

## LETHBRIDGE COUNTY

### BYLAW No. 23-024

#### **BEING A BYLAW OF LETHBRIDGE COUNTY IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROVIDING A MUNICIPAL PROPERTY TAX EXEMPTION FOR NON-RESIDENTIAL DEVELOPMENT OR EXPANSIONS.**

**WHEREAS** the *Municipal Government Act*, R.S.A. 2000 and amendments thereto, permits municipalities to offer multi-year tax exemptions, partial exemptions, or deferrals, in accordance with section 364.2 of the *Municipal Government Act*, for non-residential properties in order to attract investment, development and substantial redevelopment and expansion of existing non-residential development and machinery and equipment;

**AND WHEREAS** Lethbridge County seeks to provide an incentive to grow its property tax base and provide increased employment opportunities for County residents by attracting investment. The intent of this Bylaw is to provide a municipal tax incentive to attract large commercial and industrial investors and promote expansion by existing investors through providing an exemption to a portion of municipal property taxes attributable to the differential between the pre-construction assessment and the post-construction assessment for eligible property;

**NOW THEREFORE**, the Lethbridge County Council duly assembled hereby enacts as follows:

#### **1. THE PURPOSE OF THIS BYLAW IS TO:**

- (a) Encourage the development or revitalization of Non-residential properties and Machinery and Equipment in Lethbridge County for the general benefit of the municipality;
- (b) establish tax exemptions for Eligible Property in accordance with section 364.2 of the *Municipal Government Act* when there is a New Development or a Renovated Development that meets the criteria and requirements set out in this Bylaw;
- (c) provide a process for an application for a tax exemption under this Bylaw; and
- (d) provide a process for review by Council of the refusal or cancellation of a tax exemption under this Bylaw.

The Bylaw is cited as the "Commercial & Industrial Municipal Tax Incentive Bylaw"

#### **2. DEFINITIONS**

When used in this Bylaw:

- (a) "Act" means the *Municipal Government Act*, RSA 2000, M-26, as amended or repealed and replaced from time to time;
- (b) "Affiliated Party" means a party that directly or indirectly, through one or more persons, corporations, or partnerships, controls, is controlled by, or is under common control with an Assessed Person;
- (c) "Appeal Fee" means the fee established by this Bylaw to be paid at the time an appeal application is submitted pursuant to this Bylaw;
- (d) "Application Fee" means the fee established by this Bylaw to be paid at the time an application is submitted pursuant to this Bylaw;
- (e) "Arrear taxes" shall mean taxes remaining unpaid after December 31 of the year in which they are levied;
- (f) "Assessed Person" means an assessed person as defined under section 284(1) of the Act, or an authorized agent for the Assessed Person;

- (g) "Assessment" means a value of property as defined under section 284(1) of the Act;
- (h) "Assessor" has the meaning given to it in section 284(1) of the Act;
- (i) "Base Assessment Year" shall mean the assessment year immediately prior to the assessment year that has an increase in Improvement Assessment as a result of New Development or Renovated Development and in which the increase is used within the net calculation of Improvement Assessment of the subject property to qualify for an Exemption under this Bylaw. The Base Assessment Year shall not be prior to the 2021 assessment year;
- (j) "Chief Administration Officer" (CAO) shall mean the Chief Administrative Officer of the County, or delegate;
- (k) "Complete Application" means an application submitted pursuant to this Bylaw that includes the Application Fee, the application form, any information and documents set out on the application form and any additional application requirements for the tax incentives under this Bylaw;
- (l) "County" shall mean the municipal corporation of Lethbridge County;
- (l) "Council" means all of the councilors of the County, including the chief elected official for the County;
- (m) "Current taxes" shall mean property taxes levied for the current tax year;
- (n) "Decision" means the decision to grant an Exemption, to reject an Exemption application, or to cancel an Exemption;
- (o) "Eligible Property" shall mean property within Assessment Class 2 - Non-residential and Assessment Class 4 - Machinery and Equipment as defined in the Act that meet the criteria set out in section 3 of this Bylaw. This Bylaw shall specifically exclude Linear Property from Eligible Property;
- (p) "Exemption" means the portion of municipal property taxes for Eligible Property that has been determined to be exempt and subject to a refund, in accordance with this Bylaw, and which are computed separately under this Bylaw;
- (q) "Improvement(s)" has the meaning given to it in section 284(1) of the Act;
- (r) "Improvement Assessment" means the change in an Assessment attributable solely to an Improvement or Improvements on a property;
- (s) "Linear Property" has the meaning given to it in section 284(1) of the Act;
- (t) "Non-residential" means the type of property falling within the assessment class specified in section 297(1)(b) of the Act. This Bylaw shall specifically exclude the land assessment and Linear property as defined in the Act;
- (u) "Machinery and Equipment" (M&E) has the meaning given to it in section 297(1)(d) of the Act and associated regulation(s) i.e. (Matters Relating to Assessment and Taxation Regulation, as amended from time to time);
- (v) "New Development" shall mean new Improvements on an Eligible Property that increases the Improvement Assessment of that property;
- (w) "Renovated Development" shall mean renovations or physical additions to existing Improvements on an Eligible Property that increases the Improvement Assessment of that property;
- (x) "Tax Incentive Agreement" means a written agreement between the County and the Assessed Person setting out the terms and conditions applicable to Eligible Property for Exemption of

municipal property tax and subject to refund and shall be the result of the calculation reference in section 6 of this Bylaw; and

- (y) "Working day" shall mean days the County's central Administration Building is open to serve the public.

### **3. CRITERIA FOR TAX INCENTIVE AGREEMENT**

3.1. New Developments and Renovated Developments may be eligible for an Exemption and Tax Incentive Agreement provided that:

- (a) The Assessed Person, or some other Affiliated Party, in relation to the Eligible Property on which the New Development or Renovated Development is located, does not have an agreement with the County wherein the Assessed Person or Affiliated Party agreed to forego seeking an Exemption and Tax Incentive Agreement under this Bylaw;
- (b) The Assessed Person or some other Affiliated Party, in relation to the Eligible Property on which the New Development or Renovated Development is located, has not already received, or will be receiving, a municipal incentive related to the New Development or Renovated Development which in the opinion of the CAO disqualifies the Assessed Person from eligibility to enter an Exemption and Tax Incentive Agreement;
- (c) The property subject to the New Development or Renovated Development must not have any Arrear taxes or have amounts owing with regards to property tax, utilities, or other fees owing to the County and all Current taxes must be paid in full;
- (d) the property subject to the New Development or Renovated Development must not have development compliance issues, be in violation of a development agreement, or be in violation of the *Safety Codes Act* at any time during the taxation years for which the Exemption applies to the New Development or Renovated Development;
- (e) all applicable provincial or federal approvals and permits are in place with respect to the property subject to the New Development or Renovated Development;
- (f) the registered property owner or the Assessed Person, excluding any authorized agent therefore, of the property subject to the New Development or Renovated Development is not involved in some form of litigation (including an Assessment Review Board Complaint) with the County; and
- (g) the current Improvement Assessment for the New Development or Renovated Development on the subject property must have increased by at least \$500,000 compared to the Base Assessment Year. The change in valuation for the Assessment of land is excluded from this calculation.

3.2. Linear Property is not eligible for an Exemption or Tax Incentive Agreement under this Bylaw.

### **4. APPLICATION FOR TAX INCENTIVE AGREEMENT**

- 4.1. The Assessed Person of the property subject to the application must submit a Complete Application to the County, and the County has the discretion to reject applications that are incomplete, or ineligible.
- 4.2. As part of a Complete Application, the Assessed Person must agree to enter into a Tax Incentive Agreement with the County, on the form prescribed by the County, if their application is approved for an Exemption.
- 4.3. Assessed Persons must submit a non-refundable application fee of \$1,000 (Canadian dollars) concurrent with the Complete Application.

- 4.4. The deadline for submitting a Complete Application for an Exemption to be granted in the same tax year is June 30 of the given year. Any Complete Application received after June 30 of the given year will be considered for an Exemption for the following tax year.
- 4.5. Notwithstanding the Complete Application requirements, the County may require any additional information that, in the discretion of the County, is necessary to complete the application.
- 4.6. Assessed Persons whose application is returned as incomplete or ineligible may resubmit an application without payment of an additional Application Fee.
- 4.7. The County will advise an Assessed Person in writing if their application is accepted for consideration, refused, or rejected. Applications accepted for consideration will become the property of the County and may not be returned.

## **5. CONSIDERATION OF APPLICATIONS**

- 5.1. The CAO shall receive and consider Complete Applications within the provisions of this Bylaw and may consult with, obtain information from, and verify information with other employees or agents of the County, other governments, government agencies, or persons.
- 5.2. The CAO may, at any time, require an Assessed Person to provide any documents the County deems necessary to verify any information contained in a Complete Application or to confirm ongoing compliance with the eligibility criteria of the Exemption.
- 5.3. The CAO may take into consideration other agreements including those which have the Assessed Person or Affiliated Party and the County as parties, or other municipal incentives which may apply to the Assessed Person or Affiliated Party.
- 5.4. The CAO will consider each Complete Application and shall either:
  - (a) grant the Exemption and enter into a Tax Incentive Agreement with the Assessed Person; or
  - (b) reject the application and advise the Assessed Person with written reasons as to why the application was rejected. The written reasons shall also provide the date by which an appeal to Council must be submitted.
- 5.5. The County shall enter into a Tax Incentive Agreement with the Assessed Person if an Exemption is granted under section 5.3(a) of this Bylaw.
- 5.6. The Exemption shall not be refunded until the Tax Incentive Agreement is fully executed.

## **6. CALCULATION OF THE EXEMPTION**

- 6.1 Subject to section 6.2 of this Bylaw, the amount of the Exemption will be calculated as follows:
  - (a) The municipal taxes subject to Exemption shall be in accordance with the following:
    - Year 1 equals 75% Exemption of the increase in municipal property taxes attributed to the differential of the New Development or Renovated Development, excluding land and linear property.
    - Year 2 equals 50% Exemption of the increase in municipal property taxes attributed to the differential of the New Development or Renovated Development, excluding land and linear property.
    - Year 3 equals 25% Exemption of the increase in municipal property taxes attributed to the differential of the New Development or Renovated Development, excluding land and linear property.
  - (b) Should the County determine that the installation of municipal infrastructure is required to support the New or Renovated Development, a reduction of the exemption shall apply that

equals the total costs associated with the installation of municipal infrastructure as determined by the County CAO. Should the cost associated with the installation of municipal infrastructure exceed the exemption amount, the exemption shall not apply and the Assessed Person shall be responsible to pay for the differential between what the exemption amount would be and the costs associated with the installation of municipal infrastructure.

(c) only the municipal portion of property taxes is eligible for exemption.

6.2. No Exemption will be granted respecting any Provincial requisitions.

## **7. PAYMENT OF THE EXEMPTION**

7.1. The Exemption as calculated in accordance with section 6 of this Bylaw shall be paid to the Assessed Person as a refund of a portion of the Current Taxes on the Eligible Property, subject to the Current Taxes for the taxation year first being paid in full.

7.2. Subject to the terms of the Tax Incentive Agreement:

- (a) The amount of the Exemption shall be paid to the Assessed Person each year for a period of no more than four (4) taxation years provided that in each of those years the Current Taxes are paid in full;
- (b) payment shall be made to the Assessed Person within thirty (30) Working days from the date Current Taxes are paid in full; and
- (c) If the Current Taxes are not paid in full by December 31 of any year, then the Exemption shall not be paid to the Assessed Person for that year nor shall the Assessed Person be eligible to receive the Exemption for any subsequent years.

## **8. DURATION OF THE EXEMPTION PROGRAM**

8.1. The Exemption program as authorized by this Bylaw will be available for Eligible Property commencing with the 2023 assessment year and shall operate in accordance with the terms of this Bylaw until such time as this Bylaw is amended or repealed.

## **9. TAX INCENTIVE AGREEMENT**

9.1. A Tax Incentive Agreement will be required for all granted Exemptions. The Tax Incentive Agreement will include the following:

- (a) the taxation years to which the Exemption applies, which will not include any taxation year earlier than the taxation year in which the Exemption is granted;
- (b) conditions, the breach of which will result in cancellation of the Tax Incentive Agreement and the Exemption, and the taxation year or years to which the conditions apply;
- (c) the date which the Exemption will begin;
- (d) the amount of the Exemption, to be calculated and allocated in accordance with section 6 of this Bylaw; and
- (e) any other information or conditions provided by the County.

## **10. CANCELLATION OF EXEMPTION**

10.1. If at any time after an Exemption is granted, the County determines that:

- (a) the Assessed Person, their application, or the property subject to the application did not meet or ceased to meet any of the criteria in which formed the basis of granting the

Exemption; or

- (b) there was 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 or to which the condition applies.

10.2. The County may, at any time, require an Assessed Person to provide any documents the County deems necessary to verify compliance with the conditions of the Tax Incentive Agreement.

10.3. A written Decision to cancel an Exemption must be provided to the Applicant and must include reasons for the cancellation, identify the taxation year or years to which the cancellation applies, and provide the date by which an application for an appeal to Council must be made.

## **11. APPEAL TO COUNCIL**

11.1. An Assessed Person may appeal to Council in the following situations:

- (a) an application for Exemption is refused or rejected;
- (b) an Exemption is cancelled for one or more taxation years;
- (c) a Tax Incentive Agreement is cancelled; or
- (d) the content of the Tax Incentive Agreement is inconsistent with this Bylaw or the Act.

11.2. A request for appeal must be submitted in writing to the CAO within 30 days of:

- (a) written notice being sent to the Assessed Person that an application has been refused or rejected;
- (b) written notice being sent to the Assessed Person that an Exemption is cancelled for one or more taxation years;
- (c) a Tax Incentive Agreement being cancelled; or
- (d) the execution of a Tax Incentive Agreement as the case may be.

11.3. An Assessed Person must submit a non-refundable appeal fee of \$500 (Canadian dollars) concurrent with the appeal.

11.4. Council will consider an appeal at:

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

11.5. Remedies available to Council upon conclusion of an appeal are:

- (a) Council may uphold or revoke a decision of the CAO with respect to the outcome of an application or cancellation of an Exemption or Tax Incentive Agreement; or
- (b) Council can revise or direct the CAO to revise a Tax Incentive Agreement.

11.6. In accordance with section 460(7) of the Act, complaints about a Decision may not be made to the assessment review board.

## **12. SEVERABILITY**


12.1. Should any provision of the Bylaw be declared to be invalid, then such invalid provision shall be severed, and the remaining Bylaw shall be maintained.

**13. EFFECTIVE DATE**

13.1. The adoption of this Bylaw to establish the Property Tax Incentive Exemption program for Eligible Non-residential property and M&E is effective upon the date of the passing of the third and final reading of this Bylaw.

THIS Bylaw shall hereby rescind previous Bylaw 22-008.

GIVEN first reading this 5 day of October, 2023.

  
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Reeve  
  
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Chief Administrative Officer

GIVEN second reading this 5 day of October, 2023.

  
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Reeve  
  
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Chief Administrative Officer

GIVEN third reading this 5 day of October, 2023.

  
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Reeve  
  
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Chief Administrative Officer