal for failure to comply with section 6.11 or 6.12

6.13 The vacancy tax review panel may refuse a review request if the registered owner or requestor fails to comply with the provisions of section 6.11 or 6.12 of this by-law.

Consideration of review request

6.14 Subject to the provisions of this by-law, the vacancy tax review panel must, within a reasonable time, consider the review request based on the materials provided pursuant to Section 6.12 and, without a hearing, make a determination on the review, advise the registered owner in writing of its determination and, if the review request is successful, rescind the vacancy tax notice.

Review is final

6.15 The determination of the vacancy tax review panel is final and no appeal lies from the determination of the vacancy tax review panel.

SECTION 7 DEEMED VACANCY

Property considered to be taxable

7.1 A parcel of residential property in respect of which a registered owner:

- (a) fails to make a property status declaration as required by this by-law;
- (b) makes a false property status declaration;
- (c) fails to provide information or to submit required evidence to the Collector of Taxes in accordance with this by-law, including, without limitation, the information or evidence that may be required pursuant to Sections 4.7, 4.8 or 4.9 of this by-law; or
- (d) provides false information or submits false evidence to the Collector of Taxes;

is considered to be vacant property and is subject to the vacancy tax.

SECTION 8 OFFENCES AND PENALTIES

Offences

8.1 A person who:

- (a) violates any provision of this by-law, or does any act or thing which violates any provision of this by-law, or permits, suffers or allows any other person to do any act or thing which violates any provision of this by-law;
- (b) neglects to do or refrains from doing anything required to be done by any provision of this by-law; or
- (c) fails to comply with an order, direction, or notice given under any provision of this by-law, or permits, suffers or allows any other person to fail to comply with an order, direction, or notice given under any provision of this by-law,

is guilty of an offence against this by-law, and liable to the penalties imposed under this section and under the Vancouver Charter.

Fine for offence

8.2 Except as otherwise provided in this By-law, every person who commits an offence against this by-law is punishable on conviction by a fine of not less than \$250.00, and not more than \$10,000.00 for each offence.

Fine for continuing offence

8.3 Every person who commits an offence of a continuing nature against this by-law is punishable upon conviction by a fine of not less than \$250.00, and not more than \$10,000.00 for each day such offence continues.

SECTION 9 ANNUAL REPORT

Preparation of annual report

9.1 On or before November 1st of each year, the Collector of Taxes must prepare a report regarding the vacancy tax from the previous vacancy reference period, which must include:

- (a) the amount of monies raised by the vacancy tax; and
- (b) how the monies raised by the vacancy tax were or are intended to be used.

Publication of annual report

9.2 The annual report regarding the vacancy tax must be posted on the City of Vancouver website by December 1st of each year.

SECTION 10 ENACTMENT

Force and effect

10.1 This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 16th day of November, 2016

Signed _____ "Gregor Robertson"
Mayor

Signed _____ "Janice MacKenzie"
City Clerk