

MUNICIPAL DISTRICT OF OPPORTUNITY NO.17
IN THE PROVINCE OF ALBERTA
BYLAW NO: 2022-11

BEING a bylaw of the MD of Opportunity in the Province of Alberta intended to incentivize the growth of non-residential development within the MD of Opportunity;

WHEREAS under the authority of and pursuant to Section 364.2 of the *Municipal Government Act*, as amended, Council may pass a bylaw to provide tax incentives for the purpose of encouraging the development or revitalization of Non-residential Property for the general benefit of the municipality;

AND WHEREAS Council of the MD of Opportunity deems it desirable to provide property tax incentives to encourage non-residential development or revitalization within the MD of Opportunity, for the general benefit of the MD of Opportunity;

NOW THEREFORE, under the authority of and subject to the provisions of the *Municipal Government Act*, as amended, the Council of the MD of Opportunity, in the Province of Alberta, duly assembled does hereby enact the following:

Short Title

1(1) This Bylaw may be referred to as the "Tax Incentive Bylaw".

Definitions

2(1) In this Tax Incentive Bylaw, unless the context otherwise requires:

- (a) **"Act"** means the *Municipal Government Act*, Chapter M-26, R.S.A. 2000, as amended or repealed and replaced from time to time;
- (b) **"Administration"** means the administrative and operational arm of the MD of Opportunity comprised of the various departments and business units and including the CAO and all employees who operate under the leadership and supervision of the CAO;
- (c) **"Applicant"** means a Person who applies for an Exemption pursuant to this Tax Incentive Bylaw;
- (d) **"Assessed Person"** means an assessed person as defined under section 284(1) of the Act;
- (e) **"CAO"** means the chief administrative officer of the MD of Opportunity, including the CAO's delegate;
- (f) **"Complete Application"** means an application submitted pursuant to this Tax Incentive Bylaw that includes the application fee established in this Tax Incentive Bylaw, the application requirements for an Exemption, and the application form, all as required by the CAO;
- (g) **"Council"** means the municipal council of the MD of Opportunity;
- (h) **"Exemption"** means a full or partial exemption from municipal taxation for Non-residential Property as provided for in Part 10, Division 2 of the Act. For purposes of clarity, an Exemption from taxation applies only to taxes imposed by the MD of Opportunity under Part 10, Division 2 of the Act and not any provincial requisitions;

- (i) **"Hamlet"** means any of the following:
 - (i) the Hamlet of Calling Lake;
 - (ii) the Hamlet of Red Earth Creek,
 - (iii) the Hamlet of Sandy Lake, or
 - (iv) the Hamlet of Wabasca;
- (j) **"MD of Opportunity"** means the municipal corporation of the Municipal District of Opportunity No. 17;
- (k) **"Non-residential Property"** means non-residential as defined in the Act in respect of property, excluding linear property;
- (l) **"Person"** means any individual, firm, partnership or body corporate;
- (m) **"Project"** means, in respect of a Non-residential Property, development of a new Structure, development of an expansion to an existing Structure and/or renovation or improvement of an existing Structure, but excludes demolition of a Structure if that demolition does not occur in conjunction with development of a new replacement Structure;
- (n) **"Qualifying Property"** means a Non-residential Property subject to a Project that has been approved for an Exemption pursuant to this Tax Incentive Bylaw;
- (o) **"Structure"** means a structure as defined by the Act that is Non-residential Property; and
- (p) **"Tax Incentive Agreement"** means a written agreement setting out the terms and conditions of an Exemption for Qualifying Property, entered into between the Applicant and the MD of Opportunity following the approval of an application made pursuant to this Tax Incentive Bylaw.

Purpose

- 2(2) The purpose of this Tax Incentive Bylaw is to allow tax incentives in the form of an Exemption in accordance with Part 10, Division 2 of the Act.

Criteria for an Exemption

- 3(1) In order to be eligible for an Exemption, the Applicant must meet the following criteria:
 - (a) the Applicant must be the Assessed Person for the Non-residential Property that is the subject of the application;
 - (b) the Applicant must have no outstanding monies owing to the MD of Opportunity;
 - (c) the Applicant must not be involved in any legal actions or proceedings opposite to the MD of Opportunity;
 - (d) the Applicant must not be in bankruptcy or receivership;

- (e) the Applicant must be in compliance with the terms and conditions of any grant or other financial assistance received from the MD of Opportunity, irrespective of the Project or Qualifying Property; and
 - (f) the Applicant must not provide false or misleading information in the Applicant's application or provide false information or misrepresent any relevant fact or circumstance regarding the application to the MD of Opportunity.
- 3(2) In order to be eligible for an Exemption, the Non-residential Property that is the subject of an application must meet the following criteria:
- (a) be located within the geographical boundaries of any Hamlet within the MD of Opportunity;
 - (b) have obtained, and maintain compliance with, all required development permits and other applicable approvals respecting the Project or otherwise;
 - (c) not be in tax arrears or have other monies owing with respect to property tax, utilities, or other amounts to the MD of Opportunity;
 - (d) not be going through foreclosure; and
 - (e) not be in violation of any development agreement, any development permits, any bylaw of the MD of Opportunity, or the *Safety Codes Act*.
- 3(3) In order to be eligible for an Exemption a Project must meet the following criteria:
- (a) the Project must cause, or expect to cause the assessed value of the Non-residential Property, as set out in notice of assessment for the Non-residential Property, to experience an incremental increase of at least \$1,500,000.00 between the taxation year immediately prior to the commencement of development associated with the Project and the taxation year in which the Project receives its final required construction completion certificate; and
 - (b) the Project must be classified as industrial or commercial development, as determined at the sole discretion of the CAO.
- 3(4) No Exemption shall be provided in respect of any Project that was approved by the MD of Opportunity before this Tax Incentive Bylaw comes into force.
- 3(5) If a Qualifying Property consists of components that are not Non-residential Property, only the Non-residential Property components will be eligible for an Exemption.

Application Process

- 4(1) An Applicant must submit a Complete Application to the CAO, in accordance with the terms of this Tax Incentive Bylaw.
- 4(2) An Applicant must submit a non-refundable application fee of \$100.
- 4(3) A Complete Application must be received by:
- (a) no later than December 1 of the taxation year immediately prior to the taxation year the Exemption will take effect; and

- (b) within 3 years of the Project receiving all required construction completion certificates.
- 4(4) Notwithstanding the Complete Application requirements set out in this Tax Incentive Bylaw, the CAO may require any additional information that, at the discretion of the CAO, is necessary to complete the application.
- 4(5) The CAO will advise an Applicant in writing if their application is complete and therefore accepted for consideration. Applications accepted for consideration shall become the property of the MD of Opportunity and may not be returned.
- 4(6) The CAO has the discretion to reject an application that is incomplete, illegible, or provided after the application deadline in this Tax Incentive Bylaw and the CAO will advise an Applicant in writing with reasons if their application is rejected.
- 4(7) An Applicant whose application is rejected as incomplete or illegible may resubmit an application provided the application is resubmitted by the deadline established in section 5(3) of this Tax Incentive Bylaw.

Consideration of Applications

- 5(1) Administration shall review each Complete Application accepted for consideration to determine if the application meets the requirements for an Exemption and provide a written report to the CAO with a recommendation with respect to the same.
- 5(2) The CAO shall review the Complete Application and Administration's written report respecting the same and either:
 - (a) approve an Exemption and enter into a Tax Incentive Agreement with the Applicant;
 - (b) amend and approve the Exemption and enter into a Tax Agreement with the Applicant; or
 - (c) refuse the application and advise the Applicant with written notice of the reasons as to why the application was refused and the date by which a review to Council must be submitted.
- 5(3) Administration may, at any time, require the Applicant to provide any additional documents that it deems necessary to verify any information contained in an application or to confirm ongoing compliance with the eligibility criteria for an Exemption.
- 5(4) In conducting a review of a Complete Application pursuant to sections 6(1) and 6(2) of this Tax Incentive Bylaw, Administration and the CAO may:
 - (a) rely upon financial documentation, other information, and estimates provided by the Applicant; and
 - (b) consult with, obtain information from, and verify information with agents of the MD of Opportunity, other governments, government agencies, or persons;

to make an initial determination of whether the criteria in section 4 of this Tax Incentive Bylaw are met. For greater certainty, and without limiting any other provision of this Tax Incentive Bylaw, an initial determination made pursuant to this section shall not prevent the subsequent cancellation of an Exemption, in

accordance with this Tax Incentive Bylaw, in the event that it is determined, on the basis of a future assessment or review of provided material, that a criterion in section 4 has not been, or is not, in fact met.

Calculation of Exemption

- 6(1) For all eligible taxation years identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 100 percent Exemption on the property taxes levied upon the Qualifying Property.
- 6(2) An Exemption granted pursuant to this Tax Incentive Bylaw shall not exceed 5 consecutive taxation years in duration.
- 6(3) The date upon which an Exemption takes effect shall be determined by a Tax Incentive Agreement and unless otherwise determined by the CAO, a Tax Incentive Agreement shall provide that an Exemption shall take effect in the taxation year immediately following the taxation year during which the Complete Application was submitted.
- 6(4) No Exemption may be granted in respect to any requisition levied against a Qualifying Property.

Tax Incentive Agreement

- 7(1) A Tax Incentive Agreement shall be required for every Exemption granted pursuant to this Tax Incentive Bylaw. A Tax Incentive Agreement will constitute the written form granting an Exemption contemplated by the Act.
- 7(2) A Tax Incentive Agreement shall include the following:
 - (a) the taxation years to which an Exemption applies, which must not include any taxation year earlier than the taxation year in which the Exemption is granted;
 - (b) the extent of the Exemption for each taxation year to which the Exemption applies;
 - (c) any criterion or condition, the breach of which will result in the cancellation of the Exemption and the taxation year or years to which the criterion or condition applies; and
 - (d) any other information or conditions the MD of Opportunity deems necessary and the taxation year or years to which the information or conditions apply.
- 7(3) Each criterion in section 4 of this Tax Incentive Bylaw, which form the basis of granting an Exemption, are deemed to be a condition of a Tax Incentive Agreement, the breach of any will result in the cancellation of an Exemption for the taxation year or years to which the criterion applies.
- 7(4) In the event of a cancellation of an Exemption pursuant to section 9 of this Tax Incentive Bylaw, any monies owed by the Applicant to the MD of Opportunity shall be immediately paid by the Applicant.
- 7(5) Administration shall provide an annual report to Council with respect to what Exemptions have been approved and what Tax Incentive Agreements have been entered into by the MD of Opportunity.

Cancellation of an Exemption

8(1) If, at any time after an Exemption is granted, the CAO determines that:

- (a) the Applicant, Qualifying Property, or Project did not meet or has ceased to meet any criterion in section 4 of this Tax Incentive Bylaw which formed the basis of granting an Exemption;
- (b) outstanding taxes are owing with respect to the Qualifying Property; or
- (c) there is a breach of any condition of the Tax Incentive Agreement,

the CAO may cancel the Exemption for the taxation year or years in which the criterion was not met, the condition applies, or the outstanding taxes are not paid.

8(2) If a Qualifying Property is sold during the term of an Exemption, the Exemption shall continue to apply for the remainder of the taxation year in which the sale took place, but shall be cancelled for the following taxation year or years to which the Exemption was to apply.

8(3) The CAO shall provide written notice of a cancellation to the Applicant, which must include the reason(s) for the cancellation and identify the taxation year or years to which the cancellation applies. The written notice shall also provide the date by which a review to Council must be submitted.

8(4) The MD of Opportunity may, at any time, require the Applicant to provide any document or information that the MD of Opportunity deems necessary to verify compliance with the provisions of a Tax Incentive Agreement or this Tax Incentive Bylaw. Failure to provide information requested may result in a cancellation of the Exemption.

Review

9(1) An Applicant may apply to Council for a review in the following situations:

- (a) an application for an Exemption is refused or rejected; or
- (b) an Exemption is cancelled.

9(2) An application for a review by Council shall be submitted in writing to the CAO within 15 days of the date:

- (a) of the written notice sent to the Applicant that an application has been refused or rejected; or
- (b) of the written notice sent to the Applicant that an Exemption is cancelled.

9(3) Remedies available to Council upon the conclusion of a review are:

- (a) Council may confirm, revoke, or vary a decision of the CAO with respect to the outcome of an application, or the cancellation of an Exemption.

9(4) Council shall conduct a review at:

- (a) a regularly scheduled meeting of Council; or
- (b) a special meeting of Council.

- 9(5) The Applicant will be advised in writing of Council's decision and the decision of Council is final.

Severability

- 10(1) If any portion of this Tax Incentive Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Tax Incentive Bylaw is deemed valid.

Effective Date

- 11(1) This Tax Incentive Bylaw shall come into full force and effect upon third and final reading thereof.

READ a **first** time this 25th day of October, 2022


Reeve – Marshall D. Auger


Chief Administrative Officer – Chad Tullis

READ a **second** time this 25th day of October, 2022


Reeve – Marshall D. Auger


Chief Administrative Officer – Chad Tullis

READ a **third** time and finally PASSED this 25th day of October, 2022


Reeve – Marshall D. Auger


Chief Administrative Officer – Chad Tullis