

<b>Title: INCENTIVE POLICY</b>		<b>Number: 0179</b>
<b>Reference:</b> Administrative Committee – February 28, 2024	<b>Adopted by City Council:</b> April 8, 2024	
	City Clerk	City Manager
<b>Supersedes:</b> Policy 0170		
<b>Prepared by:</b> CITY OF MEDICINE HAT ECONOMIC DEVELOPMENT		

## STATEMENT

THE CITY OF MEDICINE HAT (THE “CITY”) WANTS TO ENCOURAGE DEVELOPMENT AND REDEVELOPMENT THROUGH INCENTIVES THAT ARE FAIR, TRANSPARENT, RESULT IN A REASONABLE RATE OF RETURN ON THE CITY’S INVESTMENT, HAVE BUILT IN MEASURABILITY AND ACCOUNTABILITY AND COMPLY WITH APPLICABLE LAW. THEREFORE, THIS INCENTIVE POLICY IS HEREBY ESTABLISHED.

## DEFINITIONS

1. **“Applicant”** means a Person that owns real property in Medicine Hat, which includes a Person that has entered into a fully executed and in full force and effect real estate purchase contract as “Purchaser” in respect of real property in Medicine Hat, and that has applied for an Incentive under an Incentive Program in respect of that property.
2. **“Attestation of Impartiality”** means a written confirmation that the person signing the attestation does not have a Conflict of Interest.
3. **“City Centre”** means those numbered and coloured areas shown on the map attached as Exhibit A.
4. **“Conflict of Interest”** occurs when a Person (or such Person’s Manager, interdependent partner, spouse or heirs, or an enterprise industry or business in which such Person is employed or participates in the ownership, management, operation or control) has an interest, such as money, property, investment, status, knowledge, relationships, or reputation that raises a question of whether the Person’s actions, judgment or decision-making can be unbiased;
5. **“Economic Development”** means the City’s Economic Development department, as renamed or reconstituted from time to time;
6. **“Incentive Award”** means a financial or in-kind contribution provided by the City directly or indirectly that confers a benefit upon a Person eligible to receive such benefit in accordance with this Policy, the Procedures and the applicable Incentive Program under which the benefit is awarded, and which has as its purpose that of encouraging property development

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or redevelopment within the City that otherwise would not have occurred, and which supports the strategic goals of the Municipal Development Plan, and includes the following:

- a) a direct transfer of funds (e.g. Incentives)
7. **“Incentive Program”** means one or more programs pursuant to which one or more Incentive Awards may be provided to one or more Persons eligible under such program to receive Incentive Awards, in accordance with this Policy and the Procedures;
8. **“Incentive Staff”** means an employee or officer of the City, or such other Person designated by the City, involved in the development, analysis, approval, monitoring, evaluation, administration or delivery of an Incentive, and for greater certainty does not include a member of Council or the whole of Council;
9. **“Incentives”** includes an Incentive Program and an Incentive Award;
10. **“Manager”** means, with respect to Incentive Staff, the Person to whom the Incentive Staff reports and the Person to whom that Person reports, and for greater certainty does not include a member of Council or the whole of Council. For example, if Avery, an Incentive Staff, reports to Blake who reports to Cameron, then Blake and Cameron are each a “Manager” with respect to Avery;
11. **“Person”** includes any individual, corporation, firm, body corporate, partnership, limited partnership, governmental authority, trust, or other entity capable of entering into legally binding contracts;
12. **“Procedures”** means the procedures approved by Administrative Committee, in accordance with this Policy; and
13. **“Unresolved litigation”** includes any unresolved dispute between the City and any other party or related party adverse in interest to the City, including third party and crossclaims, where a legal proceeding has been commenced for relief, including an injunction, a mandatory order, a declaration, or the recovery of money.

## PRINCIPLES

1. All Incentives must:
  - a) comply with this Policy, the Procedures and all applicable law, including legislation, such as the *Municipal Government Act* (Alberta) and the Off-Site Levy Regulation (Alberta), trade agreements including the New West Partnership Trade Agreement, and common law;
  - b) advance the purposes of the associated Incentive Program;
  - c) be developed, analyzed, approved, monitored, evaluated, administered and delivered in a manner that is fair and equitable, transparent, and permits meaningful measurability and the highest level of accountability with respect to the Incentives and all Persons in any way involved with the Incentives; and
  - d) be for the general benefit of the municipality.



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2. All Incentive Awards must clearly identify:
  - a) the approved project;
  - b) the Person receiving the Incentive Award;
  - c) the amount of the Incentive Award and the eligible expenditures to which the Incentive Award may be applied;
  - d) the date(s) by which certain milestone(s) must be achieved for the approved project, as applicable, and the final date by which the approved project must be completed; and
  - e) any conditions the Person receiving the Incentive Award must meet and the consequences for breaching such conditions.
3. All Incentive Programs must:
  - a) be recommended by Administrative Committee and approved by Council;
  - b) clearly identify:
    - i) the criteria to be met for a Person to qualify for an Incentive Award under the Incentive Program and for determining the amount of the Incentive Award;
    - ii) any conditions that a Person receiving an Incentive Award pursuant to such Incentive Program must meet and the consequences for breaching such conditions.

## ROLE OF COUNCIL

1. Council must:
  - a) receive, review and, at its sole discretion, adopt this Policy and any recommended amendments thereto; and
  - b) receive, review and, at its sole discretion, approve any Incentive Program recommendations made by the Administrative Committee.

## ROLE OF ADMINISTRATIVE COMMITTEE

1. Administrative Committee:
  - a) is authorized to establish and amend the Procedures;
  - b) is authorized to establish and amend the process for submission and consideration of applications for an Incentive Program;
  - c) is authorized to establish and amend the process for monitoring and evaluating each Incentive Program and Incentive Awards made under an Incentive Program;
  - d) must ensure all Incentive Staff and all Applicants provide a written Attestation of Impartiality to their Manager and Administrative Committee;
  - e) must make recommendations to Council regarding amendments to this Policy;
  - f) must implement such control measures in relation to Incentives as are necessary to guard against actual or perceived Conflicts of Interest and potential Conflicts of Interest, protect the interests and reputation of the City, and maintain transparency, fairness, equity and accountability in relation to all City processes, including where a Person discloses, or Administrative Committee otherwise becomes aware of, an actual or potential Conflict of Interest or a situation that may result in an actual or perceived Conflict of Interest (collectively the "Control Measures");

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- g) must ensure that this Policy and the Procedures are duly enforced; must carry out their duties pursuant to this Policy, the Procedures and any Incentive Programs; and
- h) may delegate any of its responsibilities pursuant to this Policy or the Procedures to one or more Persons qualified to carry out such responsibilities.

If Administrative Committee does not possess the requisite ability, knowledge or skill to carry out a responsibility assigned to it pursuant to this Policy or the Procedures, the Administrative Committee must refer the matter to one or more Persons with such requisite ability, knowledge and skill to carry out the responsibility, provided that the Person or Persons to whom such matter is referred shall have the express duty at all times faithfully to uphold and observe the Control Measures in respect of such matter.

## ROLE OF INCENTIVE STAFF

1. Each Incentive Staff member:
  - a) and such Person's Manager, must provide a written Attestation of Impartiality to their Manager in respect of each Incentive Award, before having any involvement therewith, including the application and recommendation thereof (the "**Attestation Requirement**");
  - b) such Person's Manager must identify and disclose any actual or potential Conflicts of Interest and situations that may result in an actual or perceived Conflict of Interest to the Administrative Committee, as soon as the Person is aware that an actual or potential Conflict of Interest or situation that may result in an actual or perceived Conflict of Interest exists (the "**Conflict Reporting Requirement**"); and
  - c) must carry out their duties pursuant to this Policy, the Procedures and any Incentive Programs.

If the Incentive Staff does not possess the requisite ability, knowledge or skill to carry out a responsibility pursuant to this Policy or the Procedures, then the Incentive Staff, acting in coordination with their Manager, must refer the matter to one or more Persons with such requisite ability, knowledge and skill to carry out the responsibility, provided that the Person or Persons to whom such matter is referred shall have the express duty at all times faithfully to uphold and observe the Attestation Requirement and the Conflict Reporting Requirement in respect of such matter.

## DUTY TO COMPLY

1. Nothing in this Policy, the Procedures, an Incentive Program, or an Incentive Award shall relieve a Person from the duty to comply with all applicable law and all other applicable City bylaws, policies, procedures and codes.
2. Where a provision of this Policy conflicts with a provision of the Procedures, then the more restrictive of the two provisions shall prevail to the extent of the conflict.
3. Where a provision of this Policy or a provision of the Procedures overlaps with the provisions of applicable law or any other City bylaws, policies, procedures or codes, then the more restrictive of the two provisions shall prevail to the extent of the overlap.



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## PROCEDURES

### 1. RESPONSIBILITIES

#### 1.1 Administrative Committee:

- (a) must evaluate the business case in relation to an Incentive Program, and, if Administrative Committee is of the opinion that the subject Incentive Program is appropriate and complies with this Policy and the Procedures, may recommend the Incentive Program to Council for approval;
- (b) is authorized to negotiate any agreements necessary for the analysis or delivery of an Incentive Program, provided that such agreements are subject to City Solicitor, City Manager and, if required, Council approval;
- (c) must ensure that the Procedures and Incentives, and the development, evaluation, approval, administration, monitoring, and results of Incentives, are reviewed by the Economic Development Department on an annual basis and that a report regarding this annual review is filed with Audit Committee.

#### 1.2 City Manager:

- (a) shall ensure that all staff involved in the evaluation or approval of an Incentive Award provide written Attestations of Impartiality;
- (b) shall review and forward Incentive Award recommendations received from Incentive Staff to Executive Leadership Team for decision.

#### 1.3 Economic Development Department:

- (a) shall manage all aspects of public relations and handle all applications for Incentive Programs;
- (b) perform due diligence for all applications for Incentives;
- (c) shall forward recommended Incentive Awards to the City Manager for review;
- (d) shall monitor the progress of any project for which a Person has received an Incentive Award and perform all due diligence required to ensure funds advanced under the Incentive Award are being spent in accordance with the Incentive Award;
- (e) Incentive Staff shall prepare the annual report contemplated under Section 1.1(c) of these Procedures and provide the report to the Audit Committee by the end of the first quarter of the calendar year immediately following the calendar year that is the subject of the report.

#### 1.4 Executive Leadership Team

- (a) is authorized to approve or deny Incentive Awards recommendations received from the City Manager.

#### 1.5 Employees:

- (a) shall disclose any actual or potential Conflict of Interest or a situation that may result in an actual or perceived Conflict of Interest to their Director or City Manager.

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- 1.6 Each Incentive Staff member:
- (a) must carry out their duties pursuant to this Policy, the Procedures and any Incentive Programs.

## 2. PROCEDURES

- 2.1 Application Process:
- (a) All application form templates will be prepared by the City and be available through the City's website.
  - (b) Applicants will complete digital application forms that will be timestamped upon submission.
  - (c) Economic Development will perform the evaluation process.
- 2.2 Approval Process:
- (a) Before any Incentives are approved, due diligence will be performed to ensure the validity of the project, and to determine if the project fits within Incentive Program.
  - (b) Project due diligence will include verifying that the Attestation Requirements and Conflict Reporting Requirements of the Policy and Procedure have been satisfied, interviews with applicants/developers, and collecting other necessary and relevant documentation as required to evaluate an application.
  - (c) Once all project due diligence has been performed by Incentive Staff, the application will either be approved or denied by Executive Leadership Team.
- 2.3 Administration Process:
- (a) Incentive Awards under all Incentive Programs will be made on a first-come, first-served basis and will be subject to available funding remaining under the particular Incentive Program at the time of application.
  - (b) In the case of one-time Incentives, funds will be dispersed once the project has been approved and all required conditions, including but not limited to permits and milestones, have been achieved (eg: building and related permits as well as achieving the required stage of construction).
  - (c) Results of the Incentives will be reported no less than annually to the Audit Committee in accordance with Section 1.1(c) of the Procedures and will include a summary of which projects received funding under each Incentive Program and the amount of each Incentive Award made.

## 3. Incentive Program Details

Program details for the Incentive Programs will be maintained by Economic Development in a readily accessible location.