

Proposed Wording for the 2019 Business Improvement Area Tax Bylaw

Short Title

1. This Bylaw may be cited as the “2019 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 BIA 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;
 - (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) “Operator of a Parking Facility” means a Person that operates a Parking Facility whose responsibilities include any one or more of the following:
 - (i) the lease, license, or rental of area or spaces in a Parking Facility,
 - (ii) the allotment of area or spaces in a Parking Facility,
 - (iii) the allocation of area or spaces in a Parking Facility,
 - (iv) the general maintenance and upkeep of the Parking Facility, which may include but is not limited to repairs, the security of the Parking Facility, and the obtaining of insurance for the Parking Facility,

- (v) the collection of fees from the users of the Parking Facility, and
 - (vi) the delegation or assignment of one or more of the above responsibilities;
 - (j) "Parking Facility" means any space used for the parking or storage of motor vehicles and includes but is not limited to a parkade, parking garage, or parking lot;
 - (k) "Person" includes a corporation and the heirs, executors, administrators or other legal representatives of a Person;
 - (l) "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,
 - (ii) any store, office, warehouse, factory, facility, hotel, motel, enclosure, yard or other space, and
 - (iii) a Parking Facility;
 - (m) "Regulation" means the *Community Organization Property Tax Exemption Regulation* (Alberta Regulation 281/1998); and
 - (n) "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) 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 2019 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) Subsection (1) applies to an Operator of a Parking Facility, regardless of:
- (a) whether parking space in the Parking Facility is used by any of the following:
 - (i) the owner,
 - (ii) a tenant, or
 - (iii) the public;

- (b) the source or ownership of the motor vehicles parked or stored in the Parking Facility;
 - (c) the allocation of area or spaces within the Parking Facility; and
 - (d) the location of the Parking Facility.
- (4) Business assessments shall be prepared based on one hundred percent of the Net Annual Rental Value of the Premises.
- (5) 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, 2018.
- (6) The Municipal Assessor shall:
 - (a) prepare a business assessment roll for the purposes of generating a BIA tax roll for 2019; and
 - (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 2019, the Municipal Assessor may correct the business assessment roll for 2019.
- 5. If it is discovered that no business assessment has been prepared for a Business for 2019, an assessment for 2019 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 2019 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
 - (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 2019, with any portion of a month greater than fifteen (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 2019 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 one hundred percent of the assessment or supplementary assessment for the Business by the BIA tax rate specified in the 2019 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 29, 2019.

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.

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 2019 property assessment roll as one hundred 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 and Liquor 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 and Liquor 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 and Liquor 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 of Calgary;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, 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; and
 - (ii) is entirely empty from wall to wall and floor to ceiling, and does not contain equipment, furnishings, cubicle walls or partitions; but
 - (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, 2019, a penalty of seven (7%) percent of the unpaid amount of the current year's BIA tax levy shall be imposed; and
- (b) On July 1, 2019, 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.
20. A supplementary BIA tax is due thirty (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 fifteen (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 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 City Treasurer or his or her designate.
- (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) A Taxpayer who applies for inclusion in BTIPP after December 31st and who is approved by the Tax Collector for inclusion in BTIPP shall pay all the monthly instalments which should have been paid as at the time of application had the Taxpayer been included in BTIPP as at January 1st plus a late enrolment fee of two percent (2%) thereof;
 - (c) The Tax Collector may refuse a Taxpayer's request to be included in BTIPP for reasons as set out in this Bylaw;
 - (d) 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.
 - (e) 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 an 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 by ordinary mail to the Taxpayer's last known address 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 the payment of Taxes as specified in the 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.

SCHEDULE "A"

TO THE 2019 BUSINESS IMPROVEMENT AREA TAX BYLAW

BUSINESS IMPROVEMENT AREA	BYLAW NUMBER
Mainstreet Bowness Business Improvement Area	55M2016
Calgary Downtown Association	38M2017
Chinatown District Business Improvement Area	43M2015
4 th Street South West Business Improvement Area	59M2016
HIPville 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