

BYLAW NO. 4667

A BYLAW OF THE CITY OF MEDICINE HAT to provide for partial exemptions from taxation under Part 10, Division 2 of the MGA, pursuant to sections 364.1 and 364.2 of the MGA.

WHEREAS municipal purposes include providing services, facilities or other things that, in the opinion of Council, are necessary or desirable for all or a part of the municipality, fostering the well-being of the environment and development and maintaining safe and viable communities;

WHEREAS Council considers it desirable to encourage the development or revitalization of non-residential properties and brownfields for the general benefit of the City and promote investment in the municipality; and

WHEREAS Council deems it appropriate to provide for partial exemptions from taxation, under Part 10, Division 2 of the MGA, pursuant to sections 364.1 and 364.2, for the purpose of encouraging development or redevelopment of non-residential properties and brownfields for the general benefit of the municipality;

NOW THEREFORE THE MUNICIPAL CORPORATION OF THE CITY OF MEDICINE HAT, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

1. Bylaw Title

1.1. This Bylaw may be cited as the "Tax Incentive Bylaw".

2. Interpretation

2.1. The purpose of the Brownfield Incentive is to encourage the development or redevelopment of Brownfields for the general benefit of the municipality.

2.2. The purpose of the Non-Residential Incentive is to encourage large-scale commercial or industrial development that will result in increased Tax revenue for the City, and create Skilled Jobs.

2.3. In this Bylaw,

- a. "**Applicant**" means a person who applies for an Incentive pursuant to Section 4.1;
- b. "**Application**" means an Application for a Tax Incentive made pursuant to Section 4.1;
- c. "**Approved Construction Schedule**" has the meaning given to it in Subsection 3.1.b(ii);
- d. "**Approved Development**" has the meaning given to it in Subsection 3.1.b(i);
- e. "**Brownfield**" has the meaning given to "brownfield property" in Subsection 364.1(1) of the MGA, with this Bylaw being the "bylaw" referenced in Subsections 364.1(1)(a) and (b) that is located within the City;
- f. "**Brownfield Incentive**" means a partial exemption from Taxation provided in respect of an Approved Development of a Brownfield, in the extent and Taxation years determined in accordance with Schedule "A";

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- g. "**CAO**" means the City's Chief Administrative Officer, operating under the title of "City Manager", and includes any person to whom the CAO has delegated any power, duty or responsibility assigned to the CAO under this Bylaw, and includes any person appointed as acting City Manager or interim City Manager;
- h. "**Capital Cost**" means the total capital costs actually incurred by the Owner to construct an Approved Development, including any third party labour, engineering, materials or other costs associated with the construction of the Approved Development. Capital Costs shall not include the cost of the Property or any improvements, machinery or equipment that existed on the Property before construction, the Owner's labour, administrative or other overhead expenses, or any other non-capital costs such as legal, regulatory or permitting fees;
- i. "**Change in Municipal Taxes**" means the difference between the Tax levied with respect to a Property in the Taxation year prior to commencement of the Approved Development and the Tax levied with respect to the Property in an Incentive Year;
- j. "**City**" means the municipal corporation of the City of Medicine Hat, and where the context so requires, means the land included in the boundaries of the City;
- k. "**Criteria**" means the criteria set out in Article 3;
- l. "**Conditions**" means the conditions set out in Article 7;
- m. "**Development**" means one or more of the following:
- i) a "development", as defined in Subsection 615(b)(i) of the MGA, of a Brownfield for the purpose of remediating contamination or possible contamination; or
 - ii) a "development" as defined in one or more of Subsections 615(b)(ii), (iii) or (iv) of the MGA;
- n. "**Development Authority**" has the meaning given to it at Section 4.4 of the Land Use Bylaw;
- o. "**Development Permit**" has the meaning given to it at Section 4.4 of the Land Use Bylaw;
- p. "**Incentive Years**" means the Taxation year or years for which a Property may qualify for a Tax Incentive as set out in Schedule "A" or "B" as applicable;
- q. "**Land Use Bylaw**" means the City's Land Use Bylaw, Bylaw No. 4168;
- r. "**MGA**" means the *Municipal Government Act*, RSA 2000, Chapter M-26;
- s. "**Non-Residential Property**" means a property located in the City, in the assessment class specified in Subsection 297(1)(b) of the MGA, but does not include a Brownfield;
- t. "**Non-Residential Incentive**" means a partial exemption from Taxation provided in respect of an Approved Development of a Non-Residential Property, in the extent and Taxation years determined in accordance with Schedule "B";
- u. "**Owner**" means the Person who is registered under the *Land Titles Act*, RSA 2000, c L-4, as the owner of the fee simple estate in the Property, or the occupant of the

Property acting pursuant to written authorization from the owner of the fee simple estate of the Property;

- v. **"Person"** includes a body corporate, society, company, firm, partnership as defined in the *Partnership Act*, RSA 2000, c. P-3 and other legal entities;
- w. **"Property"** means a Non-Residential Property or a Brownfield;
- x. **"Skilled Job"** means a permanent, full-time position located within the City that requires a university degree, post secondary diploma or certificate, or a commonly recognized form of trade credential, or such combination of part-time positions as are determined by the CAO, in their discretion, to be equivalent to one such permanent full-time position located within the City. Whether or not a position, or combination of positions, qualifies as a Skilled Job shall be determined by the CAO, in their discretion;
- y. **"Taxation"** or **"Tax"** means taxation under Part 10, Division 2 of the MGA, but does not include any provincial education taxes or requisitions; and
- z. **"Tax Incentive"** means a Brownfield Incentive or a Non-Residential Incentive, as the context requires.

2.4. Nothing in this Bylaw relieves a Person from complying with any applicable legislation, regulation, code, other bylaw, permit, order, directive, approval or license.

2.5. Where this Bylaw refers to any applicable legislation, regulation, code, other bylaw, permit, order, directive, approval or license, it includes such applicable legislation, regulation, code, other bylaw, permit, order, directive, approval or license as amended or replaced from time to time. Where this Bylaw refers to an agency, it includes reference to any agency that may be substituted therefor.

2.6. The words "includes" and "including", where used in this Bylaw, are not intended to be exhaustive and in all cases mean "includes without limitation" and "including without limitation", respectively.

2.7. The words "will", "shall", and "must", where used in this Bylaw, are to be read and interpreted as mandatory, and the word "may", where used in this Bylaw, is to be read and interpreted as permissive.

2.8. All references to the CAO's discretion in this Bylaw shall mean the CAO's sole and unfettered discretion. The exercise of the CAO's discretion shall not be subject to appeal or review unless expressly provided for herein.

2.9. Every provision of this Bylaw is independent of all other provisions, and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

2.10. In the event of any conflict or inconsistency between this Bylaw and any City policy or procedure, this Bylaw governs to the extent of the conflict or inconsistency.

3. Criteria

3.1. To be eligible for a Tax Incentive:

- a. the Property applied for must be the subject of a Development Permit authorizing a Development on the Property, that is in force and effect at the time of the Application, and remains in force and effect until the Development Permit holder has completed construction of the Approved Development in accordance with the Development Permit;
- b. in the opinion of the CAO, at the CAO's discretion:
 - (i) the Development authorized by the Development Permit must be consistent with all applicable statutory and non-statutory plans of the City, and must support the purpose and intent of City Council's Strategic Plan and the City's Municipal Development Plan (the "**Approved Development**");
 - (ii) the development schedule for the Approved Development, from the issuance of the Development Permit through completion of the Approved Development in accordance with the Development Permit and (if applicable) occupation and/or operation, must be reasonable (the "**Approved Construction Schedule**");
 - (iii) the Tax Incentive must be consistent with the purposes of a municipality set out in Section 3 of the MGA; and
 - (iv) the Approved Development must be of a permanent nature.
- c. the Applicant must submit an Application to the CAO that meets all the requirements of this Bylaw;
- d. all requirements of this Bylaw must be satisfied;
- e. upon request of the CAO, the Applicant must provide, to the satisfaction of the CAO, at the CAO's discretion, any documentation, information, access or consents, as the CAO may deem necessary or appropriate, to verify any information contained in the Application or to confirm ongoing compliance with the Criteria and Conditions; and
- f. any other criteria deemed necessary by the CAO, in the CAO's discretion, to satisfy the purposes and intent of this Bylaw.

3.2. In addition to meeting the criteria in Section 3.1, to be eligible for a:

- a. Brownfield Incentive:
 - (i) the Property that is the subject of an Application must be a Brownfield;
 - (ii) the Approved Development must, at the time of Application, be reasonably projected to cause the assessed value of the Property, as set out in the notice of assessment, to increase by at least \$25,000.00 between the Taxation year immediately prior to the commencement of construction and the Tax year immediately after completion of the Approved Development; and
 - (iii) the Approved Development must, at the time of Application, have an estimated capital cost of \$1,000,000.00 or greater.
- b. Non-Residential Incentive:

- (i) the Property that is the subject of an Application must be a Non-Residential Property;
- (ii) the Approved Development must, at the time of Application, be reasonably projected to cause the assessed value of the Property, as set out in the notice of assessment, to increase by at least \$50,000.00 between the Taxation year immediately prior to the commencement of construction and the Tax year immediately after completion of the Approved Development;
- (iii) the Approved Development must, at the time of Application, have an estimated Capital Cost of \$10,000,000.00 or greater; and
- (iv) the Approved Development must at the time of Application be reasonably projected to create and maintain ten (10) or more full-time Skilled Jobs.

Whether a Property meets the criteria of subsections (a) and (b) shall be determined by the CAO in their discretion.

4. Applications

- 4.1. An Owner of a Property that is the subject of a Development Permit that is in force and effect, authorizing an Approved Development, may apply to the CAO for a Tax Incentive in relation to that Property. An Application made under this Section must:
- a. be in writing, in a form satisfactory to the CAO, fully completed and duly executed by the Applicant;
 - b. be accompanied by the applicable application fee, if any, pursuant to Section 11; and
 - c. contain the following information:
 - (i) the Applicant's name, address and telephone number;
 - (ii) if the Applicant is a corporation, confirmation of corporate registration;
 - (iii) the name, address and telephone number of the Person acting as the Applicant's agent, if any;
 - (iv) a copy of the Land Title Certificate for the Property obtained from the Land Titles Office within the previous forty-five (45) days;
 - (v) the Tax Incentive the Applicant is applying for;
 - (vi) adequate evidence that the Criteria are met, as determined by the CAO, in the CAO's discretion, including the projected Capital Cost of the Approved Development and number and nature of Skilled Jobs projected to be created by the Approved Development; and any further information required by the CAO, in the CAO's discretion, to evaluate the Application.

5. Determination of CAO

- 5.1. If, after reviewing an Application, the CAO determines, in the CAO's discretion, that all the Criteria are met for the Tax Incentive applied for, the CAO may approve a Tax

Incentive in respect of the Property as the CAO deems appropriate in their discretion, in accordance with Schedule "A" or "B", as applicable.

- 5.2. If the CAO approves a Tax Incentive pursuant to Section 5.1, the CAO must issue a certificate which sets out the approved Tax Incentive.
- 5.3. The CAO, in exercising the CAO's discretion in Section 5.1, may consider any factors the CAO considers reasonable, but must consider:
 - a. any outstanding Tax arrears associated with the Property, or any overdue accounts the Applicant may have with the City;
 - b. any development or safety codes compliance issues associated with the Property or any other property owned by the Applicant;
 - c. any outstanding litigation involving the Applicant;
 - d. whether the Applicant, or an entity related to the Applicant, is subject to, or at risk of being subject to, bankruptcy or receivership;
 - e. whether any properties owned by the Applicant, or an entity related to the Owner, are, or are at risk of being, the subject of foreclosure proceedings;
 - f. if the Applicant has received any form of grant or financial assistance from the City or another level of government, any dispute or issue with respect to the Applicant's compliance with the terms and conditions of such grant or financial assistance; and
 - g. whether the Applicant is likely to be able to satisfy the Conditions.
- 5.4. The extent and Taxation years of a Tax Incentive will be determined by the CAO in their discretion in accordance with Schedules "A" or "B", as applicable.
- 5.5. The Applicant bears the onus of proving, to the satisfaction of the CAO, in the CAO's discretion:
 - a. that the Criteria, and all other requirements of this Bylaw, have been satisfied; and
 - b. ongoing compliance with the Criteria, Approved Construction Schedule, and Conditions.
- 5.6. The CAO may, at any time, require the Applicant to provide any documentation, information, access, or consents, as the CAO may deem necessary in the CAO's discretion, to verify any information contained in the Application, score the Approved Development in accordance with the applicable Schedule, or to confirm ongoing compliance with the Criteria and Conditions.
- 5.7. The CAO may, at the CAO's discretion, reject any Application that does not include all documentation, information, access, and consents required by this Bylaw, the application form, or the CAO.
- 5.8. If the CAO refuses to approve a Tax Incentive for a Property, the CAO must send the Applicant a written notice of the refusal, stating the reasons for the refusal and the date by which a request for review by Council must be made, which date must be within sixty (60) days of the date noted on the written notice of refusal.

6. Tax Incentive Certificate and Agreement

6.1. A certificate issued pursuant to Section 5.2 must set out:

- a. the Tax Incentive being approved and the extent of the Tax Incentive;
- b. the Incentive Years to which the Tax Incentive may apply, provided, however, that in no event shall the term of a Tax Incentive exceed five (5) Incentive Years;
- c. the Conditions;
- d. the Criteria; and
- e. any additional information deemed necessary or appropriate by the CAO, in the CAO's discretion.

6.2 The term of a Tax Incentive shall commence in the Tax year following the year in which the Development Permit for the Approved Development was issued, unless otherwise stated in a Tax Incentive Certificate issued pursuant to Section 5.2 of the Bylaw or otherwise expressly authorized in writing by the CAO, at the CAO's discretion.

7. Conditions

7.1. In addition to any Conditions the CAO deems reasonable, at the CAO's discretion, and the Conditions set out in Section 7.2 and without limitation to any other provision of this Bylaw, the following Conditions shall be imposed in respect of every Tax Incentive approved pursuant to Section 5.2:

- a. the Applicant must enter into and comply with a written agreement with the City with respect to the Tax Incentive and applicable Criteria and Conditions on terms and conditions satisfactory to the City, which may include any terms and conditions deemed reasonable by the City, including an acknowledgement of the City's contribution to the Approved Development, and/or a charge on the Property or other property owned by the Applicant;
- b. the Applicant must, at all times, comply with the applicable Criteria, the Approved Construction Schedule, and the Conditions;
- c. the Applicant must, at all times, comply with all applicable legislation, regulations, and bylaws, and obtain and comply with all necessary permits, licenses and approvals with respect to a Property, including but not limited to development and building permits;
- d. the Applicant must provide the following information to the City annually, no later than November 30th in each Incentive Year:
 - (i) a progress report with respect to the Approved Construction Schedule and budget;
 - (ii) any proposed amendments to the Approved Construction Schedule and budget, which may be approved or refused by the CAO, in its discretion;
 - (iii) an update with respect to the number and nature of Skilled Jobs projected to be employed, or actually employed, by the Approved Development, annually; and
 - (iv) any other information requested or required by the CAO, in the CAO's discretion.

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- e. without limitation to any other provision of this Bylaw, the City may from time to time conduct such inspections and, upon request of the CAO, the Applicant must provide any documentation, information, access, or consents, as the CAO may deem necessary or appropriate, to verify any information contained in the Application or to confirm ongoing compliance with the Criteria and Conditions to the satisfaction of the CAO, in the CAO's discretion;
 - f. the Development Permit authorizing the Approved Development on the Property must remain in force and effect until the Development Permit holder has completed construction of the Approved Development in accordance with the Development Permit;
 - g. the Applicant must not have any overdue accounts with the City;
 - h. there must not be a material adverse change with respect to any one or more of the Criteria set out in Section 3.2 of this Bylaw; and
 - i. without limitation to Section 7.2, if a Tax Incentive is cancelled, the CAO may require the Applicant to repay the City the amount of any Tax Incentive received by the Applicant prior to the date of cancellation.
- 7.2. The Tax Incentive is deemed cancelled, effectively immediately, and the Applicant will be liable to repay the City the amount of any Tax Incentive received by the Applicant prior to the date of cancellation, if:
- a. the Applicant goes bankrupt or enters into receivership;
 - b. foreclosure proceedings are commenced with respect to the Property;
 - c. the Application, or any supporting information or documentation provided by the Applicant in connection therewith, was fraudulent or contained inaccurate information or misrepresentations; or
 - d. the Applicant fails to provide the CAO with any documentation, information, access, or consents, required to be provided pursuant to this Bylaw or the agreement referenced entered into pursuant to Section 7.1.a, to the satisfaction of the CAO, at the CAO's discretion.
- 7.3 A change in ownership of the Property will not affect a Tax Incentive unless the Property or the new Owner falls within one or more of the grounds for cancellation under this Bylaw. To maintain eligibility for the Tax Incentive:
- a. the Property, and new Owner, must be in compliance with the requirements of this Bylaw and any applicable Criteria and Conditions with respect to the Tax Incentive; and
 - b. in the event of a written agreement between the Applicant and City with respect to the Tax Incentive, the new Owner must enter into and comply with an agreement with the City to assume the Applicant's obligations, on terms and conditions satisfactory to the City.

8. Cancellation or Reduction of Tax Incentive

8.1. If, at any time after a certificate has been issued pursuant to Section 5.2:

- a. the CAO determines, in the CAO's discretion, that a Condition has been breached, the CAO must cancel the Tax Incentive for the Incentive Years to which that Condition applies; or
- b. the CAO determines, in the CAO's discretion, that the Property did not meet or has ceased to meet any of the Criteria, the CAO must cancel the Tax Incentive for the Incentive Years in which the Criteria were not met.

8.2. The CAO must send the Applicant a written notice of any cancellation pursuant to Section 7.2 or 8.1 herein, stating the reasons for the cancellation and the date by which a written request for review by Council must be received by the CAO, which date must be within sixty (60) days of the date noted on the written notice of refusal.

8.3. Without limitation to the generality of Section 8.1 herein, if, at any time after a certificate has been issued pursuant to Section 5.2, and the CAO in their discretion determines that;

- (i) the Approved Development did not cause the assessed value of the Property, as set out in the notice of assessment, to increase by an amount equal to or greater than the amount set out in Subsection 3.2.a(ii) or b(ii) herein between the Taxation year immediately prior to the commencement of construction of the Approved Development and the Tax year immediately after completion of the Approved Development;
- (ii) the actual Capital Cost of the Approved Development was less than the amount set out in Subsection 3.2.a(iii) or b(iii) herein, or
- (iii) the Approved Development does not employ the number of full-time employees (or equivalent thereof) in Skilled Jobs set out in Subsection 3.2b(iv) herein within the City

the CAO may cancel the Tax Incentive for the Incentive Years in which the Criteria were not met, and the process set out in Section 8.2 shall apply.

8.4. If, at any time after a certificate has been issued pursuant to Section 5.2, the CAO in their sole discretion determines that;

- (i) the Approved Development did not cause the assessed value of the Property, as set out in the notice of assessment, to increase by an amount equal to or greater than the amount projected at the time of Application;
- (ii) the actual Capital Cost of the Approved Development was less than the amount estimated at the time of Application; or
- (iii) the Approved Development does not employ the number of employees in full-time Skilled Jobs (or equivalent thereof) projected at the time of Application

the CAO may, in their discretion, re-score the Application in accordance with Schedule "A" or "B" as applicable and adjust the Incentive Years to which the Tax Incentive applies

and/or amount of the Tax Incentive. Any decision made by the CAO pursuant to this Section 8.4 is final and is not subject to review by Council pursuant to this Bylaw.

9. Review by Council

9.1. An Applicant may request a review by Council of the following decisions:

- a. the refusal of an Application for a Tax Incentive; or
- b. the cancellation of a Tax Incentive for one or more Incentive Years.

9.2. A written request for a review by Council pursuant to Section 9.1 must be received by the CAO within sixty (60) days of the date noted on the written notice to the Applicant of the decision.

9.3. Council will conduct reviews at a regularly scheduled or special council meeting, as determined by Council. Council is not required to hear from the Applicant, or any person representing them, at the meeting.

9.4. Council may confirm, reverse or vary the CAO's decision with respect to an Application for a Tax Incentive or the cancellation of a Tax Incentive provided, however, that any decision made by Council with respect to the issuance of a Tax Incentive shall be limited to the extent and Taxation years determined in accordance with Schedule "A" or "B" of this Bylaw, as applicable.

9.5. Council's decision is final, and not subject to further appeal.

9.6. The decisions set out in Section 9.1 are the sole grounds for a review by Council pursuant to this Bylaw. Any other decision or exercise of discretion by the CAO in connection with a Tax Incentive, including the extent of a Tax Incentive or the Incentive Years to which a Tax Incentive applies or the re-scoring of an Application pursuant to Section 8.4 of this Bylaw, is final and is not subject to review by Council pursuant to this Bylaw.

10. Tax Incentive Prohibited

10.1. Notwithstanding anything else in this Bylaw:

- a. a Tax Incentive will not be provided for any Tax year, including the Incentive Years, that is earlier than the Tax year in which a certificate is issued pursuant to Section 5.2;
- b. if any Property is not eligible for, or prohibited from, receiving a Tax Incentive under any federal or provincial law or regulation or any requirement of any lawful permit, approval, order or license, such Tax Incentive will not be provided in respect of that Property, or, if already provided, will cease to be provided in respect of that Property;
- c. if a Tax Incentive was approved and received in respect of a Property pursuant to Bylaw No. 4585, that Property shall not be eligible for any Tax Incentive pursuant to this Bylaw.

11. Fees

11.1. Council may from time to time, by resolution, establish and charge fees in relation to the administration of Applications.

12. Delegation

12.1. The role of Council in Subsection 364.1(1)(b) of the MGA is delegated to the CAO.

13. Bylaw No. 4585

13.1. Brownfield Tax Incentive Bylaw No. 4585 is repealed.

14. Coming into Force

14.1. This Bylaw will come into force at the beginning of the day that it is passed.

READ A FIRST TIME in open Council on June 6, 2022.

READ A SECOND TIME in open Council on _____.

READ A THIRD TIME in open Council on _____.

SIGNED AND PASSED on _____.

MAYOR: Linnsie Clark

ACTING CITY CLERK: Jessica Robinson

Schedule "A" – Brownfield Properties

1. **Scoring of Application:** An Application for a Tax Incentive for a Brownfield Property will be scored by the CAO on a fifty (50) point scale based on the criteria set out in Subsections 3.2(a)(ii) and (iii) of this Bylaw.
2. **Incentive Years:** Tax Incentives for eligible Brownfield Properties may be granted for a period of three (3) to five (5) Incentive Years.
3. **Extent of Tax Incentive:** The amount of the Tax Incentives for a Brownfield Property in each Incentive Year shall be in the discretion of the CAO, based on the Change in Municipal Taxes, based on the following parameters:

Incentive Year	Amount of Tax Incentive (% of Change in Municipal Taxes)
1	50-100%
2	25-100%
3	25-100%
4 (if applicable)	25-75% (if applicable)
5 (if applicable)	25-50% (if applicable)

Schedule “B” – Non-Residential Properties

1. **Scoring of Application:** An Application for a Tax Incentive for a Non-Residential Property will be scored by the CAO on a fifty (50) point scale based on the criteria set out in Subsections 3.2(b)(ii), (iii) and (iv) of this Bylaw.
2. **Incentive Years:** Tax Incentives for eligible Non-Residential Properties may be granted for a period of three (3) to five (5) Incentive Years.
3. **Extent of Tax Incentive:** The amount of the Tax Incentive for a Non-Residential Property in each Incentive Year shall be in the discretion of the CAO, based on the Change in Municipal Taxes, based on the following parameters:

Incentive Year	Amount of Tax Incentive (% of Change in Municipal Taxes)
1	50-100%
2	25-100%
3	25-100%
4 (if applicable)	25-75% (if applicable)
5 (if applicable)	25-50% (if applicable)