

PROPOSED

C2024-0024
ATTACHMENT 2

BYLAW NUMBER 9M2024

BEING A BYLAW OF THE CITY OF CALGARY PROVIDING FOR TAXATION OF BUSINESS IMPROVEMENT AREAS IN THE CITY OF CALGARY FOR 2024 *****

WHEREAS the Council of The City of Calgary (“*Council*”) has the authority to provide for the taxation of business improvement areas in accordance with Section 381 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “*Act*”), and the regulations passed thereunder;

AND WHEREAS *Council* has established various business improvement areas in The City of Calgary, which are set out in Schedule “A” to this Bylaw;

AND WHEREAS *Council* desires to provide for the taxation of businesses located in business improvement areas;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

Short Title

1. This Bylaw may be cited as the “2024 Business Improvement Area Tax Bylaw”.

Definitions and Interpretation

2. (1) In this Bylaw:
 - (a) “*Act*” means the *Municipal Government Act*, R.S.A. 2000, c. M-26;
 - (b) “*Business*” means a business located in a business improvement area listed in Schedule “A”;
 - (c) “*Business Improvement Area*” or “*BIA*” means a business improvement area established pursuant to section 50 of the *Act* and the regulations and bylaws enacted pursuant to that section;
 - (d) “*City*” means The City of Calgary, a municipal corporation of the Province of Alberta and, where the context so requires, means the area contained within the municipal boundaries of the city of Calgary;
 - (e) “*Commercial Purposes*” means the use of the *Premises* for commerce or trade purposes or for the sale of assets or goods to the public for gain;
 - (f) “*Municipal Assessor*” means the person appointed to the designated officer position of *Municipal Assessor* pursuant to section 284.2 of the *Act* and Bylaw 49M2007;

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- (g) “*Net Annual Rental Value*” means the typical market annual rental value of the *Premises* exclusive of operating costs;
 - (h) “*Non-Profit*” refers to an organization, association or union as defined in section 6 of the *Regulation*;
 - (i) “*Person*” includes a corporation and the heirs, executors, administrators or other legal representatives of a *Person*;
 - (j) “*Premises*” means any space used in connection with a *Business*, and without limiting the generality of the foregoing includes:
 - (i) land and buildings or parts of buildings on such land, and
 - (ii) any store, office, warehouse, factory, facility, hotel, motel, enclosure, yard or other space;
 - (k) “*Regulation*” means the *Community Organization Property Tax Exemption Regulation* (Alberta Regulation 281/1998); and
 - (l) “*Trade Union*” refers to a Non-Profit trade union established and recognized under the *Alberta Labour Relations Code* (R.S.A. 2000 c. L-1) or the *Canada Labour Code* (R.S.C. 1985, c. L-2).
- (2) Any Schedules attached to the Bylaw form part of the Bylaw.
- (3) Each provision of this Bylaw is independent of all other provisions and if any provision is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.

Assessment of Businesses

3. (1) Every *Person* who operates a *Business* in 2024 shall be assessed a business assessment by the *Municipal Assessor* for the purposes of imposing a BIA tax.
- (2) Despite subsection (1), a *Person* who operates a *Business* that is exempt from BIA taxation pursuant to section 17 shall not be assessed.
- (3) *Business* assessments shall be prepared based on one hundred percent of the *Net Annual Rental Value* of the *Premises*.
- (4) Any business assessment prepared in accordance with this bylaw must be an estimate of the *Net Annual Rental Value* of the *Premises* on July 1, 2023.
- (5) The *Municipal Assessor* shall:
- (a) prepare a business assessment roll for the purposes of generating a BIA tax roll for 2024; and

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- (b) enter on the business assessment roll the name of every *Person* operating a *Business* that has been assessed in accordance with subsection (1).
- 4. If it is discovered that there is an error, omission or misdescription in any of the information shown on the business assessment roll for 2024, the *Municipal Assessor* may correct the business assessment roll for 2024.
- 5. If it is discovered that no business assessment has been prepared for a *Business* for 2024, an assessment for 2024 must be prepared.
- 6. After giving reasonable notice to a *Person* operating a *Business*, the *Municipal Assessor* may at any reasonable time, for the purpose of preparing an assessment of the *Business* or determining if the *Business* is to be assessed:
 - (a) enter and inspect the *Premises*;
 - (b) request anything to be produced to assist the *Municipal Assessor* in preparing the assessment or determining if the *Business* is to be assessed; and
 - (c) make copies of anything necessary to the inspection.
- 7. (1) The provisions of section 295 of the *Act* apply such that:
 - (a) a *Person* must provide, on request by the *Municipal Assessor*, any information necessary for the *Municipal Assessor* to carry out the duties and responsibilities of an assessor pursuant to Parts 9 to 12 of the *Act* and the associated regulations; and
 - (b) no *Person* may make a complaint in the year following the assessment year under section 460 of the *Act* if the *Person* has failed to provide the information requested within 60 days from the date of the request.
- (2) The provisions of section 296 of the *Act* apply to the *Municipal Assessor's* application for and acquisition of court authorized inspections and enforcement with all necessary modifications as if they had been set out in this Bylaw.

Supplementary Business Assessment

- 8. A supplementary business assessment for 2024 will be imposed:
 - (a) on each *Person* who operates a *Business* for a temporary period and whose name is not entered on the business assessment roll;
 - (b) on each *Person* who moves into new *Premises* or opens new *Premises* or branches of an existing *Business*, even though the *Person's* name is already entered on the business assessment roll for another *Premises*;
 - (c) on each *Person* who begins operating a *Business* and whose name is not entered on the business assessment roll for the associated *Premises*; and

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- (d) on each *Person* who increases the space of the *Premises* after the business assessment roll has been prepared.
- 9. Supplementary assessments will be determined by pro-rating the *Net Annual Rental Value* of the *Premises* to reflect the number of months the *Business* is operated during 2024, with any portion of a month greater than 15 days being considered to be a full month.
- 10. Sections 3 through 7 of this Bylaw apply to the imposition of a supplementary assessment.

Taxation

- 11. All *Businesses* shall be taxed at the rate or rates set out in the 2024 Business Improvement Area Tax Rates Bylaw, except *Businesses* that are exempt from *BIA* taxation pursuant to section 17.
- 12.
 - (1) The amount of *BIA* tax to be imposed under this Bylaw in respect of a *Business* is calculated by multiplying 100 percent of the assessment or supplementary assessment for the *Business* by the *BIA* tax rate specified in the 2024 Business Improvement Area Tax Rates Bylaw.
 - (2) A tax imposed under this Bylaw must be paid by the *Person* who operates the *Business*.
- 13. The *City* shall:
 - (a) produce a *BIA* tax roll containing the name of each *Person* liable for *BIA* tax set opposite to the amount of *BIA* tax payable by that *Person*; and
 - (b) mail or deliver a tax bill to each *Person* liable for *BIA* tax, which shows both the assessed value of the *Premises* and the amount of the *BIA* tax payable.
- 14. When a lessee, who is liable to pay the tax imposed under this Bylaw in respect of any leased *Premises*, sublets the whole or part of the *Premises*, The *City* may require the lessee or the sub-lessee, but not both, to pay the tax in respect of the whole or part of the *Premises*.
- 15. *BIA* taxes shall be due and payable on or before March 28, 2024.

Liability for BIA Taxes

- 16.
 - (1) Subject to sections 17 and 22 of this Bylaw, when a *Person* operates a *Business* in the *City*, the *Person* is liable for payment of the *BIA* tax imposed in respect of that *Business*, whether based on an annual or supplementary assessment.
 - (2) Despite subsection (1), if the amount of *BIA* tax imposed on a *Business*, as calculated pursuant to subsection 12(1), is less than \$25.00, the *Person* who operates that *Business* is not liable for payment of the *BIA* tax imposed in respect of that *Business*.

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Exemption from BIA Taxation

17. (1) Notwithstanding section 16 of this Bylaw, but subject to the subsections below, the following classes of *Businesses* are exempt from the payment of *BIA* taxes imposed under this Bylaw:
 - (a) any *Business* exempt from tax pursuant to sections 351, 375 or 376 of the *Act*;
 - (b) any *Business* operated on property which appears on the *City's* 2024 property assessment roll as 100 percent belonging to the residential assessment class or any residential assessment subclass;
 - (c) on-street parking located on roads owned by the *City*;
 - (d) any *Business* whose use of the property would qualify that property to be eligible for a property tax exemption pursuant to the *Act*;
 - (e) any *Business* that is a bingo operated under a bingo facility licence by a *Non-Profit* organization pursuant to the *Gaming, Liquor and Cannabis Act* (R.S.A. 2000, c. G-1);
 - (f) any *Business* established as a *Non-Profit* organization where the *Premises* is used to promote the interests of an industry, profession or trade including education or research;
 - (g) *Premises* used by a *Trade Union* where the activities of a *Trade Union* are conducted;
 - (h) any *Business* whose use of the property would qualify that property to be eligible for a property tax exemption under the Regulation but for sections 16(2) or (3) of the Regulation.
- (2) *Premises* licensed under the *Gaming, Liquor and Cannabis Act* are not exempt from *BIA* taxation with the exception of *Premises* in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence has been issued under the *Gaming, Liquor and Cannabis Regulation* (AR 143/96).
- (3) Notwithstanding subsection (1), any *Business*, including one operated by a *Non-Profit* organization or association, whose use of the *Premises*:
 - (a) is primarily for *Commercial Purposes*; and
 - (b) operates in competition with other *Businesses* in the *City*;is not exempt from *BIA* taxation.
- (4) Subject to the restrictions set out in this section, a *Business* may become exempt from the payment of *BIA* taxes imposed under this Bylaw for a portion of a *Premises* which becomes Vacant and Unused for a period of at least 30 days,

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regardless of whether there is a lease or license of occupation in place with respect to that *Premises*.

- (a) For greater certainty, the term “*Vacant and Unused*” in this section means space which forms part of a *Premises* but:
 - (i) is physically separated from other space by walls and locked doors or is separated by other means which makes it inaccessible and unable to be used for *Business* purposes;
 - (ii) is entirely empty from wall to wall and floor to ceiling, and does not contain equipment, furnishings, cubicle walls or partitions; and
 - (iii) does not include portions of the *Premises* which are temporarily unused such as hotel and motel rooms, individual offices, parking spaces, or space being renovated.
- (b) In order to be eligible to benefit from an exemption for *Vacant and Unused* space pursuant to this subsection:
 - (i) a *Person* must notify the *Municipal Assessor* in writing of the *Vacant and Unused* space; and
 - (ii) the *Municipal Assessor* must have confirmed that the space is *Vacant and Unused*.
- (c) Any exemption granted for *Vacant and Unused* space pursuant to this subsection shall not take effect or have application prior to the date of notification, and shall have effect only as long as the space is *Vacant and Unused*.

Penalties For Unpaid BIA Taxes

- 18. (1) (a) On April 1, 2024, a penalty of 7 percent of the unpaid amount of the current year’s *BIA* tax levy shall be imposed; and
- (b) On July 1, 2024, an additional penalty of seven 7 percent of the unpaid amount of the current year’s *BIA* tax levy shall be imposed.
- (2) All *BIA* taxes levied by the *City* remaining unpaid after the year in which they are levied shall have added thereto, on the first day of every month of every year, a penalty equivalent to one 1 percent of the then unpaid taxes, so long as the taxes or any portion of them remain unpaid.
- (3) A penalty imposed under subsections (1) and (2) forms part of the tax in respect of which it is imposed.

Supplementary BIA Tax

- 19. A supplementary *BIA* tax shall be levied upon any *Person* who is subject to a supplementary business assessment in accordance with sections 8 and 9 of this Bylaw.

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20. A supplementary *BIA* tax is due 30 days after the date on which the supplementary tax notice is mailed to the *Person* being taxed.
21. Sections 12, 13, 14 and 18 of this Bylaw apply to the imposition of a supplementary *BIA* tax.

Pro-rating and Rebating BIA Taxes

22. When the *City* is notified that a *Business* has ceased to use space in connection with the *Business*, the associated tax account shall be adjusted in proportion to the number of months of operation in the calendar year, with any portion of the month greater than 15 days being considered to be a full month. If there is a credit balance after the account has been adjusted, that amount will be refunded to the owner of the *Business* or applied to any other outstanding *BIA* tax accounts of that owner.
23. If the *Business* receives a reduction in its business assessment, resulting in a credit balance on its *BIA* tax account, that amount will be refunded to the owner of the *Business* or applied to any other outstanding *BIA* tax accounts of that owner.

Business Tax Instalment Payment Plan

24. (1) In this section:
 - (a) “*Business Tax Instalment Payment Plan*” also referred to as “*BTIPP*” means the plan authorized by this Bylaw permitting taxpayers to pay business taxes or *BIA* taxes by way of monthly instalments;
 - (b) “*Tax*” includes all taxes lawfully imposed against a *Business* by the *City* pursuant to the *Act*, any bylaw enacted pursuant to such authority, or any other statute of the Province of Alberta, but does not include supplementary taxes;
 - (c) “*Taxpayer*” means the operator of a *Business* liable for the payment of *Taxes*; and
 - (d) “*Tax Collector*” means the *Municipal Assessor* or their delegate.
- (2) Any *Taxpayer* in the *City* may apply to be included in *BTIPP* as described in this section to provide for the payment of *Taxes* by instalments.
- (3)
 - (a) *Taxpayers* who wish to apply for inclusion in *BTIPP* must apply to the *Tax Collector* on or before December 31st of each year and shall not be included within *BTIPP* until approved by the *Tax Collector*;
 - (b) The *Tax Collector* may refuse a *Taxpayer’s* request to be included in *BTIPP* for reasons as set out in this Bylaw;
 - (c) A *Taxpayer* is not eligible to be included in *BTIPP* unless as of December 31 of the previous year, the *Taxpayer* has no balance outstanding in his or her tax roll account.

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- (d) A *Taxpayer* may not apply for inclusion in *BTIPP* more than once in the same calendar year with respect to the same *Business*.
- (4) A *Taxpayer* who is included and has not been removed from *BTIPP*, shall not be subject to the provisions of section 15 as to the due date for the payment of *Taxes*, nor to the provisions of section 18 as to penalties on unpaid *Taxes*.
- (5) A *Taxpayer* who is included in *BTIPP* shall pay *Taxes* on a monthly basis for the current year subject to the following conditions:
 - (a) a *Taxpayer*, having been included in *BTIPP*, shall make twelve monthly payments, to be paid by automatic bank withdrawal on the first day of each month of the calendar year in an amount equal to one-twelfth of the previous year's *Tax* levy or, in the event a previous year's *Tax* levy is not available, in an amount to be determined by the *Tax Collector*, and
 - (b) upon determination of the current year's *Tax* levy, the *Taxpayer's* payments shall be adjusted to provide for the full payment of the current year's *Tax* levy over the remaining months of the year.
 - (c) if there is a balance outstanding on a business tax roll account or a *BIA* tax roll account, the *Taxpayer* shall continue to make monthly payments in accordance with subsection (5)(a) until the outstanding balance has been paid.
- (6) In the event a *Business*, the previous *Taxpayer* of which was included in *BTIPP*, is sold, the *BTIPP* agreement is immediately cancelled as at the sale date.
- (7) The *Tax Collector* may remove a *Taxpayer* from *BTIPP* in the event the *Taxpayer* defaults in making payment of any *Tax* instalment on the due date as required for each instalment under subsection (5)(c).
- (8) Notice of a removal pursuant to subsection (7) shall be sent to the *Taxpayer* as listed on the tax roll.
- (9) When a *Taxpayer* is removed from *BTIPP* subsequent to the due date for the payment of *Taxes* as specified in the appropriate municipal bylaws, other than this Bylaw, all unpaid *Taxes* become immediately due and payable and the penalty provisions of all appropriate municipal bylaws apply to the unpaid *Taxes*.
- (10) When a *Taxpayer* is removed from *BTIPP* prior to the due date for the payment of *Taxes* as specified in the appropriate municipal bylaw, or when a *Taxpayer* requests removal from *BTIPP* prior to the due date for the payment of *Taxes*, all payments shall be retained by the *Tax Collector* for credit to the *Taxpayer's* account and such payments will receive the benefit of any available *Tax* discounts as provided by bylaw and will be credited to the *Taxpayer's Tax* account.
- (11) In the event a *Taxpayer* requests removal from *BTIPP* pursuant to subsection 10, all *Taxes* due and owing shall then become due and owing on the due date for

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the payment of *Taxes* as specified in this Bylaw and the provisions of all appropriate municipal bylaws relating to penalties for unpaid *Taxes* shall apply to all unpaid *Taxes* due and owing to the *City* after the due date.

25. This Bylaw comes into force on the day it is passed.

READ A FIRST TIME ON _____

READ A SECOND TIME ON _____

READ A THIRD TIME ON _____

MAYOR

SIGNED ON _____

CITY CLERK

SIGNED ON _____

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SCHEDULE "A"

TO THE 2024 BUSINESS IMPROVEMENT AREA TAX BYLAW

BUSINESS IMPROVEMENT AREA	BYLAW NUMBER
Beltline Business Improvement Area	34M2019
Mainstreet Bowness Business Improvement Area	55M2016
Bridgeland Business Improvement Area	33M2019
Calgary Downtown Association	38M2017
Chinatown Business Improvement Area	43M2015
Crescent Heights Village Business Improvement Area	32M2019
4 th Street South West Business Improvement Area	59M2016
Greenview Industrial Business Improvement Area	40M2017
Inglewood Business Improvement Area	36M2017
International Avenue Business Revitalization Zone	58M2016
Kensington Business Revitalization Zone	56M2016
Marda Loop Business Improvement Area	37M2017
Montgomery on the Bow Business Improvement Area	54M2016
17 th Avenue Retail & Entertainment District Business Improvement Area	39M2017
Victoria Park Business Improvement Area	57M2016