



**CITY OF FORT SASKATCHEWAN**

**HEARTLAND INCENTIVE BYLAW**

**BYLAW C28-20**

A BYLAW OF THE CITY OF FORT SASKATCHEWAN, IN THE PROVINCE OF ALBERTA TO PROVIDE NON-RESIDENTIAL PROPERTY TAX AND/OR MACHINERY AND EQUIPMENT TAX INCENTIVES FOR NEW PETROCHEMICAL INDUSTRIAL DEVELOPMENT AND EXPANSIONS.

**WHEREAS** the *Municipal Government Act*, R.S.A. 2000 as amended or repealed and replaced from time to time, permits municipalities to offer multi-year tax exemptions, exemption or deferrals for non-residential properties (class 2) in order to attract investment, development and revitalization;

**AND WHEREAS** the *Municipal Government Act*, R.S.A. 2000 as amended or repealed and replaced from time to time, permits municipalities to authorize the annual and/or long-term exemption or deferral of machinery and equipment (class 4) property tax in order to attract investment, development and revitalization;

**AND WHEREAS** the municipality is committed to promoting investment in Alberta's Industrial Heartland;

**AND WHEREAS** the municipality considers it desirable to encourage the development or revitalization of non-residential properties for the general benefit of the municipality;

**AND WHEREAS** Council advertised its intention to consider the provision of this Bylaw pursuant to requirements of the *Municipal Government Act*, R.S.A. 2000 as amended or repealed and replaced from time to time;

**NOW THEREFORE**, the Council of the City of Fort Saskatchewan, duly assembled, enacts as follows:

This Bylaw shall be cited as the City of Fort Saskatchewan "Heartland Incentive Bylaw".

**1) DEFINITIONS**

For the purposes of this Bylaw:

- 1.1 "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time;

- 1.2 "Administration" means the administrative and operational arm of the City comprised of various departments and business units and including all employees who operate under the leadership and supervision of the CAO;
- 1.3 "Alberta's Industrial Heartland" means that area of land in the City of Fort Saskatchewan found within the boundaries outlined in Appendix "A";
- 1.4 "Applicant" means a person who applies for an Exemption;
- 1.5 "Application Fee" means the fee established by this Bylaw to be paid at the time an application is submitted pursuant to this Bylaw;
- 1.6 "Assessed Person" means an assessed person as defined under Section 284(1) of the Act;
- 1.7 "Associated Infrastructure" means the network of facilities and infrastructure that support hydrocarbon processing from the research and development of new innovative technology, necessary construction facilities, the development of the value-add product itself, its storage, and eventual delivery to an end-user (e.g. modular yards, air separation units, rail transportation facilities; etc.);
- 1.8 "City" means the municipal corporation of the City of Fort Saskatchewan;
- 1.9 "City Manager" means the chief administrative officer for the City as appointed by Council, including the CAO's delegate;
- 1.10 " Council" means the members who comprise the municipal Council for the City, and includes the Mayor and Councillors, individually and as a whole;
- 1.11 "Commercial Operation Date" means the date from which the project becomes a revenue generating project, with revenue being accounted for on the Assessed Person's Profit & Loss Statement;
- 1.12 "Complete Application" means an application submitted pursuant to this Bylaw that includes the Application Fee and the application requirements for Non-Residential Property or Machinery and Equipment tax incentives and the application form for Non-Residential Property or Machinery and Equipment tax incentives as established by Administration;
- 1.13 "Eligible Capital Cost" means the lower of the actual total capital costs incurred to build the Project, or the estimated cost to the Applicant to build the Project as outlined in the Complete Application, and shall include any new expenditures on labour, engineering, materials or other costs associated with the construction, but shall not include the costs of any improvements, or machinery and equipment that existed on the land before

construction commenced or the land itself, maintenance and turnaround costs, or other non-capital costs such as legal/regulatory/permitting fees;

- 1.14 "Energy Value Chain" means processes involving the processing or utilization of hydrocarbons in such a way that produces higher-value products relative to the feedstock and may include, but is not limited to, projects that involve:
  - a. manufacturing products;
  - b. researching and developing product lines and new technology;
  - c. transporting and storage of products; and
  - d. services directly relating to manufacturing, researching or transporting products;
- 1.15 "Exemption" means an exemption from taxation for Non-Residential Property or Machinery and Equipment 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 City under Part 10, Division 2 of the Act and not any Provincial requisitions;
- 1.16 "Expansion" means development that adds to an existing Structure to increase the Structure's physical space for purposes of facilitating Energy Value Chain or Associated Infrastructure works within that Structure, excluding development that is relocating from one jurisdiction of Alberta's Industrial Heartland to another;
- 1.17 "Heartland Exemption" means the portion of taxes on a property that have been determined to be exempt in accordance with this Bylaw and is computed separately for Non-Residential Property and for Machinery and Equipment;
- 1.18 "Machinery and Equipment" means machinery and equipment as defined by the Act;
- 1.19 "New Construction" means the construction located within Alberta's Industrial Heartland of a new Structure for the purposes of establishing Energy Value Chain or Associated Infrastructure works within that Structure, excluding development that is relocating from one jurisdiction of Alberta's Industrial Heartland to another;
- 1.20 "Non-Residential Property" means non-residential as defined by the Act in respect of Property;
- 1.21 "Project" means New Construction or Expansion of Property, (excluding maintenance turnarounds or direct replacements of the components of an existing project);
- 1.22 "Property" means property as defined by the Act;
- 1.23 "Qualifying Property" means a Structure or Property that is the subject of the Project;

- 1.24 "Structure" means a structure as defined by the Act that is Non-Residential Property;
- 1.25 "Skilled Job" means a job that requires a university degree, post-secondary diploma or certificate, or some form of trade credential that is commonly recognized; and
- 1.26 "Tax Incentive Agreement" means a written agreement setting out the terms and conditions for an Exemption for the Qualifying Property.

## 2) TAX EXEMPTION ELIGIBILITY

2.1 To be eligible for a tax Exemption, the following eligibility criteria must be met:

a. Requirements for a Project:

- i) be within the Energy Value Chain or Associated Infrastructure;
- ii) be a New Construction or Expansion Project;
- iii) be commenced subsequent to the passing of this Bylaw;
- iv) deploy Eligible Capital Costs of more than \$50 million (Canadian dollars);
- v) employ a minimum of 250 personnel, including contract and subcontract labour, during the construction period; and
- vi) employ a minimum of 15 permanent Skilled Jobs during operations for the duration of the Tax Incentive Agreement.

b. Requirements for a Qualifying Property:

- i) be physically located within the designated geographic area of Alberta's Industrial Heartland;
- ii) obtain all necessary development approvals from the City;
- iii) not be in arrears or have amounts owing with regards to property tax, utilities, or other fees owed to the City;
- iv) not going through foreclosure; and
- v) not in violation of a development agreement or the *Safety Code Act* at any time during the term of Tax Incentive Agreement.

- c. Requirements for Applicant:
  - i) Applicant is the Assessed Person or authorized agent for the Assessed Person;
  - ii) Assessed Person must not be in arrears or have amounts owing with regards to property tax, utilities, or other fees owed to the City;
  - iii) Assessed Person must not be in bankruptcy or receivership;
  - iv) Assessed Person must be in compliance with terms and conditions of any grant or other financial assistance received from the City, irrespective of the Project or Qualifying Property;
  - v) Assessed Person and their agent must not furnish false information within an application, or furnish false information or misrepresent any fact or circumstance to the City; and
  - vi) Assessed Person and their agent must meet all requirements under this Bylaw and the Act.

### 3) APPLICATION

#### 3.1 Application Process:

- a. Applicants must submit a Complete Application to the City, and the City has the discretion to reject applications that are incomplete, ineligible, or provided after the deadline provided in this Bylaw.
- b. Applicants must submit a non-refundable application fee in the amount of \$5,000.00 (Canadian dollars) or in accordance with the City's Fees and Charges Bylaw, if an application fee is therein set.
- c. A Complete Application must be received by October 1<sup>st</sup> in the year prior to the year in which the requested Exemption is to commence.
- d. A Complete Application must be received before construction of the Project has commenced.
- e. If, after submitting a Complete Application, the scope or cost of a Project increases subsequent to the City accepting a Complete Application for consideration with respect to the Project such that the Eligible Capital Costs of the Project have increased, the Applicant may submit an amended Complete Application under this Bylaw to seek an amendment to an Exemption notwithstanding the fact that construction of the Project may have commenced. The amended application will be

considered as if it was received prior to construction of the Project commencing. Notwithstanding subsection (b) an additional Application Fee will not be required. In no case shall an Exemption be extended or have effect beyond 15 years after an Exemption is initially approved in accordance with this Bylaw as the result of a request for an amended Exemption.

- f. Applicants whose applications are returned as incomplete or ineligible may resubmit an application, provided the application is resubmitted by the deadline.
- g. Notwithstanding the Complete Application requirements, the City may require any additional information that, in the discretion of the City, is necessary to complete the application.
- h. Complete Applications may be considered and approved in accordance with this Bylaw before construction on the qualifying property is complete; however, the Exemption will not apply until all construction on the Qualifying Property is complete, the development is inspected and approved, and the Commercial Operation Date takes place.
- i. The City will advise Applicants in writing if their application is accepted for consideration. Applications accepted for consideration shall become the property of the City and may not be returned.

### 3.2 Consideration Process:

- a. The City Manager may appoint a Program Officer to carry out the provisions of this Bylaw.
- b. If the City Manager does not appoint a Program Officer, the City Manager is deemed to be the Program Officer.
- c. The Program Officer may delegate any duty or responsibility of the Program Officer to an employee or agent of the City.
- d. The Program Officer shall receive and consider Complete Applications within the provisions of this Bylaw and may consult with, obtain information from, and verify information with other employees or agents of the City, other governments, government agencies, or persons.
- e. The Program Officer shall consider each application and make recommendations to the City Manager to:
  - i) grant the exemption and enter into a Tax Incentive Agreement with the Applicant, or;
  - ii) reject the application and advise the Applicant with written reasons as to why.

- f. The City Manager shall be authorized to enter into a Tax Incentive Agreement with the Applicant if an Exemption is granted.

#### **4) CALCULATION OF EXEMPTION**

4.1 A Heartland Exemption granted pursuant to this Bylaw shall be calculated and applied in accordance with this Section.

4.2 The amount of total taxes subject to Exemption shall be the equivalent of 2.5% of the Eligible Capital Costs of the Project, and shall in no case exceed this amount.

4.3 The Exemption shall be allocated as follows:

- a. for all eligible tax years identified in the Tax Incentive Agreement, the Qualifying Property shall receive a maximum 80% Exemption on the incremental increase in the annual property taxes levied upon the Qualifying Property based on the increase in the assessed value of the Qualifying Property attributable to the New Construction or Expansion for which the tax incentive has been granted in that tax year;
- b. notwithstanding anything in this Bylaw, should the remaining amount of the Heartland Exemption be less than 80% of the incremental increase in the annual property taxes levied upon the Qualifying Property in the assessed value of the Qualifying Property attributable to the New Construction or Expansion for which the tax incentive has been granted, the Exemption for that taxation year shall equal the remaining amount of the Heartland Exemption; and
- c. notwithstanding anything in this Bylaw, an Exemption shall in no case apply for more than a single term of not more than 10 consecutive taxation years, and only one 10-year term may be granted.

4.4 Notwithstanding anything in the Bylaw, no Exemption shall be permitted to apply in a tax year that is more than 15 years after an Exemption is approved in accordance with this Bylaw.

#### **5) TAX INCENTIVE AGREEMENT**

5.1 A Tax Incentive Agreement will be required for all granted tax Exemptions. The Tax Incentive Agreement shall include the following:

- a. 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;
- b. conditions the breach of which will result in cancellation of the Tax Incentive Agreement, and the taxation year or years to which the conditions apply;

- c. the date which Exemptions shall begin in effect; and
- d. the amount of the Exemption, to be calculated and applied in accordance with Section 4.

## **6) CANCELLATION OF EXEMPTION**

6.1 If at any time after an Exemption is granted, the Program Officer determines that:

- a. the Applicant or their application did not meet or ceased to meet any of the criteria in which formed the basis of granting the Exemption; or
- b. there was a breach of any condition of the Tax Incentive Agreement;

the Program Officer Council may cancel the Exemption for the taxation year or years in which the criterion was not met or to which the condition applies.

6.2 Notification of a decision to cancel an Exemption must be provided to the Applicant and must include reasons and identify the taxation year or years to which the cancellation applies.

## **7) APPEAL TO COUNCIL**

7.1 An Applicant may appeal to Council in the following situations:

- a. an Application for Exemption is refused or rejected;
- b. a Tax Incentive Agreement is cancelled; or
- c. content of the Tax Incentive Agreement is inconsistent with the Bylaw or the Act.

7.2 A request for appeal shall be submitted in writing to the City Manager within 30 days of:

- a. written notice being sent to the Applicant that an application has been refused or rejected;
- b. written notice being sent to the Applicant that a Tax Incentive Agreement is cancelled; or
- c. execution of a Tax Incentive Agreement,

as the case may be.



7.3 Council shall consider an appeal at:

- a. a regularly scheduled meeting of Council; or
- b. a special meeting of Council.

7.4 Remedies available to Council upon conclusion of an appeal are:

- a. Council may uphold or revoke a decision of Administration with respect to the outcome of an application or cancelation of an Exemption; or
- b. Council can revise or direct Administration to revise a Tax Incentive Agreement.

**8) SEVERABILITY**

8.1 That if at any time any provision of this Bylaw is declared or held to be illegal, invalid, or *ultra vires*, in whole or in part, then that provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and shall be constructed as it had been enacted without the illegal, invalid or *ultra vires* provision.

**9) EFFECTIVE DATE**

9.1 This Bylaw becomes effective upon third and final reading.

READ a first time this 8<sup>th</sup> day of December 2020.

READ a second time this 8<sup>th</sup> day of December 2020.

READ a third time and passed this 8<sup>th</sup> day of December 2020.

*Dale Katch*  
 MAYOR

*Sheryl Deery*  
 DIRECTOR, LEGISLATIVE SERVICES

*Acting*

Date Signed: December 9, 2020

Appendix A – Alberta's Industrial Heartland Boundaries

