

# THE CORPORATION OF THE MUNICIPALITY OF CALVIN

## BY-LAW NO. 2009-002

### BEING A BY-LAW TO ESTABLISH A TAX REBATE PROGRAM FOR THE VACANT PORTIONS OF PROPERTY IN THE COMMERCIAL PROPERTY CLASSES OR THE INDUSTRIAL PROPERTY CLASSES

**WHEREAS** the Corporation of the Municipality of Calvin is required to have a Tax Rebate Program for the vacant portions of property in any of the Commercial Property Classes and the Industrial Property Classes, both as defined in s.308(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended (hereinafter referred to as the “*Act*”);

**AND WHEREAS** s.364 of the *Act* has been supplemented by *Ontario Regulation No. 325/01* (hereinafter referred to as “*O.Reg. 325/01*”);

**AND WHEREAS** the Council of the Corporation of the Municipality of Calvin deems it appropriate to enact this By-law for the purpose of establishing a property Vacancy Tax Rebate Program

**NOW THEREFORE BE IT ENACTED** as a By-law of this Corporation as follows:

1. In this By-Law:

“assessment corporation” means the Municipal Property Assessment Corporation (MPAC) or its successor;

“base property” has, for the purposes of this by-law, the meaning prescribed in s.2 (1) of *O.Reg. 325/01*;

“eligible property” means property that has been prescribed as such by the Minister of Finance (hereinafter referred to as the “*Minister*”) in *O.Reg. 325/01* for the purposes of s. 364 of the *Act*;

“eligible property classes” means property that is in the Commercial property class or the Industrial property class as defined in s.308 (1) of the *Act*;

“inspector” means an employee of the Municipality or a person designated by the Council of the Municipality, either of whom will conduct inspections and investigations pursuant to this by-law;

“Treasurer” means the Treasurer of the Municipality of Calvin or a person delegated the Treasurer’s powers and duties under s.285 (5) of the *Act*;

“mixed use property” if portions of a property are classified in different property classes on the assessment roll, each portion shall be deemed to be separate property for the purposes of this by-law;

“period of time” means the period of time provided for in s.1, 2, 3 and 4 of *O.Reg. 325/01* unless otherwise provided for in this by-law;

“time” means that a reference period of at least ninety (90) consecutive days shall be read as a reference period of at least eighty-nine (89) consecutive days if the period includes the month of February;

“use” for the purposes of this by-law, the following factors, without some other activity, do not constitute the use of a building or structure of a portion of a building:

- i) construction, repairs or renovation
- ii) heating, cooling, lighting or cleaning
- ii) the presence of fixtures.

2. This by-law shall apply commencing with the 2009 taxation year.

3. This by-law shall apply where:

- a) a building or structure on property in an eligible property class is unused for at least ninety (90) consecutive days as provided for in s.1(1) of *O.Reg.325/01* and for the

purposes of this by-law such vacancy shall be referred to as a “Complete Vacancy”;

- b) a portion of a building on property in the Commercial property class is unused for at least ninety (90) consecutive days and the unused portion of the building was clearly delineated or separated by physical barriers from any used portion of the building provided the unused portion of the building was:
  - i) capable of being leased for immediate occupation;
  - ii) capable of being leased but not for immediate occupation due to repairs, renovations or construction that was either needed or underway; or
  - iii) unfit for occupation

as provided for in s. a (2) of *O. Reg. 325/01* and for the purposes of this by-law such vacancy shall be referred to as a “Commercial Partial Vacancy”;

- c) a portion of a building on property in the Industrial property class is unused for at least ninety (90) consecutive days and the unused portion of the building was clearly delineated or separated by physical barriers from any used portion of the building as provided for in s.1(3) of *O. Reg. 325/01* and for the purposes of this by-law such a vacancy shall be referred to as an “Industrial Partial Vacancy”;

- 4. Notwithstanding anything in this by-law, no property shall be considered entitled to any rebate relief under this by-law where the building, structure or portion of the building is:
  - a) used for commercial or industrial activity on a seasonal basis;
  - b) leased to a tenant who is in possession of the leasehold interest throughout the period of time; or
  - c) included in the subclass for vacant land under subsection 8(1) of the *Assessment Act*, R.S.O. 1990, c.A.31, as amended, throughout the period of time.
- 5. Subject to section 10 hereof, a property owner or its authorized agent may make one application for the taxation year to the Municipality where the eligible property is located for a rebate of property taxes in respect of vacant eligible property.
- 6. The application required by the Municipality shall be in the form attached hereto as Schedule “A” & “B”.
- 7. The application shall be accompanied by such additional information and documentation as the Treasurer of the Municipality reasonably deems to be appropriate.
- 8. The application shall be accompanied by a Statutory Declaration, sworn under oath or affirmed by the owner of the property that all of the contents of the application and the accompanying information are true and correct.
- 9. The application for a taxation year shall be made after January 1 of the taxation year and no application shall be accepted later than the last day of February of the year following the taxation year.
- 10. An interim application for a taxation year may be made for the first six months of the taxation year.
- 11. A copy of the application, or interim application, shall be forwarded to the assessment corporation for determination of the value of the eligible property.
- 12. An inspector may attend and make entry to the buildings and structures on the property at all reasonable times and upon reasonable notice to the owner or its manager for the purposes of:
  - a) verifying all information accompanying the application;
  - b) obtaining such other information from every adult person present on the property as is required to assist in determining the applicant’s entitlement to vacancy rebate;
  - c) requesting or obtaining from the owner or its manager any information or documents relevant to the determination of the applicant’s entitlement to the vacancy rebate.

13. The Treasurer of the Municipality may, by written request sent by mail, delivered personally or sent by courier, require the owner or its manager to provide any information or documents relevant to the determination of the applicant's entitlement to the vacancy rebate.
14. The Treasurer of the Municipality may establish a reasonable time within which the owner or its manager is required to respond to a request made by the Municipality under section 12 hereof.
15. As soon as practicable after receipt of:
  - a) all of the information and documents relevant to the determination of the applicant's entitlement to the vacancy rebate; and
  - b) the determination by the assessment corporation of the value of the eligible property;the Municipality shall determine if the applicant is entitled to a vacancy rebate and, if so, the rebate shall be calculated as follows:
  - a) multiply the applicable percentage derived from paragraph 17 or 18 hereof to the taxes applicable determined as follows:
    - i) determine the apportioned taxes as the percentage that the value of the eligible property is of the base multiplied by the taxes for municipal and school purposes for the base property, for the taxation year;
    - ii) determine the vacancy period as a percentage of the taxation year; and
    - iii) multiply the apportioned taxes by the vacancy percentage.
16. In the event the vacancy period begins after October 3 in the immediately preceding taxation year then the amount of taxes for municipal and school purposes under s.15(a)(i) hereof is determined by adding the amounts as directed by s.2(4) of *O. Reg. 325/01*.
17. The amount of rebate in respect of eligible property in the Commercial property class shall be thirty percent (30%) of the taxes applicable in the vacant area.
18. The amount of rebate in respect of eligible property in the Industrial property class shall be thirty percent (35%) of the taxes applicable to the vacant area.
19. A rebate determined under s.15 hereof shall be credited by the Municipality to the tax account of the owner of the eligible property as soon as is practicable following determination and a copy of the calculation shall be provided to the owner.
20. In the event an application is determined to be not entitled to a vacancy rebate the Municipality shall advise the owner or its authorized agent, as the case may be, in writing.
21. A rebate shall be recalculated in the event that:
  - a) taxes of the base property are reduced under s.357 or s.358 of the *Act*; or
  - b) the assessment of the base property is changed as a result of the following:
    - i) a reconsideration under s.39.1 of the *Assessment Act*;
    - ii) an appeal under s.40 of the *Assessment Act*; or
    - iii) a Court application under s.46 of the *Assessment Act*.
22. If, as a result of a recalculation under s.21 hereof, the Municipality has credited an owner an amount greater than that determined as a result of the recalculation then the Municipality may recover the excess credited amount.
23. If, as a result of a recalculation under s.21 hereof, the Municipality has credited an owner an amount less than that determined as a result of the recalculation then the Municipality shall credit the owner the additional rebate amount as soon as practicable following recalculation.
24. The Municipality may calculate the rebate amount under this by-law based on an estimate of the amount of taxes for municipal and school purposes and then subsequently adjust the rebate amount when the amount of taxes is finally determined for the taxation year.
25. Any rebate that a property owner is entitled to under this by-law may be set-off as a credit against any unpaid taxes or interest in respect of the property.
26. In the event a rebate is erroneously credited under this by-law, the Treasurer of the Municipality may, within two years after the application for the vacancy rebate was made, notify the owner of

the amount of the over credit and any such over credit shall be deemed to be taxes for municipal and school purposes.

27. The costs of the property vacancy rebate program shall be shared proportionately by the municipalities and school boards as the municipalities and school boards share in the revenue from the taxes on the property.
28. Interest on rebates determined under this by-law shall be paid in accordance with the provisions of s.364 (20) of the *Act* and s.6,7 and 8 of *O.Reg 325/01*.
29. In addition to any other penalty provisions by law, any person who contravenes any section of this by-law is guilty of an offence and subject to the penalties provided in the *Provincial Offences Act*.

READ A 1<sup>ST</sup> TIME IN OPEN COUNCIL THIS 10<sup>th</sup> DAY OF FEBRUARY, 2009.

READ A 2<sup>ND</sup> TIME IN OPEN COUNCIL THIS 10<sup>th</sup> DAY OF FEBRUARY, 2009.

READ A 3<sup>RD</sup> TIME AND FINALLY PASSED BEFORE AN OPEN COUNCIL THIS  
10<sup>th</sup> DAY OF FEBRUARY, 2009.

\_\_\_\_\_  
MAYOR Wayne Brown

\_\_\_\_\_  
CLERK-TREASURER James Hennes

**MUNICIPALITY OF CALVIN**  
**SCHEDULE "A" TO BY-LAW NO.2009-002**

Application for Rebate of Property Taxes  
 For Vacancies in Commercial and Industrial Buildings  
 (Section 364, Municipal Act, S.O, 2001, c.25 O.Reg.325/01)

**INSTRUCTIONS**

- The deadline for submitting applications is the last day of February of the year following the taxation year to which the application relates.
- Application must be mailed or hand delivered to the Municipality of Calvin – Faxes will not be accepted.
- A copy or sketch of the floor plan relating to the vacant area and lease agreements are required.
- Any person who knowingly makes a false or deceptive statement in the application is guilty of an offence and, upon conviction, is liable for a fine.
- To be eligible for a rebate, a building or portion of a building must satisfy the conditions described in Category 1 or Category 2 below.

**THIS PORTION TO BE COMPLETED BY APPLICANT:**

ELIGIBILITY (Please check to confirm eligibility):

**TAX YEAR** \_\_\_\_\_

**Category 1 – Building that are Entirely Vacant**

A whole Commercial  or industrial  building will be eligible for a rebate if:  
 the entire building was unused for at least ninety (90) consecutive days.

**Category 2 – Building that are Partially Vacant**

A suite or unit within a Commercial building will be eligible for a rebate, if for at least ninety (90) consecutive days, it was:

- was unused, and
- clearly delineated or physically separated for the used portions of the building, and
- either
  - capable of being leased for immediate occupation, or
  - undergoing or in need of repairs or renovations that prevented it from being available for lease or immediate occupation, or
  - unfit for occupation.

A portion of an Industrial building will be eligible for a rebate, if for at least ninety (90) consecutive days, it was:

- unused, and
- clearly delineated or physically separated for the used portions of the building.

**EXCLUSIONS:**

- A building or portion of a building will not be eligible for a rebate if:
- It is used for commercial or industrial activity on a seasonal basis;
- During the period of vacancy it was subject to a lease, the term of which had commenced; or
- During the period of vacancy it was included in a sub-class for vacant land.

Property Location \_\_\_\_\_

Roll Number 4822 \_\_\_\_\_  
 (see your Notice of Assessment or Tax Bill)

Owner's Name \_\_\_\_\_

Agent's Name \_\_\_\_\_  
 (if applicable)

Mailing Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ Prov. \_\_\_\_\_ Postal Code \_\_\_\_\_

City \_\_\_\_\_ Prov. \_\_\_\_\_ Postal Code \_\_\_\_\_

Tel. No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Tel No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Is this property presently under assessment appeal? Yes  No   
 Is the vacant area presently being leased to a tenant? Yes  No   
 Is the vacant area presently being offered for lease? Yes  No

Was the vacant area used on a seasonal basis? Yes  No   
 Is the vacant area being used for storage or for \_\_\_\_\_ Yes  No   
 and other purpose?

UNIT OR SUITE NUMBER \_\_\_\_\_  
 NAME OF VACATING TENANT \_\_\_\_\_  
 NAME OF NEW TENANT(if applicable) \_\_\_\_\_

SQ. FT. OF VACANT AREA \_\_\_\_\_  
 DATE VACATED \_\_\_\_\_  
 DATE OCCUPIED \_\_\_\_\_

**I certify that the information contained in this application is true and correct.**

Applicant Name(s) (PLEASE PRINT)  
 \_\_\_\_\_  
 \_\_\_\_\_

Applicant Signature(s)  
 \_\_\_\_\_  
 \_\_\_\_\_

Date of Application \_\_\_\_\_  
 Contact Person: \_\_\_\_\_

Tel No. \_\_\_\_\_

**THIS PORTION FOR OFFICE USE ONLY:**

CLASSIFICATION _____	CVA OF VACANT AREA _____
TOTAL TAXES BILLED _____	
NO. OF DAYS TO REBATE _____	
EXISTING CVA _____	
DATE SENT TO MPAC _____	
	SIGNATURE OF ASSESSOR _____
	DATE _____

**ACTION TAKEN IN CONFIRMING CONTINUING VACANCY:**

The information on this form is collected under the authority of Section 364 of the Municipal Act, S.O. 2001, c25 and O.Reg. 325/01 and will be used only for the purpose of determining eligibility for a property tax rebate in respect of vacant commercial and industrial buildings.

SCHEDULE "B" TO BY-LAW NO. 2009-002

POLICY

Rebate of Property Taxes for Vacancies in Commercial and Industrial Buildings  
(in accordance with Section 364 of the Municipal Act, O.Reg. 325/01 and By-law 2009-002)

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Principles:

1. The Treasurer is hereby directed to receive and process all applications for vacancy on behalf of the Municipality of Calvin.
2. The Treasurer may authorize other municipal staff to act on his behalf.
3. Any property owner in the commercial or industrial tax class or their authorized agent may file an application under this Policy. A whole building or portion of a building, as outlined in Section 3 of By-law 2009-002, must be vacant for a period of ninety (90) consecutive days to be eligible for a vacancy rebate.
4. The onus rests with the property owner to provide full evidence of vacancy and to file an application that is complete. Information supplied on the application form shall be considered to be the minimum.
5. The Treasurer is authorized to request the submission of additional information if, in the opinion of the Treasurer, the application does not conclusively provide evidence of vacancy. Failure to submit additional evidence of vacancy as required by the municipality within ten (10) business days of the request, invalidates the application and the Treasurer shall reject the application. The applicant will be notified in writing.
6. Up to two applications per year may be filed. One for the first six months of the year (interim rebate issued in July) and one for the last six months of the year (final rebate issued in December or as soon as possible thereafter) or alternatively, one application may be filed for the whole of the year.
7. Application filed after the last day of February of the year following the year of full or partial vacancy shall be rejected. The applicant will be notified in writing.
8. An incomplete application filed during the application period shall be deemed not to be filed until all minimum evidence in support of the application is received.
9. The Treasurer is directed to audit applications by examining supporting documentation, consulting with the owner, and/or initiating site inspections, as deemed necessary to confirm validity of the application.
10. At the sole discretion of the Treasurer, investigations and inspection of the property may be conducted to ascertain the validity of the application, pursuant to Section 12 of By-law 2009-002.
11. The Treasurer is directed to refuse applications where not fully satisfied as to its validity. The applicant will be notified in writing.
12. Tax rebates will be recalculated under the circumstances outlined in Section 12 of By-law 2009-002. (ARB, Minutes of Settlement, Section 357, 358 Decisions, etc.)
13. Any person who knowingly makes a false or deceptive statement in the application is guilty of an offence, and upon conviction, is liable for a fine. In addition to any other penalty provisions by law, any person who contravenes any section of By-law No. 2009-002 is guilty of an offence and subject to the penalties provided in the Provincial Offences Act.
14. Property owners who disagree with the amount of rebate that is calculated by the municipality may appeal to the Assessment Review Board (ARB) within 120 days after receiving notification of the rebate amount from the municipality. Details regarding the appeal forms and filing fees can be obtained from the ARB at: 1-800-263-3237 or [www.arb.gov.on.ca](http://www.arb.gov.on.ca).

Process:

1. Property owner or authorized agent submits an application accompanied by all substantiating information, to the Treasurer, Municipality of Calvin (hand delivered or by mail – no faxes will be accepted).
2. The Treasurer (or delegate) of the Municipality of Calvin forwards copy of the application to the Municipal Property Assessment Corporation (MPAC).
3. MPAC determines the assessed value attributable to the vacant area.
4. MPAC notifies the Municipality of Calvin of the value of the eligible vacant area.
5. The Treasurer (or delegate) of the Municipality of Calvin calculates rebate and notifies property owner. Rebates will be issued as a credit to the tax account of the property owner.

NOTE: IF AN APPLICATION HAS BEEN FILED AND THE AREA BECOMES OCCUPIED, THE TREASURER; MUNICIPALITY OF CALVIN MUST BE NOTIFIED IMMEDIATELY, IN WRITING, OF THE DATE OF OCCUPANCY. LEASE AGREEMENT MUST ACCOMPANY NOTIFICATION.