



**City of Kingston  
Report to Council  
Report Number 21-175**

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**To:** Mayor and Members of Council  
**From:** Desiree Kennedy, Chief Financial Officer & City Treasurer  
**Resource Staff:** Lana Foulds, Director, Financial Services  
Jeff Walker, Manager, Taxation and Revenue  
**Date of Meeting:** August 10, 2021  
**Subject:** 2021 Final Tax Capping Limits for Commercial, Industrial and Multi-Residential Properties

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**Council Strategic Plan Alignment:**

Theme: Regulatory & compliance

Goal: See above

**Executive Summary:**

Each year, Council must approve optional capping parameters as well as the funding method for the mandatory tax-capping program, which applies to commercial, industrial, and multi-residential properties. The *Municipal Act, 2001* sets out the tax-capping calculations, which limit tax increases to a 5% cap plus municipal levy increases. Council may also select a number of options to increase the 5% capping limit. Use of these options will move capped properties more quickly toward full taxation. These options can only be used when a by-law is passed in the year in which the options are to take effect.

In 2020 the commercial and industrial property classes completed a four-year phase-out from the capping program and are now at CVA tax and therefore no longer in the capping program. In 2020 the multi-residential property class entered the four-year phase-out from the capping program. 2021 is the second year of the four-year phase-out period for the multi-residential property class and only two properties remain in the capping program.

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On April 20, 2021 staff presented [Report Number 21-126](#) to Council. The recommendations contained in this report, relating to tax capping parameters for the remaining multi-residential properties as well as providing direction to fund the capped properties from capping decreases within the multi-residential property tax class, were approved by Council, including a recommendation "That by-laws and a report establishing the capping options used, decrease percentage and actual capping results will be presented for Council approval after final property tax bills are calculated and processed."

This report provides information with respect to the final tax capping results and presents the required by-laws to confirm the capping options utilized and decrease percentages.

**Recommendation:**

**That** a by-law be presented to Council, attached as Exhibit A to Report Number 21-175, in order to establish the 2021 optional capping parameters as follows:

- a. **That** the multi-residential property cap limit will be the greater of:
  - i. 10% of previous year's annualized (capped) tax, or
  - ii. 10% of previous year's uncapped (CVA) taxes; and
- b. **That** threshold limits apply to move multi-residential capped taxes to uncapped (CVA) taxes whenever capped taxes are within \$500 of the uncapped tax; and
- c. **That** for 2021, properties which have reached their uncapped tax during 2020, or crossed over from the clawed back category to the capped category, or crossed over from the capped category to the clawed back category remain at uncapped taxes and be excluded from any further and future capping adjustments; and
- d. **That** capping protection be limited to reassessment-related changes prior to 2017 only; and
- e. **That** the second year of the four-year phase-out from the capping program for the multi-residential property class be implemented; and
- f. **That** new construction/new-to-class limits will be a minimum tax level of 100% of their uncapped taxes, which will apply to eligible properties commencing taxation for part or all of 2021, and for future years; and

**That** a by-law be presented to Council, attached as Exhibit B to Report Number 21-175, in order to establish the tax decrease limits for the 2021 tax capping program, in accordance with Part IX of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY CHIEF FINANCIAL  
OFFICER & CITY TREASURER

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**Desiree Kennedy, Chief  
Financial Officer & City  
Treasurer**

ORIGINAL SIGNED BY CHIEF  
ADMINISTRATIVE OFFICER

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**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Community Services	Not required
Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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**Options/Discussion:**

The capping program, which is found in Part IX of the *Municipal Act, 2001* (Limitation on Taxes for Certain Property Classes), provides a relief program limiting assessment related tax increases for commercial, industrial, and multi-residential properties.

On April 20, 2021, Council approved the 2021 capping program as outlined in [Report Number 21-126](#). The approved program will make use of all options available for the remaining multi-residential property class in order to facilitate properties in exiting the capping program as quickly as possible, as follows:

- 1) Utilize maximum cap limits to move properties towards CVA tax as soon as possible. The limits provide for increasing the cap up to a maximum 10% calculated on the previous year's capped tax or the previous year's uncapped tax, whichever is greater.
- 2) Utilize maximum threshold limits, which will allow properties to move immediately to uncapped tax when the capped tax is within \$500 of the uncapped tax amount. This option allows a number of properties to immediately move to full uncapped tax.
- 3) Utilize all options available to remove eligible properties from the tax capping program. Municipalities have the option to exclude any properties that reach CVA taxes in the previous year and/or crossover during the current year between the clawed back and capped categories. Municipalities may also limit capping protection to reassessment-related changes prior to 2017. Removing properties from the capping program reduces the number of properties subject to capping and reduces the amount of clawback required to fund the remaining capped amounts.
- 4) Utilize all options available to exit or phase-out from the capping program. A municipality would be eligible for a four-year phase-out once it has no capped properties beyond 50% of the CVA level taxes in a property class. The option of excluding eligible vacant land from the phase-out eligibility criteria is also available.
- 5) Set maximum tax level for new construction and new-to-class property to be at the CVA tax. The capping program provides a special calculation for properties that are newly constructed or that have moved from one class to another. This calculation ensures that properties pay the average level of tax of comparable properties and no more than 100% of its uncapped tax.

Exhibit A to this report is a by-law to establish the tax capping program outlined above.

The costs of the tax capping program can be funded from municipal funds (i.e. general tax levy) or by withholding capping decreases, or a combination thereof. Council's approved policy is to fund the capping program through the withholding of capping decreases within respective classes and this report provides information on the capping results and decrease percentages.

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In 2020 the commercial and industrial property classes completed the four-year phase-out from the capping program and are now at CVA tax and therefore no longer in the capping program. In 2020 the multi-residential property class entered the four-year phase-out from the capping program. In 2021 we are entering the second year of the phase-out period.

The amount by which capping decreases are limited is different for each property class as a result of the requirement to fund separately from within each class. The claw-back percentages and the remaining decrease that a taxpayer realizes (retains) by property class is as follows:

Property Class	Multi-residential	Commercial	Industrial
Claw-back Percentage	66.0371%	0.0000%	0.0000%
Retained Percentage	33.9629%	100.0000%	100.0000%
<b>Total</b>	100.0000%	100.0000%	100.0000%
Capped Properties Adjustment	\$ (549)	\$ 0	\$ 0
Clawback Properties Adjustment	\$ 511	\$ 0	\$ 0
Net Class Impact/(Shortfall)	\$ (38)	\$ 0	\$ 0

The percentages above represent the assessment-related tax decreases retained by the taxpayer in that particular property class. An assessment related tax decrease occurs when the uncapped tax is less than the previous year’s capped tax. For 2021, the remaining difference of \$38 will be absorbed in the current year estimates as part of the taxation over/under levy reconciliation at year end.

In accordance with the *Municipal Act, 2001* a by-law is being presented as Exhibit B to establish the final tax decrease limits for the 2021 tax capping program.

The parameters used for determining capped property taxes are provided on the City’s [Property Taxes](#) webpage under “Related Documents”: 2021 Tax Capping Factors. Exhibit C provides a summary of this information as well as the 2021 final capping results for each property class.

**Existing Policy/By-Law:**

*Municipal Act, 2001*, as amended

**Notice Provisions:**

None

**Accessibility Considerations:**

None

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**Financial Considerations:**

Financial considerations are included in the body of the report.

**Contacts:**

Jeff Walker, Manager, Taxation and Revenue, 613-546-4291 extension 2484

**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

Exhibit A - A By-Law to Establish the 2021 Tax Capping Program

Exhibit B - A By-Law to Establish the 2021 Tax Capping Decrease Limits

Exhibit C - 2021 Tax Capping Results

**By-Law Number. 2021-XX**

**A By-Law to Establish the 2021 Tax Capping Program**

**Passed:** Meeting date, 2021

**Whereas** Council of the Corporation of the City of Kingston has authorized a by-law to establish tax capping options to apply in the calculation of the 2021 final capped taxes for the multi-residential, commercial, and industrial property classes; and

**Whereas** Part IX of the *Municipal Act, 2001*, (the Act) *S.O. 2001, c.25*, as amended, governs the limiting of tax increases on property in the commercial property class, the industrial property class and the multi-residential property class; and

**Whereas** Section 329 of the Act and Section 8.3 of Ontario Regulation 73/03 (O. Reg. 73/03), as amended, provides the determination of maximum taxes to be levied on a property in the commercial property class, the industrial property class and the multi-residential property class; and

**Whereas** Section 329.1 of the Act provides options that may apply in the calculation of the amount of taxes payable for municipal and school purposes; and

**Whereas** Section 329.1 of the Act provides options that may apply in the determination of maximum taxes to be levied on a property under Section 329; and

**Whereas** Section 15.0.1 of O. Reg. 73/03, provides that reassessment increases may be excluded from the determination of maximum taxes to be levied on a property under Section 329 where the uncapped tax for the current year is greater than the uncapped tax for the previous year; and

**Whereas** Sections 8.0.2, and 8.3 of O. Reg. 73/03 provides that property may be exempted from application of Part IX of the Act; and

**Whereas** Section 331 of the Act provides that taxes for eligible property, as defined in the section, will have its taxes determined pursuant to this section for the taxation year 2021;

**Therefore be it resolved that** the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. For the purposes of this by-law,
  - a) “commercial” and “industrial” property classes are defined pursuant to Subsection 327(1) of the *Municipal Act, 2001*, (the Act), as amended;

- b) “taxes” includes the amount of taxes for municipal and school purposes;
  - c) “uncapped taxes” is defined pursuant to Subsection 329(1) of the Act.
2. For the taxation year 2021, property in the multi-residential, commercial, and industrial property classes is exempt from Part IX of the Act if one of the following conditions is met:
- a) The taxes for the property in the previous year were equal to its uncapped taxes for that year;
  - b) The taxes for the property in the previous year were lower than the property’s uncapped taxes for that year, but in the current year, if Part IX of the Act applied, the property’s taxes would be equal to its uncapped taxes, or a tax decrease for the property would be limited; or
  - c) A tax decrease for the property in the previous year was limited under Part IX of the Act, but in the current year, if Part IX of the Act applied, the property’s taxes would be equal to its uncapped taxes, or a tax increase for the property would be limited.
3. For the taxation year 2021, taxes on eligible property, as defined under Subsection 331(20) of the Act shall be at a level of 100% of the uncapped taxes.
4. For the taxation year 2021, with respect to the multi-residential property class, the amount to be added to the previous year’s taxes shall be the greatest of:
- i. 10% of the previous year’s taxes; or
  - ii. 10% of the previous year’s uncapped taxes.
5. For the taxation year 2021, the amount of the taxes for municipal and school purposes for a property in the multi-residential property class shall be the amount of the uncapped taxes for the property for the year if the amount of the uncapped taxes exceeds the amount of the taxes for municipal and school purposes for the property for the taxation year as determined under Section 329 by an amount of up to \$500.
6. For the taxation year 2021, the amount of the taxes for municipal and school purposes for a property in the multi-residential property class shall be the amount of the uncapped taxes for the property for the year if the amount of the taxes for municipal and school purposes for the property for the taxation year as



determined under Section 329 exceeds the amount of the uncapped taxes by an amount of up to \$500.

7. For the taxation year 2021, a property that meets the requirements of Section 15.0.1 of O. Reg. 73/03 under the Act, shall have its taxes calculated in accordance with subsections (4) and (5) of that section.
8. For the taxation year 2021, all properties in the multi-residential property class will be calculated pursuant to Section 329 and the second year of phase-out under subsection 8.3 of O. Reg. 73/03 under the Act.
9. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings:

Given Third Reading and Passed:

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**John Bolognone**

City Clerk

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**Bryan Paterson**

Mayor

**By-Law Number 2021-XX**

**A By-Law to Establish the 2021 Tax Capping Decrease Limits**

**Passed:** Meeting date, 2021

**Whereas** Council of The Corporation of the City of Kingston has authorized a by-law to establish tax capping options to apply in the calculation of the 2021 final capped taxes for the multi-residential, commercial, and industrial property classes; and

**Whereas** Part IX of the *Municipal Act, 2001*, (the Act) *S.O. 2001, c.25*, as amended, governs the limiting of tax increases on property in the commercial property class, the industrial property class and the multi-residential property class; and

**Whereas** Subsection 329 of the Act provides the determination of maximum taxes to be levied on a property in the commercial property class, the industrial property class and the multi-residential property class; and

**Whereas** Subsection 330 (1) of the Act enables the Council of this municipality to pass a by-law to establish a percentage by which tax decreases are limited for 2021 in respect to property in the commercial property class, the industrial property class and the multi-residential property class in order to recover all or part of the revenues foregone as a result of the application of Subsection 329 of such statute; and

**Whereas** Subsection 330 (2) of the Act provides that the application of the by-law shall apply to all properties in the property class whose taxes for municipal and school purposes for the previous year, as determined under Subsection 329 of such statute, exceed their taxes for municipal and school purposes for the current year, as determined in the statute; and

**Whereas** Subsection 330 (3) of the Act provides for the same percentage for all properties in a property class, but different percentages may be established for different property classes;

**Therefore be it resolved that** the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. The percentages by which tax decreases are limited for the year 2021 shall be:

Multi-Residential Class	33.9629%
Commercial Class	100.0000%
Industrial Class	100.0000%

2. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings:

Given Third Reading and Passed:

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**John Bolognone**  
City Clerk

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**Bryan Paterson**  
Mayor

**2021 Tax Capping Results**

<b>Capping and Threshold Parameters Used</b>	<b>Multi-Residential</b>	<b>Commercial (CVA Tax)</b>	<b>Industrial (CVA Tax)</b>
Annualized Tax Limit	10.00%		
Prior Year CVA Tax Limit	10.00%		
CVA Tax Threshold - Increases	\$500		
CVA Tax Threshold - Decreasers	\$500		
Exclude Reassessment Increase	Yes		
Exclude Properties Previously at CVA Tax	Yes		
Exclude Properties that Move from Capped to Clawed Back	Yes		
Exclude Properties that Move from Clawed Back to Capped	Yes		
Exit capping immediately	Not Eligible	Not Eligible	Not Eligible
Exclude Vacant Land from Capping Phase-out	N/A		
Capping phase-out	Year 2 <sup>(1/3)</sup>	Complete (CVA Tax)	Complete (CVA Tax)
Overall Levy Change (OLC)*	2.732554%	(9.669148)%	(6.992156)%
Clawback Percentage	66.0371%		
Retained Percentage	33.9629%		
<b>Total</b>	100.0000%		
Capped Properties Adjustment	\$ (549)		
Clawback Properties Adjustment	\$ 511		
Net Class Impact/(Shortfall)	\$ (38)		

**2021 Multi-Residential Property Class - Capped Taxes Results**

<b>Capped Taxes</b>	<b>Number of Properties</b>	<b>2020 Capped Taxes \$</b>	<b>2021 CVA Taxes \$</b>	<b>2021 Capped Taxes \$</b>	<b>Cap Adjustment \$</b>
Increase	1	16,534	19,788	19,239	(549)
Decrease	1	189,594	194,000	194,512	511
<b>Total subject to capping</b>	2	206,128	213,788	213,751	(38)
New to Class	9	0	129,614	129,614	0
Excluded	322	21,929,638	22,503,135	22,503,135	0
<b>Class Total</b>	333	22,135,765	22,846,536	22,846,499	(38)

**2021 Commercial Property Class – Capping Phase-out Complete**

<b>Capped Taxes</b>	<b>Number of Properties</b>	<b>2020 Annualized Taxes \$</b>	<b>2021 CVA Taxes \$</b>	<b>2021 Capped Taxes \$</b>	<b>Cap Adjustment \$</b>
<b>CVA Tax-Capping Phase Out Complete</b>	1853	83,614,391	77,618,556	77,618,556	0

**2021 Industrial Property Class - Capping Phase-out Complete**

<b>Capped Taxes</b>	<b>Number of Properties</b>	<b>2020 Annualized Taxes \$</b>	<b>2021 CVA Taxes \$</b>	<b>2021 Capped Taxes \$</b>	<b>Cap Adjustment \$</b>
<b>CVA Tax-Capping Phase Out Complete</b>	214	7,330,502	6,916,414	6,916,414	0