



AGENDA
TOWN OF PINCHER CREEK
COMMITTEE OF THE WHOLE
Wednesday, January 5, 2022 AT 9:00 A.M.
[Virtual via Zoom](#)

1. **Call to Order**
2. **Agenda Approval**
3. **Scheduled Delegations**
 - 3.1 Alberta Health Services Covid Update – Kristin Dykstra (Tentative)
4. **Committee Reports**
5. **Administration**
6. **Business Arising from the Minutes**
 - 6.1 Operations Committee Terms of Reference
 - 6.2 Tax Incentive Bylaw – Review
7. **Policy**
8. **New Business**
 - 8.1 Transportation Committee Terms of Reference
9. **Closed Session**
 - 9.1 Street Name Consideration FOIPs SECTION 16 and 24
 - 9.2 Housing Potential Roll Number 09401800 FOIPs SECTION 16 and 24
 - 9.3 Development Procedures Review (No RFD) FOIPs SECTION 16 and 24
10. **Adjournment**

TOWN OF PINCHER CREEK

REQUEST FOR DECISION

Committee of the Whole

SUBJECT: Operations Committee Terms of Reference

PRESENTED BY:

Al Roth, Director of Operations

DATE OF MEETING:

1/5/2022

PURPOSE:

For Committee of the Whole to consider the proposed changes to the Operations Committee Terms of Reference, which include the December 1, 2021

RECOMMENDATION:

That Committee of the Whole for the Town of Pincher Creek approve the proposed changes in the Operations Committee Terms of Reference.

BACKGROUND/HISTORY:

On October 25, 2021 Organizational Meeting, Council determined two Councilors representatives will be apart of the Operations Committee.

During the December 1, 2021 Committee of the Whole, a motion was made to approve the reduction of council representatives on the Operations Terms of Reference (COTW 2021-147).

Additional amendments to the Operations Terms of Reference were directed to Administration including: adding Soiled Waste Management (COTW 2021-148) and adding a set minimum

Administration was directed to amend the Operations Terms of Reference to include the a minimum number of meetings. COTW 2021-149

ALTERNATIVES:

That Committee of the Whole request additional changes to the Operations Committee Terms of Reference.

IMPLICATIONS/SUPPORT OF PAST STUDIES OR PLANS:

None at this time.

FINANCIAL IMPLICATIONS:

None at this time.

PUBLIC RELATIONS IMPLICATIONS:

None at this time.

ATTACHMENTS:

10-23-2021- OPS Terms of Reference - 2784

CONCLUSION/SUMMARY:

Administration supports that Committee of the whole for the Town of Pincher Creek and the proposed changes

Signatures:

Department Head:

Al Roth

CAO:

Laurie Wilgosh



TERMS OF REFERENCE

Pincher Creek Operations Committee

PURPOSE OF THE COMMITTEE:

The Pincher Creek Operations Committee shall study and provide advice to the Town of Pincher Creek regarding matters related to Operational Services which could include:

- Infrastructure (Water/Waste Water and Roads/Streets)
- Equipment
- Policy/Bylaws
- Cemetery
- By law Enforcement/Compliance Issues/Safety Codes
- Solid Waste and Recycling

Specifically, the Committee will:

- Maintain current service level

MEMBERSHIP:

The Committee shall be composed of up to 3 voting members. Composition shall be as follows:

Town of Pincher Creek – Two (2) Councilors

Member at Large - One (1)

A member of the Committee will be disqualified to serve on the Committee if they:

- Cease to be a resident of Pincher Creek
- Are absent for three (3) meetings unless absences are authorized by the Town of Pincher Creek
- Send written notice of resignation to the Town of Pincher Creek

TERM OF THE COMMITTEE:

- four (4) years for Councilors (October 2021 to October 2025) or until such time as the purpose of the committee has been fulfilled
- One (1) year for Members at Large or until such time as the purpose of the committee has been fulfilled.
- the Committee shall serve at the pleasure of Council and may be dissolved at any time with the agreement of the Town of Pincher Creek or by committee resignation or recommendation.

CONDUCT OF MEETINGS:

- Meetings will be conducted in accordance with Bylaw 1596-21
- The Committee shall hold no less than four (4) regular meeting of the committee each year.

AUTHORITY OF THE COMMITTEE:

- The Committee shall act in an advisory capacity to the Town Council and shall not have the power to direct Town consultants or enter into any agreements.

FINANCIAL:

- The Committee may not incur any expenses unless authorized by the Town of Pincher Creek.

TOWN OF PINCHER CREEK

REQUEST FOR DECISION

Committee of the Whole

SUBJECT: Tax Incentive Bylaw No. 1629-21	
PRESENTED BY: Gus Kollee, Legislative Service Manager	DATE OF MEETING: 1/5/2022

PURPOSE:

Further to Town Council resolution 21-472 to bring back Bylaw No. 1629-21 to the Committee of the Whole for further direction and or recommendations.

RECOMMENDATION:

That Committee of the Whole for the Town of Pincher Creek direct administration to amend the proposed Tax Incentive Bylaw No 1629-21 and bring back the bylaw at the next Committee of the Whole meeting.

BACKGROUND/HISTORY:

On January 6, 2021 the Committee of the Whole was presented with information and the changes to the section 364.2 of the Municipal Government Act. Going forward municipalities can offer tax exemptions and tax deferrals (collectively, "Incentives") to non-residential properties, for the purpose of encouraging the development or revitalization of these properties for the general benefit of the municipality. It gives municipalities the discretion to determine how much they wish to reduce or defer taxes for a particular non-residential property, subject only to the requirement that an Incentive last for no more than 15 years.

The Rural Municipalities of Alberta (RMA) bulletin date June 5, 2019 provided information that municipalities are granted tax incentive powers for non-residential uses to support economic development.

As a result the Committee of the Whole directed administration to prepared a Tax Incentive Bylaw for Council consideration.

On February 22, 2021 Town Council gave first reading of Bylaw No. 1629-21. However, on October 12, 2021 Town Council repealed resolution #21-064 approving first reading of the Tax Incentive Bylaw No. 1629-21 and directed administration to bring back the bylaw for Council's consideration within a three month period (Resolution 21-386).

On December 13, 2021 Town Council passed the following resolution:

"That Council for the Town of Pincher Creek direct administration to bring the proposed Tax Incentive Bylaw No 1629-21 to the Committee of the Whole for their review and recommendations." Resolution 21-472

ALTERNATIVES:

- That the Committee of the Whole receive the proposed Tax Incentive Bylaw No. 1629-21 as information.

- That the Committee of the Whole direct administration to bring back Bylaw No. 1629-21 to the next regular Council meeting for consideration.

IMPLICATIONS/SUPPORT OF PAST STUDIES OR PLANS:

None at this time.

FINANCIAL IMPLICATIONS:

None at this time.

PUBLIC RELATIONS IMPLICATIONS:

The idea of offering an incentive to new and expanding businesses is very appealing as it may encourage some of our existing businesses to look into growth opportunities.

It would encourage incentivization as positive steps as we move into additional steps that will come out of the Community Economic Development Strategy.

ATTACHMENTS:

Draft Bylaw No 1629-21 - Tax Incentive bylaw - 2790
Municipal Law Bulletin - Brownlee Fall 2021 - 2790

CONCLUSION/SUMMARY:

Administration supports that the Committee of the Whole direct administration to amend the proposed Tax Incentive Bylaw No 1629-21 and bring back the bylaw at the next Committee of the Whole meeting.

Signatures:

Department Head:

August Killee

CAO:

Wendy Caton, For: CAO

TOWN OF PINCHER CREEK IN THE PROVINCE OF ALBERTA

Bylaw No. 1629-21

A BYLAW OF THE TOWN OF PINCHER CREEK IN THE PROVINCE OF ALBERTA, TO ESTABLISH TAX INCENTIVES FOR BUSINESS DEVELOPMENT

WHEREAS the Town of Pincher Creek acknowledges the importance of business development in the Town for the general benefit of the Town, including goods, services, employment and taxes;

AND WHEREAS the Town wishes to support the growth of already existing businesses and also attract more businesses to support the growth and prosperity of the Town;

AND WHEREAS pursuant to Section 364.2 of the *Municipal Government Act*, RSA 2000, c M-26, Council may pass a tax incentives bylaw to encourage development and revitalization of non-residential properties for the general benefit of the Town;

AND WHEREAS the Town of Pincher Creek is responsible for carrying out measures that will develop and maintain a viable community pursuant to Section 3(c) of the *Municipal Government Act*, which includes measures to improve the long-term economic outlook for the Town;

NOW THEREFORE, the Council of the Town of Pincher Creek, in the Province of Alberta, duly assembled, enacts as follows:

1. Short Title

1.1 This Bylaw may be referred to as the "Tax Incentives Bylaw".

2. Definitions

2.1 In this Bylaw, unless the context otherwise requires:

- a) "Act" means the *Municipal Government Act*, RSA 2000, c M-26, as amended from time to time;
- b) "Administration" means the administrative and operational arm of the Town comprised of the various departments and business units and including all employees who operate under the leadership and supervision of the CAO;
- c) "Applicant" means a person who applies for an Exemption;
- d) "Assessed Person" means an assessed person as that term is defined under Section 284(1) of the Act;
- e) "Business" means commerce for purposes of the production, storage, buying or selling of goods and services;
- f) "Chief Administrative Officer" or "CAO" means the chief administrative officer as appointed by Council, including the CAO's delegate;

- h) "Complete Application" means an application submitted pursuant to this Tax Incentives Bylaw that includes the Application Fee (if any) and the application requirements for non-residential tax incentives and the application form for non-residential tax incentives as set out in Appendices "A" and "B"
- i) "Council" means all the Councillors of the Town including the Chief Elected Official for the Town;
- g) "Exemption" means an exemption from taxation for Non-residential Property as provided for in Part 10, Division 2 of the Act. For purposes of clarity, the exemption from taxation applies only to taxes imposed by the Town under Part 10, Division 2 of the Act and not any Provincial requisitions;
- h) "Expansion" means development that adds to an existing Structure to increase the Structure's physical space for purposes of facilitating the Business within that Structure, or to replace an existing Structure for purposes of facilitating the Business within that Structure;
- i) "New Construction" means the construction of a new Structure for the purpose of establishing a Business within that Structure;
- j) "Non-residential Property" means non-residential as defined in the Act in respect of property;
- k) "Qualifying Property" means a Structure that is the subject of the New Construction or an Expansion;
- l) "Structure" means a structure as that term is defined in s 284(1)(u) of the Act that is Non-residential Property;
- m) "Tax Incentive Agreement" means a written agreement setting out the terms and conditions for an Exemption for the Qualifying Property; and
- n) "Town" means the Town of Pincher Creek in the Province of Alberta.

3. Purpose

- 3.1 The purpose of this Tax Incentives Bylaw is to allow tax incentives for Exemptions from taxation under Part 10, Division 2 of the Act for Qualifying Properties in the Town that meet the requirements of this Tax Incentives Bylaw.
- 3.2 Tax incentives under this Tax Incentives Bylaw will not be granted in respect of the land portion of Non-residential property taxes imposed on land under Part 10, Division 2 of the Act.

4. Criteria for an Exemption

- 4.1 In order to apply for an Exemption from the Town portion of the property tax (not including land portion), an Applicant must meet the following criteria:
 - 4.1.1 the Applicant must be the Assessed Person for the Qualifying Property that is the subject of the application;
 - 4.1.2 the applicant may apply for an exemption for structural improvements to a property made by a tenant of the property;

4.1.3 the Applicant must have no outstanding monies owing to the Town.

4.2 In order to qualify for an Exemption, the Qualifying Property must meet the following criteria:

4.2.1 the Qualifying Property must be located within the geographical boundaries of the Town;

4.2.2 the development of the Qualifying Property must qualify as New Construction or an Expansion;

4.2.3 All required Town development approvals with respect to the development of the Qualifying Property must have been issued;

4.2.4 Eligibility for a Tax Incentive pursuant to this Bylaw requires the following criteria:

4.2.4.1 Notarized statement from a third-party construction firm indicating that the costs presented by the applicant are true, and that all costs submitted are those only for constructing or expanding the structure of the building.

4.2.4.2 In the case where a property owner elects to use his/her own labour, then a letter from a third-party accounting firm is required verifying the costs submitted and ensuring that all costs are true, and those that are submitted are only those for constructing or expanding the building.

4.2.4.3 A building/ development permit has been obtained and executed by the Town of Pincher Creek.

4.2.4.4 All construction inspections are completed and a permit for occupancy has been granted by the Town.

4.2.4.5 A minimum of \$5,000 invested in new construction or expansion

4.2.5 The Applicant must submit a Complete Application in accordance with the terms of this Bylaw.

4.2.6 With respect to a Qualifying Property, only one agreement with a three- year period is allowed.

5. Application for an Exemption

5.1 Applicants must submit a Complete Application to the CAO. The CAO shall respond to the application within 30 working days from the time of submission.

5.2 Applications may be submitted at any time and, if approved, the tax exemption applies for 36 months from the date the structure is approved for occupancy. If the date of approval should fall outside the Town tax fiscal year then the exemption will be adjusted to apply for 36 contiguous months and the first month shall be the first month of the next Town tax fiscal year.

5.3 Complete Applications may be considered and approved in accordance with the requirements of this Tax Incentives Bylaw before construction on the Qualifying Property is complete, however, the Exemption will not apply until all construction on the Qualifying Property is complete and the development is inspected and approved for occupancy.

5.4 Notwithstanding the Complete Application requirements set out in this Bylaw, the CAO may require any additional information that, in the discretion of the CAO, is necessary to complete the application.

- 5.5 The CAO will advise Applicants in writing if their application is accepted for consideration. Applications accepted for consideration shall become the property of the Town and may not be returned.
- 5.6 The CAO has the discretion to reject applications that are incomplete and will provide a written description of the reasons for rejection within 30 business days of the application.
- 5.7 Applicants whose applications are returned as incomplete may resubmit an application at any time.
- 5.8 The CAO will advise Applicants within 30 business days in writing with reasons if their application is rejected.

6. Consideration of Applications

- 6.1 Administration shall review the Complete Application to determine if it meets the criteria and requirements for an Exemption and provide a written report with recommendations to Council within 30 business days of the application.
- 6.2 Council shall review the Complete Application and Administration's report and may:
 - 6.2.1 pass a resolution directing Administration to enter into a Tax Incentive Agreement; or
 - 6.2.2 pass a resolution refusing the Complete Application.
- 6.3 A resolution directing Administration to enter into a Tax Incentive Agreement must include:
 - 6.3.1 the 36 months to which the Exemption applies; and
 - 6.3.2 the dollar value of the Exemption for the Qualifying Property for each of the fiscal tax years affected whether based upon the costs of New Construction or the costs of an Expansion.
 - 6.3.3 In the first 36 months identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 100% Exemption on the mill rate imposed by the Town for the Town's portion of the property tax for the qualifying amount.
 - 6.3.4 Notwithstanding that the exemption may be granted during a municipal tax fiscal year, the 36 months of exemption from the municipal portion of the tax shall commence in the first month of the next Town tax fiscal year.
- 6.4 Administration shall provide written notice of a refusal by Council to an Applicant within 14 business days which must include the resolution passed under section 6.2.2.

7. Tax Incentive Agreement

- 7.1 Where Council has passed a resolution approving an Exemption, Administration shall draft a Tax Incentive Agreement in accordance with the resolution of Council.
- 7.2 A Tax Incentive Agreement must outline:
 - 7.2.1 the taxation years to which the Exemption applies, which must not include any taxation year earlier than the taxation year in which the Exemption is granted;

- 7.2.2 the extent of the Exemption for each taxation year to which the Exemption applies;
 - 7.2.3 a deadline for submission of proof that the Qualifying Property has been approved for occupancy;
 - 7.2.4 any criteria in Section 4 which formed the basis of granting the Exemption and the taxation year or years to which the criteria applies all of which are deemed to be a condition or conditions of the Tax Incentive Agreement the breach of which will result in the cancellation of the Exemption for the taxation year or years to which the criteria applies;
- 7.5 In the event of a cancellation pursuant to section 8.1 of this Bylaw, any monies owed to the Town shall be immediately paid by the Applicant; and
- 7.6 any other conditions Administration deems necessary and the taxation year(s) to which the condition applies.
- 7.7 Tax Incentive Agreements shall be executed by the chief elected official (or their delegate) and the CAO within 30 business days of approval of the Exemption by Council.
- 7.8 A Tax Incentive Agreement shall be honored notwithstanding this bylaw being amended or repealed subsequent to entering into such agreement.
- 7.9 Notwithstanding that the market value of a property could increase, decrease or remain the same, no applicant will be allowed to use the municipal incentive tax rebate to reduce the tax bill to below zero. Any calculated negative amounts will not be carried forward.

8. Cancellation of Tax Incentive Agreements

- 8.1 If at any time after an Exemption is granted, Administration determines that the Applicant or their application:
- 8.1.1. did not meet, or ceased to meet, any of the material applicable criteria in Section 4 which formed the basis of granting the Exemption;
 - 8.1.2. Tax arrears are owing with respect to the Qualifying Property; or
 - 8.1.3. that there was a breach of any material condition of the Tax Incentive Agreement; then
- Administration shall make a recommendation to Council and Council may, by resolution, cancel the Exemption for the taxation year or years in which the criterion was not met or to which the condition applies.
- 8.2 A resolution passed by Council pursuant to section 8.1 must include reasons and identify the taxation year or years to which the cancellation applies.
- 8.3 Administration shall provide written notice of a cancellation to an Applicant which must include the resolution passed under section 8.1.

9. Review of Decision

- 9.1 Where an application has been rejected by Administration on the basis that it is incomplete, Applicants may resubmit to Administration a revised application at any time;
- 9.2 Applicants may apply to Council within 30 business days of receiving a Tax Incentive Agreement to review the Tax Incentive Agreement on the limited issue of whether the Tax Incentive Agreement follows the direction of Council. Council may revise the Tax Incentive Agreement or provide direction to Administration to revise the Tax Incentive Agreement in accordance with Council's initial resolution.
- 9.3 Applicants may apply to Council within 30 business days of receiving a notice of cancellation to review the cancellation and Council may uphold or revoke the cancellation.
- 9.4 Applications for judicial review of a decision pursuant to this Tax Incentives Bylaw must be filed with the Court of Queen's Bench and served not more than sixty (60) days after the date the decisions is received by the Applicant.

10. Review of Bylaw

- 10.1 This bylaw shall be reviewed by Council in a public Council meeting at least every second year from the date of passing of the bylaw for the purpose of assessing whether to amend or repeal the bylaw.

11. Severability

- 11.1 If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed, and the remainder of this Bylaw is deemed valid.

12. Effective Date

- 12.1 This Bylaw shall come into force and take effect when it is approved after third reading.

READ a First time this _____ day of _____, 2022.

READ a Second time this _____ day of _____, 2022.

READ a Third time this _____ day of _____, 2022.

SIGNED AND PASSED this _____ day of _____, 2022.

Don Anderberg, MAYOR

Laurie Wilgosh, CHIEF ADMINISTRATIVE OFFICER

Appendix "A"

Application Requirements for Business Investment Incentive Bylaw No. 1629-21

1. All applications for an Exemption under to the Tax Incentives Bylaw must include the following information:
 - a) a signed and dated application form:
 - b) if the Applicant is not an individual, an agent authorization form or directors' resolution:
 - c) if the Applicant is a corporation, a corporate registry record of the Applicant dated within 60 days of the date of the application:
 - d) a land titles certificate for the lands on which the Qualifying Property is located dated within 60 days of the date of the application:
 - e) copies of all building/development permits issued with respect to the development of the Qualifying Property:
 - f) a description of the Business conducted or to be conducted in the Qualifying Property:
 - g) an indication of whether the development is New Construction or an Expansion:
 - h) an estimate of when the Qualifying Property will be approved for occupancy after completion of the New Construction or Expansion:
 - i) an explanation of how the application meets the criteria for an Exemption; and
 - j) With regards to Expansions the following additional information:
 - i. photographs of the Qualifying Property before the Expansion; and
 - ii. a notarized statement from a third-party construction firm indicating that the costs presented by the applicant are true, and that all costs submitted are those only for constructing or expanding the structure of the building
 - iii. a financial summary and copies of receipts or paid invoices in relation to the development showing the location of the Expansion.
2. Applicants may provide any other material, including additional print, visual or audio- visual material, which the Applicant believes will support their application.

NOTE: Applications and all material provided will be included in reports to Council and the Council agenda packages that are available to the public.

All Qualifying Properties will be subject to inspection by Town staff to ensure the validity of the application.

Appendix "B"
Application Form for Business Investment Incentive
Pursuant to the Tax Incentives Bylaw No. 1629-21

Business Information

Business Name: _____

Registered Corporate name, if different: _____

Legal Address of Assessed Property: _____

Mailing Address of Assessed Property: _____

Personal Information

Name of applicant or agent: _____

Mailing Address for applicant or agent: _____

Email Address for applicant or agent: _____

Telephone number for applicant or agent: _____

Personal information required by Town of Pincher Creek application forms is collected under authority of sections 33(a) and (c) of the Alberta Freedom of Information and Protection of Privacy (FOIP) Act. Your personal information will be used to process your application(s). Please be advised that your name, address and details related to your application may be included on reports that are available to the public as required or allowed by legislation. If you have any questions, please contact the Town's FOIP Head at 403-627-3156 or email reception@pinchercreek.ca

Provide, or append, a brief description of the Business:

The Applicant is applying for a three-year (36 month) tax incentive for : (choose applicable)

- ☐ New Construction
- ☐ Expansion
- ☐ Improvements (façade)

Describe, or append, an explanation of why you are seeking an Exemption and how you meet the criteria for one of the tax incentive programs listed above:

What date is the subject property expected to be approved for occupancy :

Indicate if the application includes the following:

- | | |
|---|---|
| ☐ Building/Development Permits (required) | ☐ Land Titles Certificate (required) |
| ☐ Tax Assessment Notices (required) | ☐ Notarized cost statement |
| ☐ Agent Authorization Form/Directors' Resolution (if applicable) | ☐ Photos (if applicable) |
| ☐ Financial Summary and Receipts/Invoices (if applicable) | ☐ Other materials (optional) |
| ☐ Corporate Registry Record (if applicable) | |

Date of the Application

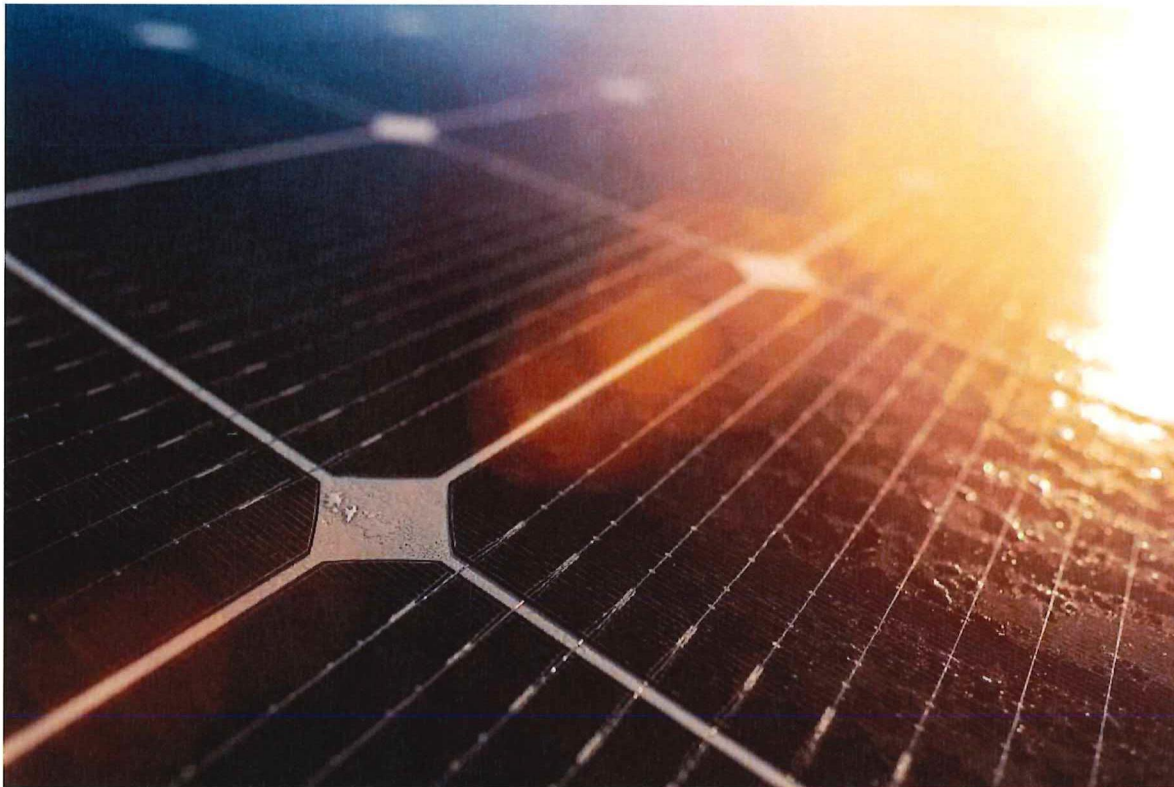
Signature of Applicant (or Applicant's Agent)

Print Name of Applicant (or Applicant's Agent)

FOR OFFICE USE ONLY

DATE APPLICATION WAS RECEIVED

NAME OF RECIPIENT



Tax Incentive Bylaws – A ‘Bright’ Future for Incentivizing Solar Infrastructure

Authors: [Adam Ferris](#), Lawyer; [Greg Plester](#), Partner; and [Rebecca Kos](#), Lawyer

As the push to power a larger portion of our communities with renewable energy grows, so too may the desire to have renewable energy infrastructure within your municipality. As a result of Bill 7, the *Municipal Government (Property Tax Incentives) Amendment Act, 2019* and Bill 29, the *Municipal Government (Machinery and Equipment Tax Incentives) Amendment Act, 2019*, municipalities across Alberta now have a tool to encourage the

development (or revitalization) of solar farms or other renewable energy developments within their boundaries. Specifically, the combined effect of Bill 7 and Bill 29 grants municipalities the authority to offer full or partial tax exemptions (“Exemptions”) and tax deferrals (“Deferrals”) to non-residential and machinery and equipment assessment classes (collectively, “Tax Incentives”), through the use of a Tax Incentive Bylaw.

Tax Incentives can Target Specific Industries or General Areas

The ability to offer a Tax Incentive to non-residential and machinery and equipment assessment classes provides municipalities with the opportunity to tailor a Tax Incentive Bylaw to target renewable industries, general areas suitable for renewable development, or both.

The *Municipal Government Act* (the “MGA”) provides an outline of the content required for a Tax Incentive Bylaw. Among the requirements outlined in the MGA is that every Tax Incentive Bylaw must: (1) provide a limit on a Tax Incentive to no more than 15 consecutive taxation years (although subsequent extensions may be granted); (2) establish a process for the submission and consideration of an application; and (3) establish criteria to be met in order to qualify for an Exemption or Deferral.

Given the ability to establish eligibility criteria to qualify for a Tax Incentive, municipalities may be able to use Exemptions or Deferrals to attract and maintain specific types of development. For example, if a municipality is attempting to attract a solar farm, a Tax Incentive Bylaw can be drafted so that only developments that meet specified related criteria set by the municipality will be eligible for the tax incentive. While a solar farm is one example, criteria can be set to allow Tax Incentives for many different types of businesses or industries.

Similarly, a Tax Incentive Bylaw can be used by a municipality looking to revitalize or attract development to specified areas within its jurisdictional boundaries. A municipality may choose to include as a criterion for a Tax Incentive that non-residential property or machinery and equipment must be located within a specific geographic area. As a result, eligible properties within the defined area will receive either an Exemption or Deferral, and taxation will continue as usual for the rest of the municipality.

Considerations When Drafting and Implementing a Tax Incentive Bylaw

Among the matters a municipality must consider when preparing a Tax Incentive Bylaw are the following:

1. **Land Assessment:** Whether to include or exclude the land portion of the assessed value of a property from a Tax Incentive is a decision that every municipality will need to make when passing a Tax Incentive Bylaw. Such a consideration is likely to be

specifically relevant to solar farms, as the subject land may be rezoned from an agricultural to an industrial or other land use district, resulting in an increase to the value of the land or an increase in annual taxes. A municipality may choose to apply the Tax Incentive to the change in assessed value attributable solely to any improvements on the land (i.e.: solar infrastructure) in order to limit the tax benefits to new development. Alternatively, a municipality may choose to apply the Tax Incentive to the entire assessment value of the parcel, accounting for any change in the value of the land, and the change in value brought about by the improvements.

2. Monitoring of Conditions: On the approval of a Tax Incentive, a municipality must set conditions that if breached will result in the cancellation of the Tax Incentive for the taxation year(s) to which the conditions apply. The ability of a municipality to cancel Exemptions or Deferrals if a property fails to meet or ceases to meet specific criteria or conditions ensures that a municipality can hold ratepayers accountable to the terms set out. However, ensuring compliance with the terms of a Deferral or Exemption will require a well-drafted Tax Incentive Agreement and continuous monitoring of a ratepayer's eligibility for the Tax Incentive through its performance of conditions.

3. Linear Property: Generally, the majority of solar power infrastructure will be assessed as linear property. Unfortunately, linear property taxes are currently an unsecured claim; meaning that if a ratepayer suffers financial hardships, a municipality's claim for the payment of taxes would rank lower than a secured claim. As a result, if a Deferral is granted for linear property taxes, there is no guarantee that a municipality will be able to recover these taxes, should a ratepayer become insolvent during the term of the Deferral. The risk of a municipality not being able to collect Deferred taxes can be somewhat mitigated through the provision of security by the ratepayer as part of a Tax Incentive Agreement.

That said, Bill 77, the *Municipal Government (Restoring Tax Accountability) Amendment Act, 2021* was introduced in the Alberta Legislature in Fall 2021, has now passed third reading and received royal assent, and will come into force upon proclamation. Once Bill 77 is brought into force (date TBD), it will affirm that linear property taxes are a secured claim, strengthening a municipality's ability to collect any unpaid linear property Deferrals, if necessary.

Limitations to Tax Incentive Bylaws

Although a Tax Incentive Bylaw offers a number of new opportunities for municipalities to encourage development and revitalization, they also pose a number of challenges.

1. Fair and Equitable: One of the first challenges is balancing the requirement to ensure that Exemptions and Deferrals are available in a fair and equitable manner with the need to ensure that Exemptions and Deferrals are not granted unless applicants meet the specific criteria. If a municipality enacts a Tax Incentive Bylaw where the criteria are general or vague, it risks over-eligibility or an inequitable system. Additionally, criteria that are not specific enough can make it difficult to provide reasons for allowing or refusing an application, which may attract criticism and legal challenge.

2. North West Partnership Trade Agreement (the “NWPTA”): A Tax Incentive Bylaw with criteria that is too narrow or specific poses the risk of contravening the NWPTA. While the NWPTA specifically permits tax programs, it does so on the basis that those programs are of “general application”. Unfortunately, “general application” is not defined in the NWPTA; however, in our opinion, the phrase is intended to mean that the provision could conceivably apply to any person, regardless of, for instance, whether the person (or corporation) is local, extra-provincial or foreign. Therefore, the more specific or narrow the qualifications are for a Tax Incentive, the more likely a municipality's Tax Incentive Bylaw may no longer be of “general application”. This could result in an impermissible business subsidy which would be a contravention of the NWPTA.

3. Length of Term: Although it may be tempting to provide lengthy Exemptions or Deferrals to incentivize development or revitalization, limiting the tax base may have unintended consequences on a municipality's budget. Furthermore, if the goal of a Tax Incentive is to attract development, “front-loaded” Exemptions or Deferrals may be more effective. Therefore, it is important to consider the long-term impact of a Tax Incentive when deciding on an appropriate term.

Questions?

Should your municipality be considering a Tax Incentive Bylaw or have questions about drafting or implementing the same, Brownlee LLP's experienced and dedicated team of [municipal lawyers](#) is available to support and assist.

RELATED ARTICLES

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TOWN OF PINCHER CREEK

REQUEST FOR DECISION

Committee Of The Whole

SUBJECT: Community Transportation Committee Terms of Reference

PRESENTED BY:

Al Roth, Director of Operations

DATE OF MEETING:

1/5/2022

PURPOSE:

For Committee Of The Whole for the Town of Pincher Creek review the changes to the Community Transportation Committee.

RECOMMENDATION:

That Committee Of The Whole for the Town of Pincher Creek approve the updated Terms of Reference for the Community Transportation Committee.

BACKGROUND/HISTORY:

On November 29, 2021 the Community Transportation Committee reviewed the Committees Terms of Reference and motioned for updates and changes to be made to the document.

Changes include; consistency in the name of the committee and the term in which the members will be on the committee

ALTERNATIVES:

That Committee Of The Whole for the Town of Pincher Creek direct administration to make additional changes to the Terms of Reference.

IMPLICATIONS/SUPPORT OF PAST STUDIES OR PLANS:

That Committee Of The Whole for the Town of Pincher Creek receive the information as presented.

FINANCIAL IMPLICATIONS:

None at this Time.

PUBLIC RELATIONS IMPLICATIONS:

None at this time.

ATTACHMENTS:

Terms of Reference 2021-2024 - 2770

CONCLUSION/SUMMARY:

Administration supports the Council for the Town of Pincher Creek decision to update the Terms of Reference for the Community Transportation Committee.

Signatures:
Department Head:

Al Roth

CAO:

Lannie Wilgosh



TERMS OF REFERENCE

Pincher Creek Community Transportation Committee

PURPOSE OF THE COMMITTEE:

The Pincher Creek Community Transportation Committee shall study and provide advice to the Town of Pincher Creek regarding matters related to:

- Facilitation of the success factor identified in the 2014 Strategic plan to provide transportation in and around the community.
- Development of a Transportation Action Plan.
- Identification of transportation trends / needs within the Town of Pincher Creek.
- Federal / Provincial transportation grants.

Specifically, the committee will:

- Research the options and needs of the Community for a public transportation system.
- Facilitate the development and implementation of a public transportation.
- Receive and consider transportation information from the public.
- Consult with business owners/operators regarding public transportation issues.
- Provide regular reports to the Town Council regarding the progress of the committee.

MEMBERSHIP:

The Committee shall be composed of up to 2 voting members. Composition shall be as follows:

Town of Pincher Creek – Two (2) Councillors

Municipal District of Pincher Creek No. 9 – One (1) future advisory member

A member of the Committee will be disqualified to serve on the committee if they:

- Cease to be a resident of Pincher Creek.
- Are absent for three (3) meetings unless absences are authorized by the Town of Pincher Creek.
- Send written notice of resignation to the Town of Pincher Creek.

TERM OF THE COMMITTEE:

- Three (3) years (October 2021 to October 2024) or until such time as the purpose of the committee has been fulfilled.
- The committee shall serve at the pleasure of Council and may be dissolved at any time with the agreement of the Town of Pincher Creek or by committee resignation or recommendation.

CONDUCT OF MEETING:

- Meetings will be conducted in accordance with Bylaw 1596-13A

AUTHORITY OF THE COMMITTEE:

- The committee shall act in an advisory capacity to the Town Council and shall not have the power to direct Town consultants or enter into any agreements.

FINANCIAL:

- The Committee may not incur any expenses unless authorized by the Town of Pincher Creek.