

# PROPOSED

EC2024-1272  
ATTACHMENT 2

## BYLAW NUMBER 2M2025

### BEING A BYLAW OF THE CITY OF CALGARY TO ESTABLISH A COMMERCIAL CLEAN ENERGY IMPROVEMENT PROGRAM

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**WHEREAS** Council has considered report EC2024-1272 and deems it desirable to create a Commercial Clean Energy Improvement Program;

**AND WHEREAS** section 390.3 of the *Municipal Government Act*, RSA 2000, c. M-26 (the “Act”) provides that a municipality may pass a Clean Energy Improvement Tax bylaw to establish a Clean Energy Improvement Program;

**AND WHEREAS** a Clean Energy Improvement Tax bylaw authorizes a municipality to make a borrowing for the purpose of financing Clean Energy Improvements and enables those improvements to be made to eligible properties;

**AND WHEREAS** the Clean Energy Improvement Tax bylaw authorizes Council to impose a Clean Energy Improvement Tax in respect of each qualified Clean Energy Improvement made to a property to raise revenue to pay the amount required to recover the costs of those Clean Energy Improvements;

**AND WHEREAS** the Minister of Environment and Parks has designated the Alberta Municipal Services Corporation (operating as Alberta Municipalities) as the Program Administrator for the purposes of the *Clean Energy Improvements Regulation*, A.R. 212/2018;

**AND WHEREAS** section 390.3 of the *Act* further permits a municipality to make a borrowing for the purpose of financing clean energy improvements, and may do so within the context of a Clean Energy Improvement Tax bylaw, notwithstanding the provisions contained in section 251 of the *Act*;

**AND WHEREAS** pursuant to the *Act*, Council must, before giving second reading to a proposed bylaw under the authority provided by section 390.1, hold a public hearing in respect of the proposed bylaw after giving notice of it in accordance with the *Act*;

**AND WHEREAS** this Bylaw has been advertised in accordance with section 606 of the *Act* and a public hearing has been held in accordance with section 216.4;

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

#### Short Title

1. This Bylaw may be cited as the “Commercial Clean Energy Improvement Program Bylaw”.

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## PART 1 – DEFINITIONS AND INTERPRETATION

2. (1) In this Bylaw, unless context otherwise requires:
- (a) “*Act*” means the *Municipal Government Act*, RSA 2000 c. M-26;
  - (b) “*Administration Fee*” means an administration fee as defined in section 1(a) of the *Regulation*;
  - (c) “*Agreement*” means a clean energy improvement agreement executed between The City of Calgary and the *Owner* of a property under section 390.4 of the *Act* and section 10 of the *Regulation*;
  - (d) “*Chief Administrative Officer*” means the person appointed by The City of Calgary Council as its Chief Administrative Officer or that person’s delegate;
  - (e) “*City*” means the municipal corporation of The City of Calgary, or where the context requires means the area contained within the boundaries of The City of Calgary;
  - (f) “*Clean Energy Improvement*” means a permanent clean energy improvement as defined in section 390.1 of the *Act* and listed by the *Program Administrator* under section 3(1) of the *Regulation*;
  - (g) “*Clean Energy Improvement Tax*” means a tax imposed on a property in the *City* under Division 6.1 of the *Act* that is intended to repay the cost of a *Clean Energy Improvement* under an *Agreement*;
  - (h) “*Owner*” means a person or persons applying to take part in the *Program* and who are shown as the owner of a property on a certificate of title maintained by the Registrar under the *Land Titles Act* RSA 2000, c. L-4;
  - (i) “*Person*” means an individual or a business entity including a firm, partnership, association, corporation or society;
  - (j) “*Program*” means a clean energy improvement program established and operating under Division 6.1 of the *Act*;
  - (k) “*Program Administrator*” means the Alberta Municipal Services Corporation (operating as Alberta Municipalities), or its successors or assigns, or any other entity designated by the Minister pursuant to section 2 of the *Regulation*;
  - (l) “*Province*” means the Province of Alberta; and

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- (m) “*Regulation*” means the *Clean Energy Improvements Regulation* AR 212/2018.
- (2) 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.
- (3) Nothing in this Bylaw relieves a *Person* from complying with any provision of any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.
- (4) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- (5) Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference is to the act, regulation, code or other bylaw as amended, whether amended before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- (6) All Schedules attached to this Bylaw form part of this Bylaw.

### PART 2 – THE CITY’S CLEAN ENERGY PROGRAM

3. (1) A commercial clean energy improvement *Program* for the *City* is established under this Bylaw and the *Chief Administrative Officer* is responsible for implementing the *Program*.
- (2) The *Chief Administrative Officer* may enter into *Agreements* on behalf of the *City* under the *Act* and *Regulation* respecting the *Program* including agreements with the *Program Administrator*.
- (3) The *Chief Administrative Officer* may delegate any of the powers, duties, or functions provided to the *Chief Administrative Officer* in this Bylaw to any employee of the *City*.

### PART 3 – PROGRAM ELIGIBILITY

#### Applications to Program Administrator

4. (1) An *Owner* of a non-residential property that is eligible under this Bylaw may apply to the *Program Administrator* to finance a *Clean Energy Improvement* on that property.

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- (2) The *Program Administrator* may charge a fee in relation to the application, pursuant to the *Regulation*.
- (3) An *Owner* may submit one application per year per eligible property.

### Eligible Properties

5. (1) Any privately owned property located within the *City* that is classified by the Municipal Assessor as “non-residential” under section 297(1) of the *Act* is eligible to apply for the *Program*.
- (2) Despite subsection (1) above, properties that qualify as “designated industrial property” under section 284(1) of the *Act* are not eligible for the *Program*.
- (3) For greater certainty, property that is classified as “farm land” under section 297(1) of the *Act* is not eligible for the *Program*.
- (4) A property that is exempt from taxation under Part 10 of the *Act* may apply to the *Program*, and if approved for an *Agreement*, must pay the *Clean Energy Improvement Tax* as set out on the statement of account provided to the *Owner* by the *City* or as otherwise set out on a tax bill or on the *City’s* tax roll.

### Eligible Improvements

6. (1) A *Clean Energy Improvement* is eligible under the *City’s Program* where:
  - (a) it is listed in Schedule “A” to this Bylaw and has not been removed from the list of eligible improvements maintained by the *Program Administrator*, or
  - (b) it is not listed in Schedule “A” to this Bylaw, but has been designated by both the *Program Administrator* and the *City* as a permitted *Clean Energy Improvement*.
- (2) The *Chief Administrative Officer* may designate *Clean Energy Improvements* for the purposes of subsection (1)(b) above and must publish any such additional improvements on the *City’s* website.

## PART 4 – CLEAN ENERGY IMPROVEMENT AGREEMENT

7. (1) The *Chief Administrative Officer* may enter into an *Agreement* with an *Owner* whose application to the *Program Administrator* was approved.
- (2) The *Chief Administrative Officer* may require information from an *Owner*, in the form and manner specified by the *Chief Administrative Officer*, to ensure an *Agreement* with that *Owner* would comply with the *Act*, *Regulation*, and this Bylaw.
- (3) For greater certainty, the approval of an *Owner’s* application by the *Program Administrator* does not require the *Chief Administrative Officer* to enter into an *Agreement* with that *Owner*.

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8. The *Chief Administrative Officer* must not enter into an *Agreement* where:
- (a) the *Owner* is in tax arrears on the property;
  - (b) there is an existing *Agreement* in place for the property and the costs of that *Agreement* have not been placed on the tax roll;
  - (c) the costs of a proposed *Agreement* would cause the *City* to exceed the amount of borrowing authorized under this Bylaw;
  - (d) the *Owner* is in bankruptcy or receivership;
  - (e) the property is going through foreclosure;
  - (f) there are development compliance issues or safety code issues associated with the property;
  - (g) the *Program Administrator* has not approved an *Owner's* application for a *Clean Energy Improvement*;
  - (h) the *Owner* has not confirmed that the property's mortgagors have approved participation in the *Program* where such approval is a requirement under a mortgage agreement;
  - (i) there is a dispute with the *Owner* about whether the *Owner* is abiding by the terms of any other grant of financial assistance that the *Owner* has received from any level of government;
  - (j) the *Owner* of the property does not have standard commercial broad form property insurance and commercial general liability insurance in the amount that the *Chief Administrative Officer* considers sufficient;
  - (k) the property has not had a valid occupancy permit for at least one year;
  - (l) the *Owner* has fallen into tax arrears within the previous five years on the property; or
  - (m) the *Owner*, the property, or the terms of the proposed *Agreement*, do not otherwise meet any of the requirements under this Bylaw, the *Act*, or the *Regulation*.
9. The *Chief Administrative Officer* may consider the following when considering the proposed terms of an *Agreement*, or when considering whether to refuse to enter into an *Agreement*:
- (a) whether a *Person* related to the *Owner* is in bankruptcy, or receivership;
  - (b) whether the *Owner* owns any interest in another property that is going through foreclosure;
  - (c) whether a *Person* related to the *Owner* owns any interest in a property that is going through foreclosure;

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- (d) whether the property is the subject of some form of ongoing or anticipated litigation in relation to its ownership; or
  - (e) whether there is any other reason, in the *Chief Administrative Officer's* sole opinion, to refuse to enter into the *Agreement*.
10. A *Clean Energy Improvement* must be completed within the time limit set out in the *Agreement*.

### PART 5 – CLEAN ENERGY IMPROVEMENT TAX

11. (1) The *Chief Administrative Officer* may impose a *Clean Energy Improvement Tax* on a property that is subject to an *Agreement* in order to raise revenue to recover the cost of that improvement.
- (2) The *Clean Energy Improvement Tax* shall be displayed as a separate item on any tax notices.
- (3) The *Chief Administrative Officer* may impose the *Clean Energy Improvement Tax* at any time following the signing of that *Agreement* but in no case later than the next annual tax notice following payment being authorized by the *City* to a contractor for the improvement.
- (4) The amount of the tax must be calculated under the *Agreement* and recovered on an annual basis over a term comprised of the number years specified in the *Agreement*.
- (5) The term in the *Agreement* must not exceed the effective useful life of the *Clean Energy Improvement* as designated by the *Program Administrator* under section 3(2)(a) of the *Regulation*, to a maximum of 25 years.
- (6) Where more than one *Clean Energy Improvement* is made to a property the *Chief Administrative Officer* must impose a *Clean Energy Improvement Tax* in respect of each improvement made to the property.
12. The following costs must be included in the calculation of the *Clean Energy Improvement Tax*:
- (a) the outstanding capital cost of undertaking the *Clean Energy Improvements*;
  - (b) the cost of professional services needed for the *Clean Energy Improvements*;
  - (c) the *Administration Fee*;
  - (d) the cost of financing the *Clean Energy Improvements*; and
  - (e) any other incidental costs to the undertaking of the *Clean Energy Improvement* and to the raising of revenue to pay for it specified in the *Agreement*.
13. If an *Owner* wishes to make early, full repayment of an amount financed by a *Clean Energy Improvement Tax*, the amount owing must be calculated at the time of the request, based on the terms of the *Agreement*.

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14. An *Owner* must append the *Agreement* to any contract of sale for the property but the failure to do so does not invalidate the *Agreement* or affect the imposition of the *Clean Energy Improvement Tax*.

### PART 6 – AUTHORIZED BORROWING

15. Pursuant to section 390.3(4)(b) of the *Act*:
  - (a) For the purposes of the *Program*, the proper officers of the *City* are hereby authorized to borrow on behalf of the *City* to a maximum sum of \$10 million.
  - (b) The *City* shall repay the indebtedness over a period not exceeding twenty-five (25) years, with interest being calculated at an interest rate fixed by the lender on the date of the borrowing, up to a maximum rate of 8% per annum.
  - (c) The indebtedness shall be repaid by the *City* through the *Clean Energy Improvement Tax* that shall be collected from *Owners* pursuant to the respective terms of their individual *Agreements*, and pursuant to the *Act*.
  - (d) The net amount borrowed under this Bylaw shall be applied only to the purposes specified by this Bylaw and for no other purpose.

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## 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 \_\_\_\_\_



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## SCHEDULE "A"

### LIST OF ELIGIBLE COMMERCIAL CLEAN ENERGY IMPROVEMENTS

Eligible Category	Eligible Clean Energy Improvements
<b>Doors, Windows, Insulation &amp; Air Sealing</b>	Air Curtains
	Air Infiltration, Sealing, and Pressurization
	Energy-Efficient Window
	Building Automation System Upgrade
	Insulation
<b>Commercial Kitchen</b>	Demand Control Kitchen Ventilation (DCKV)
<b>Heating, Ventilation &amp; Air Conditioning</b>	Advanced Rooftop Unit Controls
	Boiler and Heater Controls
	Boiler Economizer
	Demand Control Building Ventilation
	Destratification Fan
	Energy/Heat Recovery Ventilator
	High-Efficiency Rooftop Unit or Make Up Air Unit
	High-Efficiency Boiler
	High-Efficiency Packaged Cooling
	High-Efficiency Chillers-Air Cooled
	High-Efficiency Chillers-Water Cooled Centrifugal
	High-Efficiency Chillers-Water Cooled Positive Displacement
	High-Efficiency Furnace
	Air Source Heat Pump (Ductless Mini-Split)
	Air Source Heat Pump (Ducted)
	Ground Source Heat Pump
	High-Efficiency Unit Heater
	Hotel/Motel Guest Room Occupancy Sensor
	Pipe and Duct Insulation
	Smart Thermostat
Transpired Air Collector Systems	
Ice Rink Floor Water Deaerators	
High-Efficiency Pump	
	Bay Fixture and Retrofit Kit
	Downlight Fixture and Retrofit Kit
	Horticulture LED Grow Light Fixture
	Indoor Lighting Control
	LED Accent/Track Lighting

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<b>Lighting</b>	LED Display Case and Under Cabinet Lighting
	LED Exit Sign
	LED Wall-Wash Lighting Fixture and Retrofit Kit
	Outdoor LED Fixture and Retrofit Kit
	Outdoor Lighting Control
	Troffer Fixture and Retrofit Kit
<b>Motors &amp; Drives</b>	Electrically Commutated Motor (ECM) for HVAC Fans
	Motor Belt Retrofits
	Open Drip Proof (OPD) Motors
	Totally Enclosed Fan-Cooled (TEFC) Motors
	Variable Speed Drive For Pumps
	Variable Speed Drive For Cooling Tower Fans
	Variable Speed Drive For HVAC Fans
<b>Solar Energy</b>	Solar PV System
	Battery Energy Storage
	Solar Thermal Water Heating
<b>Water Heating</b>	Drain Water Heat Recovery
	Tankless Gas Water Heater
	High-Efficiency Storage Water Heater
	Air Source Heat Pump Water Heater
	Ground Source Heat Pump Water Heater