

PROPOSED

EC2024-0506
ATTACHMENT 1

BYLAW NUMBER 24M2024

BEING A BYLAW OF THE CITY OF CALGARY TO ESTABLISH A TAX INCENTIVE APPEAL BOARD

WHEREAS Council has passed the Renewable Energy Non-Residential Tax Incentive Bylaw 23M2024 creating a tax incentive for non-residential properties pursuant to section 364.2 of the Municipal Government Act, RSA 2000, c. M-26 (the “Act”);

AND WHEREAS that Bylaw delegates the responsibility for making decisions on applications for tax incentives to the Municipal Assessor;

AND WHEREAS section 364.2(3)(d) requires that if any person other than a council makes a decision on a tax incentive, the bylaw providing the incentive must establish a process for applications to be made to the council for the review of those decisions and must specify the period of time within which the application must be made;

AND WHEREAS a council may, pursuant to sections 8(1)(d) and 145 of the Act, pass a bylaw providing for an appeal, and to establish a council committee as the body that is to decide the appeal, and to provide for related matters;

AND WHEREAS a council may, pursuant to section 203 of the Act, by bylaw delegate its powers, duties, and functions to a committee of council;

AND WHEREAS Council has determined there is a need for Public Members to serve concurrently on more than one board in accordance with Council Policy CP2016-03, the *Governance and Appointments of Boards, Commissions and Committees Policy*;

AND WHEREAS Council has considered report EC2024-0506 and wishes to delegate its authority to conduct reviews of the Municipal Assessor’s decision on tax incentives to a committee of Council by passing this bylaw;

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

SHORT TITLE

1. This Bylaw may be cited as the “Tax Incentive Appeal Board Bylaw”.

DEFINITIONS

2. (1) In this Bylaw,
 - (a) “Act” means the Municipal Government Act, RSA 2000, c. M-26;

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- (b) “*appellant*” means a person who is seeking an appeal to the *Board*;
 - (c) “*assessed person*” has the same meaning as in Bylaw 23M2024;
 - (d) “*Board*” means the Tax Incentive Appeal Board established by this Bylaw;
 - (e) “*Chief Administrative Officer*” means the person holding the position of Chief Administrative Officer under Bylaw 52M2022 or the employee of The City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of the position under this Bylaw;
 - (f) “*Council*” means the municipal council of the *City*;
 - (g) “*City*” means the municipal corporation of The City of Calgary;
 - (h) “*City Solicitor and General Counsel*” means the person appointed to the designated officer established by Bylaw 48M2000 or the employee of The City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of that position under this Bylaw;
 - (i) “*City Clerk*” means the person appointed to the designated officer position established by Bylaw 73M94 or the employee of The City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of that position under this Bylaw;
 - (j) “*member*” means a person appointed to the *Board*;
 - (k) “*Municipal Assessor*” means the person appointed to the designated officer position established by Bylaw 49M2007 or the employee of The City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of that position under this Bylaw or Bylaw 23M2024;
- (2) If this Bylaw refers to any statute, regulation or bylaw, the reference is to the statute, regulation or bylaw as amended, whether amended before or after the commencement of this Bylaw, and includes reference to any statute, regulation or bylaw that may be substituted in its place.

ESTABLISHMENT

3. The Tax Incentive Appeal Board is hereby established as a committee of *Council*.

MANDATE

4. The mandate of the *Board* is to hear appeals of decisions made by the *Municipal Assessor* under Bylaw 23M2024, the Renewable Energy Non-Residential Tax Incentive Bylaw, to:
- (a) deny a tax incentive; or
 - (b) cancel a tax incentive.

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BOARD COMPOSITION

5. (1) The *Board* is composed of up to 10 and no fewer than 6 *members* who are appointed by resolution of *Council*.
- (2) Unless otherwise specified by Council, *members* of the *Board* are appointed for 1 or 2 year terms commencing January 1 and ending December 31.
- (3) Members of *Council* may not be appointed to the *Board*.
- (4) *Members* of the *Board* shall not serve more than a cumulative maximum of 10 years.
- (5) Eligibility for appointment to the *Board* is limited to:
 - (a) members of the Assessment Review Board, excluding the General Chair of that Board; and
 - (b) members of the Licence and Community Standards Appeal Board, excluding the Chair of that Board.

VACANCIES

6. (1) If a vacancy occurs on the Board, *Council* may by resolution appoint a person to fill the vacancy.
- (2) A person appointed to fill a vacancy pursuant to subsection (1) shall hold office for the remainder of the current term. A partial term served pursuant to this section is not included in the calculation of years served for the purposes of section 5(4).

REMUNERATION OF MEMBERS

7. (1) The remuneration and expenses payable to each *member* shall be determined by the *City Clerk* in consultation with the Chair.
- (2) The remuneration and expenses payable to the Chair shall be determined by the *City Clerk* in consultation with the *Chief Administrative Officer*.

BOARD GOVERNANCE AND PROCEDURES

8. (1) The *members* of the *Board* must annually appoint a Chair and Vice-Chair of the *Board* at or prior to the first meeting of the calendar year.
- (2) The Vice-Chair may exercise any of the Chair's authority under this Bylaw if the Chair is unable to act or is absent.
- (3) The *Board* has the power to establish policies and rules of procedure relating to the hearing of appeals, providing that those procedures and policies do not conflict with the *Act*.

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- (4) The *Board* may schedule meetings at the call of the Chair or, in the absence of an appointed Chair and Vice-Chair, meetings may be scheduled by the *City Clerk*.
- (5) A panel of the *Board* may seek legal advice from a lawyer who is independent from the parties to a hearing.
- (6) The *City Solicitor and General Counsel* will select and retain the lawyer required for the purposes of subsection (5) above.

NOTICE OF APPEALS

9. (1) Only the *assessed person* who applied for the tax incentive may file a notice of appeal and act as an *appellant* under this Bylaw.
 - (2) A notice of appeal will not be considered as having been filed unless the notice of appeal and applicable fee have been received by the *City Clerk* within the prescribed time period for filing a notice of appeal.
 - (3) An *appellant* seeking an appeal must submit a notice of appeal to the *City Clerk* within 30 days after the date on which the *appellant* received the decision of the *Municipal Assessor*.
 - (4) A notice of appeal must be in the form required by the City Clerk and include:
 - (a) the name of the *appellant*;
 - (b) the daytime telephone number at which the *appellant* may be reached;
 - (c) an address to which documents in relation to the appeal may be delivered;
 - (d) a copy of the decision being appealed including the date it was received; and
 - (e) the reasons for the appeal.

SCHEDULING

10. Upon receiving a notice of appeal, the *City Clerk* will schedule a hearing within 60 days from the date on which the notice of appeal is received and issue a Notice of Hearing.

HEARING PANELS

11. (1) The Chair will select and schedule panels from *Board* membership to hear appeals.
 - (2) The *members* of the *Board* may hear appeals in panels of no more than 3 *members*, so long as quorum requirements are satisfied.

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- (3) The quorum of the *Board* is 3 *members* provided that at least 1 *member* of each panel is:
 - (a) a member appointed from the Assessment Review Board; and
 - (b) a member appointed from the Licence and Community Standards Appeal Board.
- (4) For greater certainty, no panel can consist of all 3 *members* who are cross-appointed from the same board.
- (5) If quorum is lost during a hearing or before a decision is issued then the appeal will be reheard by the *Board* before a new panel.
- (6) A panel of the *Board* has all the powers, duties, and responsibilities of the *Board* to hear and decide appeals.
- (7) The rules of procedure established by the *Board* may be modified, waived or supplemented by a panel of the *Board* as necessary to ensure procedural fairness in the hearing of an appeal.
- (8) During a hearing, the *Board* may hear from the *appellant* and the *Municipal Assessor*.

DECISIONS

12. (1) When deciding an appeal, the *Board* may;
 - (a) confirm the decision of the *Municipal Assessor* to deny or cancel a tax incentive to the appellant; or
 - (b) direct the *Municipal Assessor* to provide a tax incentive to the appellant.
- (2) A decision of the *Board* under subsection (1) above must comply with the requirements for a tax incentive set out in Bylaw 23M2024 including requirements on eligibility, amount, and conditions for ongoing receipt.
- (3) The *Municipal Assessor* must implement a decision of the *Board*.
- (4) The *Board* must issue a decision within 30 days following the end of a hearing.
- (5) The decision of a majority of the *members* present at the hearing of an appeal constitutes a decision of the *Board*.
- (6) A decision of a panel is a decision of the *Board*.

AUTHORITY OF CITY CLERK

13. The *City Clerk* is authorized to:

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- (a) provide administrative and operational support to the *Board* and its members as required to support the *Board's* mandate;
 - (b) establish notice of appeal forms;
 - (c) issue hearing notices and other communications on behalf of the *Board*; and
 - (d) issue communications on behalf of the *Board* to the public and media regarding the administration and operation of the *Board*.
14. The *City Clerk* is authorized to establish fees for the operation of the *Board* including, but not limited to:
- (a) the fee an *appellant* must pay to file a notice of appeal;
 - (b) fees to receive a copy of a recording made of a hearing; and
 - (c) fees to receive copies of filed documents.

TRANSITIONAL

15. Despite section 10, for the 6 months following the date this Bylaw comes into force, the *City Clerk* may, upon receiving a notice of appeal, schedule a hearing and issue a Notice of Hearing outside of the 60-day time period.

COMING INTO FORCE

16. 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 _____