



Bylaw #2022-06
"Commercial Tax Incentive"

BEING A BYLAW OF THE TOWN OF THORSBY IN THE PROVINCE OF ALBERTA FOR THE
PURPOSE OF ESTABLISHING A COMMERCIAL TAX INCENTIVE

WHEREAS: The Town of Thorsby considers it desirable to encourage the development of non-residential properties for the general benefit 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 Thorsby 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 MUNICIPAL COUNCIL OF THE TOWN OF THORSBY IN THE PROVINCE OF ALBERTA DULY ASSEMBLED, ENACTS AS FOLLOWS:

PART I: TITLE AND PURPOSE

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

PART II: DEFINITIONS

2. 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) "Application Fee" means the fee established by this Bylaw to be paid at the time an application is submitted pursuant to this Bylaw;

e) "Assessed Person" means an assessed person as that term is defined under Section 284(1) of the Act;

f) "Bylaw" means this Commercial Tax Incentives Bylaw;

g) "Chief Administrative Officer" or "CAO" means the chief administrative officer as appointed by Council, including the CAO's delegate;

h) "Chief Elected Officer" or "CEO" means the chief elected official as voted by the residents of Thorsby;



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- i) **"Complete Application"** means an application submitted pursuant to this Bylaw that includes the Application Fee 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", respectively, attached hereto;
- j) **"Council"** means all the councilors of the Town including the chief elected official for the Town;
- k) **"Development or Revitalization"** means, in respect of a Non-residential Property, construction of a new Structure, construction of an expansion to an existing Structure and/or renovation or improvement of an existing Structure, but excludes demolition of a Structure if that demolition does not occur in conjunction with construction of a new replacement Structure;
- l) **"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;
- m) **"Non-residential Property"** means non-residential as defined in the Act in respect of property;
- n) **"Qualifying Property"** means a Non-residential Property that is the subject of Development or Revitalization;
- o) **"Structure"** means a structure as that term is defined in s 284(1)(u) of the Act that is Non-residential Property;
- p) **"Tax Incentive Agreement"** means a written agreement setting out the terms and conditions for an Exemption for the Qualifying Property; and
- q) **"Town"** means the Town of Thorsby in the Province of Alberta.

PART III: PURPOSE

- 3.1 The purpose of this Bylaw is to allow tax incentives in the form of Exemptions from taxation under Part 10, Division 2 of the Act for Qualifying Properties in the Town that meet the requirements of this Bylaw.

PART IV: CRITERIA FOR EXEMPTION

- 4.1 In order to apply for an Exemption, 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; and
- 4.1.2 The Applicant must have no outstanding monies owing to the Town.
- 4.2 In order to qualify for an Exemption, the Non-residential Property in question must be a Qualifying Property, and must meet the following additional criteria:
- 4.2.1 The Qualifying Property must be located within the geographical boundaries of the Town and include:
- 4.2.1.1 New Business established in an existing building;
- 4.2.1.2 New Business Construction;
- 4.2.1.3 Business Expansion Incentive



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4.2.2 All required Town development approvals within S. 4.2.1.2 and 4.2.1.3, with respect to the Development or Revitalization of the Qualifying Property must have been issued; increase of at least \$250,000 between the taxation year immediately prior to the commencement of construction of the Development or Revitalization and the first taxation year to which an Exemption provided pursuant to this Bylaw is to apply.

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

4.3 No exemption shall be provided in respect of any Development, Expansion, or New Business established in an existing building that was completed before this Bylaw comes into force.

PART V: APPLICATION FOR AN EXEMPTION

5.1 Applicants must submit a Complete Application to the CAO.

5.2 The Application Fee is \$500.00

5.3 Complete Applications may be submitted after all required Town development approvals with respect to the Development or Revitalization have been issued, and Complete Applications must be received on or before the date that is sixty (60) days after the date on which construction of the Development or Revitalization has commenced.

5.4 Complete Applications must be received on or before October 01 of the year prior to the year in which the requested Exemption is to commence.

5.5 Complete Applications may be considered and approved in accordance with the requirements of this Bylaw before construction of the Development or Revitalization of the Qualifying Property is complete, however, the Exemption will not apply until all such construction is complete and has been inspected and approved for occupancy.

5.6 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.

5.7 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.

5.8 The CAO has the discretion to reject applications that are incomplete or illegible.

5.9 Applicants whose applications are returned as incomplete or illegible may resubmit an application provided the application is resubmitted by the deadline provided in section 5.4 of this Bylaw.

5.10 The CAO will advise Applicants in writing with reasons if their application is rejected.



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PART VI: 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.
- 6.1.1 In conducting a review pursuant to section 6.1, Administration may rely upon financial documentation and estimates provided by the applicant to make an initial determination of whether or not the criterion in section 4.2.3, regarding assessed value, is met.
- For greater certainty, and without limiting any other provision of this Bylaw, an initial determination made pursuant to this section shall not prevent the subsequent cancellation of an Exemption, in accordance with this Bylaw, in the event that it is determined, on the basis of future assessments, that the criterion in Section 4.2.3 has not in fact been met.
- 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 future taxation years to which the Exemption applies and or ends upon occupancy of the building;
- 6.3.2 and the details and extent of the Exemption, which shall be as follows:
- | | |
|---|---|
| New Business Construction | 6.3.2.1 In the first taxation year identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 50% Exemption; |
| | 6.3.2.2 In the second taxation year identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 25% Exemption; |
| | 6.3.2.3 In the third taxation year identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 15% Exemption. |
| New Business Established in an Existing Building | 6.3.2.4 In the First taxation year identified in the Tax Incentive Agreement, the Qualifying Property shall receive a 25% Exemption; |
| | 6.3.2.5 In the Second taxation year identified in the Tax Incentive agreement, the Qualifying Property shall receive a 15% Exemption |
- 6.4 An Exemption must not exceed three (3) consecutive tax years.
- 6.5 A resolution passed under section 6.3.2 refusing an application must include the reason(s) for refusal.
- 6.6 Administration shall provide written notice of a refusal to an Applicant which must include the resolution passed under section 6.3.2.



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PART VII: CONSIDERATION OF 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 and adhering to the agreement within the "Schedules" of this Bylaw.
- 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 S. 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.
 - 7.2.5 In the event of a cancellation pursuant to S. 8.1 of this Bylaw, any monies owed to the Town shall be immediately paid by the Applicant and any other conditions Administration deems necessary and the taxation year(s) to which the condition applies.
 - 7.2.6 Tax Incentive Agreements shall be executed by the Chief Elected Official or their delegate and the CAO or their delegate.

PART VIII: CONSIDERATION OF CANCELLATION OF INCENTIVE AGREEMENT

- 8.1 If at any time after an exemption is granted, Administration determines that:
- 8.1.1 the Applicant or their application did not meet or ceased to meet any of the criteria in S. 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 there was a breach of any condition of the Tax Incentive Agreement;

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 S. 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 and reasons of Council passed under S. 8.1



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**PART IX: CONSIDERATION OF REVIEW OF
INCENTIVE AGREEMENT**

- 9.1 Where an application has been rejected by Administration on the basis that it is incomplete, Applicants may apply to Council within 14 days of receiving notice of the refusal to review the decision to reject the application.
- 9.2 Applicants may apply to Council within 14 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 Councils initial resolution dispute process.
- 9.3 Applicants may apply to Council within 14 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 Bylaw must be filed with the Court of Queen's Bench and served not more than sixty (60) days after the date of decision

PART X: REPEAL

10. This Bylaw rescinds Policy #2011-005
10.1 This Bylaw rescinds Policy #2012-249
10.2 This Bylaw rescinds Policy #2012-005
10.3 This Bylaw rescinds Policy # 2014-215

PART XI: EFFECTIVE DATE

This Bylaw shall come into force and have effect upon third and final reading.

READ A FIRST TIME this 23rd day of August, 2022

READ A SECOND TIME this 23rd day of August, 2022

READ A THIRD AND FINAL TIME this 27th day of September, 2022

Darryl Hostyn, Mayor

Donna Tona, CAO



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SCHEDULE A - APPLICATION REQUIREMENT

Application Requirements for Non-Residential Tax Incentives Pursuant to the Tax Incentive Bylaw 2022-06

1. All applications for an Exemption to the Tax Incentives Bylaw MUST include the following information:
 - a. a signed and dated application form;
 - b. the Application fee;
 - c. if the Applicant is not an individual, an agent authorization form or directors' resolution;
 - d. if the Applicant is a corporation, a corporate registry record of the Applicant dated within 30 days of the date of the application;
 - e. a land titles certificate for the lands on which the qualifying property is located dated within 30 days of the date of the application;
 - f. a description of the business conducted, or to be conducted on the qualifying property;
 - g. copies of all development permits issued with respect to the development or revitalization of the qualifying property;
 - h. an explanation of how the application meets the criteria for an exemption; and
 - i. financial documentation related to the Development or Revitalization of the Qualifying Property that indicates that the increase in assessed value that is required by the Tax Incentives Bylaw is or will be, met, which shall include, without limitation, construction cost estimates, copies of receipts and paid invoices and estimates regarding the current and expected future value of the qualifying property.
2. Applicants may provide any other material, including additional print, visual or audio-visual material which the Applicant believes will support their application.
3. Applications and all material provided will be included in Council reports and Agenda packages available to the public.
4. All qualifying properties will be subject to inspection by Town Administration to ensure the validity of the application.



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SCHEDULE A -APPLICATION FORM-NON-RESIDENTIAL TAX INCENTIVES

Application Requirements for Non-Residential Tax Incentives Pursuant to the Tax Incentive Bylaw 2022-06

Name of Applicant: _____

Registered Corporate Name if Different: _____

Legal Description of Assessed Property: _____

Mailing Address of Assessed Property: _____

Corporate Registry Address of Applicant (Corp registry docs attached): _____

Name of Authorized Agent for Applicant: _____

Mailing Address for Agent: _____

Email Address for Agent: _____

Telephone Number for Agent: _____

Provide, or append, a brief description of the business conducted, or to be conducted, on property:

Describe or append an explanation of why you are seeking an Exemption and how you meet the criteria set out in the Tax Incentives Bylaw: (additional pages may be added)

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

Any additional documentation must be appended to the application. Indicate if the application includes the following:

- a) Corporate Registry Record if applicable
- b) Land Titles Certificate (required)
- c) Agent Authorization Form/Directors' Resolution (if applicable)
- d) Application Fee (required);
- e) Financial Documentation regarding increase in value (required)
- f) Copies of development permit(s) [required]

Date of Application

Signature of Applicant or Applicant's Agent

Print Name of Applicant or Applicants Agent

Personal Information required by Town of Thorsby 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 Coordinator at 780.789.3935



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SCHEDULE C - AGREEMENT NON-RESIDENTIAL TAX INCENTIVE

THIS AGREEMENT MADE EFFECTIVE this ____ day of _____, 20__

BETWEEN:

TOWN OF THORSBY
("hereinafter referred to as "the Town")

OF THE FIRST PART

-and-

[insert name of party]
("hereinafter referred to as "the Developer" or "New Business Owner in an Existing Building")

OF THE SECOND PART

NON-RESIDENT TAX INCENTIVE AGREEMENT

WHEREAS:

- A. Pursuant to S. 365.2 of the Municipal Government Act, Council for the Town has passed a Non-Resident Tax Incentive Bylaw that allows for the Exemptions from municipal taxation for a specified term for purposes of encouraging development and revitalization of non-residential properties for the general benefit of the Town.
- B. Pursuant to the Non-Resident Tax Incentives Bylaw, the Developer or New Business Owner in an Existing Building submitted an application to the Town for an Exemption relating to the Qualifying Property, and that application was accepted by Administration and subsequently approved by Council, by resolution, on [insert date], a copy of which resolution is attached hereto as Schedule "A" to this Agreement.
- c. Pursuant to S. 364.2(5) of th Act, an approved tax exemption pursuant to a Non-Residential Tax Incentives Bylaw just be granted in a written form.
- D. The Town and the Developer or New Business Owner in an Existing Building enter into this Agreement to set out the terms of the Exemption and any conditions associated with the Exemption

NOW THEREFORE, in consideration of the mutual terms, conditions and covenants to be observed and performed by each of the parties hereto, the Town and the _____ agree as follows:

1. Interpretation

- 1.1 For the purposes of this Agreement, the following words shall have the meaning ascribed below:
 - (a) **"ACT"** means the municipal Government Act, RSA 2000, CM26 as amended from time to time;
 - (b) **"Administration"** means the administrative and operational departments of the Town including all employees who operate under the leadership and supervision of the CAO
 - (c) **"Agreement"** means this Non-Residential Tax Incentive Agreement;
 - (d) **"Assessed Person"** means an assessed person as that term is defined under S. 284(1) of the Act;
 - (e) **"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer as appointed by Council, including the CAO's delegate;
 - (f) **"Council"** means all the Councilors including the Chief Elected Official of the Town;
 - (g) **"Development or New Business in an Existing Building"** means in respect of a Non-residential property, construction of a new structure, construction of an expansion to an existing structure and/or renovation or improvement of an existing structure or new business established in an existing building, but excludes demolition of a structure if that demolition does not occur in conjunction with a new replacement structure;

- (h) **"Exemption"** means an exemption from the municipal taxation for Non-Residential Property as provided for in Part 10, Division 2 of the ACT, being property taxes imposed by the Town under Part 10, Division 2 of the ACT and not any Provincial Requisitions;
- (i) **"Non-Residential Property"** means non-residential property as defined in the ACT in respect of property;
- (j) **"Qualifying Property"** means the Non-residential Property that is legally described and identified in Schedule "B" to this agreement which is the subject of Development or Revitalization; and
- (k) **"Non-Resident Tax Incentives Bylaw"** means Town of Thorsby Bylaw 2022-06

2. **Term and Extent of Exemption**

- 2.1 Subject to the conditions set out within this Agreement, the Exemption established in S.6.3 of this Agreement, applies to the following Taxation years:
 - 2.1.1 **Non-Residential**
 - (a) [insert taxation year]
 - (b) [insert taxation year]
 - (c) [insert taxation year]
 - 2.1.2 **New Business Established in an Existing Building**
 - (a) [insert taxation year]
 - (b) [insert taxation year]
- 2.2 The extent of the Exemption is as follows:
 - 2.2.1 for the first to third taxation year identified in S. 2.1.1(a-c) of this Agreement shall receive 50%, 25%, 15% respectively
 - 2.2.2 for the first to second taxation year identified in S. 2.1.2 (a-b) of this Agreement shall receive 25%, 15% respectively.

3. **Conditions of Agreement**

- 3.1 The Developer or New Business Owner in an Existing Building must provide proof to the Town, satisfactory to the Town in its sole discretion, that the Qualifying Property has been approved for occupancy, no later than December 31 of the year immediately prior to the first taxation year specified in section 2.1(a) of this Agreement.
- 3.2 It is a condition of this Agreement in respect of every taxation year in which the Exemption Applies, as set out in S. 2.1.1 of this Agreement, that the Developer or New Business Owner in an Existing Building and the qualifying property meet all of the following:
 - 3.2.1 the Developer or the New Business Owner in an Existing Building must be the Assessed Person for the Qualifying Property;
 - 3.2.2 There must be no outstanding monies owing to the Town;
 - 3.3.3 The Qualifying Property must be located within the geographical boundaries of the Town;
 - 3.3.4 The development of the Qualifying Property must qualify as Development or Revitalization;
 - 3.3.5 The Development or Revitalization just be complete and the Qualifying Property inspected and approved for occupancy by December 31st of the year immediately prior to the first taxation year specified in S. 2.1.1(a) of this Agreement;
 - 3.3.6 All required Town development approvals with respect to the Development or Revitalization of the Qualifying Property must be issued;
 - 3.3.7 The assessed value of the Qualifying Property, as set out in notices of assessment for the 3 Qualifying Property, just have experienced an incremental increase of at least \$250,000.00 between the taxation year immediately prior to the commencement of construction of the Development or Revitalization and the first taxation year identified in S. 2.1.1(a) of this Agreement.
 - 3.3.8 New Businesses Established in an Existing Building cannot transfer their taxation to a new owner should they cease or move their businesses. They are exempt from the \$250,000.00 incremental increase until they have a development permit to commence construction or revitalization.

- 3.3 Failure to meet or a cessation of compliance with any of the conditions in this Bylaw constitutes an act of default by the Developer or New Business Established in an Existing Building.
- 3.4 In addition, the following constitute acts of default and are applicable to every taxation year that the Exemption applies:
- 3.4.1 misrepresentation or omission of any information required on the application submitted to the Town;
 - 3.4.2 Bankruptcy within the meaning of the Bankruptcy and Insolvency Act RSC 1985, c -3 as amended or repealed and replaced from time to time;
 - 3.4.3 a receiver, interim receiver, receiver and manager, custodian or liquidator is appointed for the business, property, affairs or revenues which are not diligently challenged or contested; or
 - 3.4.4 any steps are taken or action or proceeding instituted by the applicant or by any other person, including without limitation, any court, or governmental body of competent jurisdiction for the dissolution, winding up or liquidation of the assets or property which are not diligently challenged or contested by the property or building owner.

4. **Cancellation of Exemption and Agreement**

- 4.1 Administration acting reasonably, in good faith and in a bone-fide manner, may determine whether or not the applicant has committed an act of default under this Agreement. In the event Administration so determines that the Developer has committed an act of default under this Agreement, Administration shall make a recommendation to Council that the Agreement and the Exemption be cancelled with respect to one or more of the taxation years specified in this Agreement.
- 4.2 Council may, by resolution cancel the Agreement and the Exemption for the taxation year or years in which the criterion was not met or to which the condition applies.
- 4.3 A resolution passed by Council to cancel the Exemption must include reasons and identify the taxation year or years to which the cancellation applies.
- 4.4 Administration must provide written notice of a cancellation to the applicant which just include the resolution passed by Council.
- 4.5 In the event of a cancellation of the Exemption and this Agreement, any monies owed to the Town shall be immediately payed by the applicant. For the purposes of this paragraph, "immediately" means 30 days.
- 4.6 Upon cancellation of the Exemption and this Agreement, all benefits of the applicant under this Agreement shall cease.

5. **Indemnity**

- 5.1 The applicant shall indemnify and save harmless the Town, and all of its respective officials, officers, employees and authorized representatives from and against any and all losses, costs (including without restriction, all legal costs on a solicitor and his own client full indemnity basis), damages, actions, causes of action, suits, claims, and demands resulting from anything done or omitted to be done by the applicant in pursuance or purported pursuance of this Agreement including, without restriction, any default by the applicant in the due and punctual performance of any of its representations, warranties, covenants and agreements contained within this Agreement