

PROPOSED

EC2024-0461
ATTACHMENT 2

BYLAW NUMBER 23M2024

BEING A BYLAW OF THE CITY OF CALGARY TO CREATE AND ADMINISTER A NON-RESIDENTIAL TAX INCENTIVE PROGRAM FOR RENEWABLE ENERGY PROJECTS ON BROWNFIELDS

WHEREAS a municipal council may, by bylaw, provide for tax incentives for non-residential properties in the City pursuant to section 364.2 of the Municipal Government Act, RSA 2000, c. M-26;

AND WHEREAS the City of Calgary is committed to supporting a zero-carbon energy transition for the city, as outlined in the Calgary Climate Strategy: Pathways to 2050;

AND WHEREAS the City of Calgary is committed to achieving highest and best use of eligible brownfield properties within city boundaries and enabling redevelopment of these sites to incorporate renewable energy;

AND WHEREAS Council has considered EC2024-0641 and considers it necessary to pass a bylaw creating and administering a non-residential tax incentive program for renewable energy projects on brownfields;

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

PART 1 – SHORT TITLE

1. This Bylaw may be cited as the “Renewable Energy Non-Residential Tax Incentive Bylaw”.

PART 2 – INTERPRETATION AND DEFINITIONS

2. (1) In this Bylaw, unless context otherwise requires:
 - (a) “Act” means the Municipal Government Act, RSA 2000, c. M-26;
 - (b) “assessed person” means a person who is named on an assessment roll for a property in accordance with section 304 of the Act;
 - (c) “City” means the municipal corporation of The City of Calgary, and includes the geographical area within the boundaries of The City of Calgary where the context so requires;
 - (d) “Director, Climate & Environment” means the Chief Administrative Officer of the City of Calgary or the employee of the City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of the Chief Administrative Officer under this Bylaw;

PROPOSED

BYLAW NUMBER 23M2024

- (e) “*Environmental Laws*” means all current and future environmental laws, statutes, bylaws and regulations of the Province of Alberta relating to the protection of the environment, or that govern the ownership, charge, management, control, responsibility or liability for substances;
 - (f) “*Linear Property Assessment*” means the portion of a property assessment notice that is the result of an electric power system on that property within the meaning of section 284(1)(k) of the *Act*;
 - (g) “*Municipal Assessor*” means the person appointed as designated officer under Bylaw 49M2007, or that person’s designate;
 - (h) “*Municipal Taxes*” means the property taxes owing on a property under the *Act*, exclusive of the provincial portion;
 - (i) “*Operation Date*” or “*operational*” means property that is considered operational as per section 2(3)(a) of the *Matters Relating to Assessment and Taxation Regulation*, AR 203/2017; and
 - (j) “*Renewable Power Generation Facility*” means a facility that can generate electricity for the purposes of supplying energy into the Alberta electrical grid from the following fuel sources:
 - i. solar;
 - ii. wind; and
 - iii. any other renewable fuel source designated as such by the *Director, Climate & Environment*.
- (2) Nothing in this Bylaw relieves a person from complying with any Federal or Provincial law or regulation, other bylaw or any requirements of any lawful permit, order or licence.
- (3) Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefore.
- (4) 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 shall remain valid and enforceable.

PART 3 – TAX INCENTIVE PROGRAM

3. (1) An *assessed person* is entitled to a tax incentive for that person’s property where it meets the eligibility criteria set out in section 5 of this Bylaw as determined by the *Municipal Assessor* following an application made under Part 4 of this Bylaw.
- (2) The term “tax incentive” in subsection (1) means the reduction in *Municipal Taxes* as described in section 4 below.

PROPOSED

BYLAW NUMBER 23M2024

Scope of Tax Incentive

4. (1) The tax incentive available under this Bylaw is an exemption of 50% of the *Municipal Taxes* that result from a new *Linear Property Assessment* issued after the construction of a new *Renewable Power Generation Facility* on that property.
- (2) The amount of the new *Linear Property Assessment* is determined with respect to the year prior to the *Operation Date* of the *Renewable Power Generation Facility*.
- (3) The tax incentive does not include any taxes resulting from the value of the land as a portion of the property's assessed value.
- (4) The tax incentive is available each year to a maximum of 5 consecutive taxation years.
- (5) An *assessed person* may apply for an additional 5-year tax incentive for an expansion of the *Renewable Power Generation Facility* on the property where:
 - (a) such expansion increases the assessed value of the *Renewable Power Generation Facility*; and
 - (b) the total capacity of the *Renewable Power Generation Facility* remains at or above 5 megawatts in accordance with section 5(1)(c) below.
- (6) An extension of the tax incentive under subsection (5) above is limited to an exemption of 50% of the *Municipal Taxes* resulting from the amount of the *Linear Property Assessment* resulting from the expanded portion of the *Renewable Power Generation Facility*, calculated from the *Operation Date* of the expanded portion.
- (7) The tax incentive does not include tax deferrals.

Eligibility for Program

5. (1) An *assessed person's* property is eligible for a tax incentive where:
 - (a) it is a Brownfield Property as defined in subsection (2) below;
 - (b) it is being developed as a *Renewable Power Generation Facility* and will be used as such for the duration of the tax incentive;
 - (c) the *Renewable Power Generation Facility* has a capacity of no less than 5 megawatts;
 - (d) the *Renewable Power Generation Facility* is not yet *operational* at the time the *assessed person* makes an application under section 7 below;
 - (e) the *assessed person* is not in property tax arrears;

PROPOSED

BYLAW NUMBER 23M2024

- (f) the *assessed person* has no ongoing litigation against the *City*, exclusive of assessment complaints and related court proceedings made pursuant to the *Act* or proceedings pursuant to section 364.3 of the *Act*; and
 - (g) the *assessed person* has obtained all required permits for the operation of the *Renewable Power Generation Facility*.
- (2) For the purposes of subsection (1) a “Brownfield Property” means a property where there are substances occurring in concentrations exceeding the maximum acceptable amounts permitted under an *Environmental Law* that are present in, on or under the site and, in addition, the property either:
- (a) is one where site remediation or redevelopment to a higher and better use is not technically or economically feasible or permitted for the property; or
 - (b) has an approved long term *in-situ* remediation plan being implemented.

Conditions for Ongoing Receipt

6. An *assessed person* receiving a tax incentive under this Bylaw must, for the duration of the tax incentive:
- (a) provide information on an annual basis to the *Municipal Assessor* in the form required by the *Municipal Assessor*;
 - (b) continue to operate the property as a *Renewable Power Generation Facility* at or above 5 megawatts, exclusive of minor business interruptions;
 - (c) ensure all permits required under section 5(1)(g) are renewed or otherwise kept valid;
 - (d) not file for bankruptcy;
 - (e) not be in property tax arrears; and
 - (f) have no ongoing litigation against the *City*, exclusive of assessment complaints and related court proceedings made pursuant to the *Act* or proceedings pursuant to section 364.3 of the *Act*.

PART 4 – AUTHORITY OF MUNICIPAL ASSESSOR

Applications

7. (1) Applications for tax incentives under this Bylaw must be made by an *assessed person* in the form required by the *Municipal Assessor*, and must include:
- (a) a Power Plant Approval from the Alberta Utilities Commission;

PROPOSED

BYLAW NUMBER 23M2024

- (b) proof that the property meets the criteria to be considered a Brownfield Property under this Bylaw, such as copies of reports prepared by qualified environmental professionals; and
 - (c) any other information required by the *Municipal Assessor*.
- (2) Applications made prior to this Bylaw being passed pursuant to Council Policy “Tax incentives for renewable power generation developments on brownfield sites” (CP2023-04) are deemed to be valid applications under this Bylaw.

Tax Incentive Decisions

8. (1) The *Municipal Assessor* is authorized to decide if an application for a tax incentive under this Bylaw should be granted or denied.
- (2) When granting an application for a tax incentive, the *Municipal Assessor* must provide a written document to the applicant specifying:
- (a) why the incentive is granted; and
 - (b) what taxation years the tax incentive applies to.
- (3) The *Municipal Assessor* is authorized to cancel a tax incentive where:
- (a) the *assessed person* provided false or misleading information on an application; or
 - (b) the *assessed person* breached a condition under subsection 6 above or is otherwise found to be ineligible.
- (4) The *Municipal Assessor* must provide a decision with reasons in writing to applicants when denying an application or cancelling an incentive.
- (5) The *Municipal Assessor* may consult with other business units of the *City* in making a decision on an application and must give notice to the Province pursuant to section 364.2(8) of the *Act*.

Program Policies

9. The *Municipal Assessor* is authorized to make policies and procedures implementing this Bylaw.

PART 5 – APPEALS

Appeal Applications

10. An *assessed person* who is dissatisfied with a decision of the *Municipal Assessor* under this Bylaw may appeal that decision to the Tax Incentive Appeal Board in accordance with bylaw 24M2024.

PROPOSED

BYLAW NUMBER 23M2024

PART 6 – COMING INTO FORCE

11. 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 _____