



The Corporation of the City of Penticton

Downtown Economic Investment Zone

Bylaw

No. 2014-04

Consolidated for convenience only

Amended by Bylaw No. 2015-47 (October 19, 2015)
Amended by Bylaw No. 2017-74 (November 7, 2017)
Amended by Bylaw No. 2019-31 (September 3, 2019)

This is a consolidated bylaw prepared by the Corporation of the City of Penticton for convenience only. The city does not warrant that the information contained in this consolidation is current. It is the responsibility of the person using this consolidation to ensure that it accurately reflects current bylaw provisions.

THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2014-04

A BYLAW OF THE CORPORATION OF THE CITY OF PENTICTON TO CREATE ECONOMIC INVESTMENT ZONES THAT PROVIDE TAX RELIEF AND A REDUCTION OF BUILDING PERMIT FEES FOR ELIGIBLE PROJECTS IN THE DOWNTOWN

WHEREAS the Council wishes to stimulate construction and alteration of buildings within Penticton's downtown;

AND WHEREAS the Council may provide revitalization tax exemptions under section 226 of the *Community Charter*;

AND WHEREAS the Council has considered this bylaw in conjunction with the objectives and policies set out under section 165(3.1)(c) of the *Community Charter* in its Financial Plan;

AND WHEREAS the Council has given notice of the adoption of this bylaw under section 227(3) of the *Community Charter*;

NOW THEREFORE the Council of The Corporation of the City of Penticton, in open meeting assembled, enacts as follows:

CITATION:

1) This Bylaw may be cited as the "Downtown Economic Investment Zone Bylaw No. 2014-04".

ADMINISTRATION

2) The Director of Development Services is authorized to administer this bylaw.

APPLICATION

3) Subject to the provisions of this bylaw, this bylaw shall apply only to eligible privately-owned properties within specified Economic Investment Zones. Lands owned by the City of Penticton, Province of British Columbia, Government of Canada or their agencies shall not be eligible for incentives under this bylaw.

DEFINITIONS

4) In this bylaw, the following terms have the following meanings:

"Bakery" means a facility devoted primarily to the sale of a wide variety of common household baked products such as breads, buns, doughs, meat pies, fruit pies and pastries, but excludes retail stores, restaurants, mobile vendors, wholesale bakeries, specialty bakeries or dessert-only bakeries.

"Building Bylaw" means City of Penticton Building Bylaw No. 94-45 (1994) as amended or replaced from time to time.

“Brownfield redevelopment” means the construction of a commercial or residential development when preceded by the issuance of a certificate of compliance for the property by the Director of Contaminated sites under the *Environmental Management Act*.

“Building Permit” means permission or authorization in writing from the Chief Building Official to perform building work regulated by the Building Bylaw.

“Butcher shop” means a retail facility devoted primarily to the sale of common household raw or semi-prepared meat, poultry and seafood products to the general public, but excludes restaurants, mobile vendors, wholesale butchers, mobile butchers, abattoirs, and retail stores.

“Chief Building Official” includes the person appointed to that position and a person authorized by the Chief Building Official to perform duties under this bylaw.

“City” means the Corporation of the City of Penticton.

“Construction Value” means the value of the improvements on the eligible property as determined by the Director of Development Services.

“Council” means the Council of the City.

“Cultural Facility” means a facility intended to sell or display exhibits, services and performances of highly artistic, educational, cultural and heritage value, including art galleries, performing arts theatres, museums, libraries, artisan studios, and interpretive centres, but excluding nude dance parlors, bars, restaurants and nightclubs.

“Current Year Tax Rate: means the municipal tax rate as set by Bylaw and adopted by Council.

“Development Permit” means a permit under Section 920 of the *Local Government Act*.

“Director of Development Services” includes the person appointed to that position and a person authorized by the Director of Development Services to perform duties under this bylaw.

“Eligible Development” means a development listed in Sections 4 and 5 and Schedule A of this bylaw.

“Exemption Certificate” means a revitalization tax exemption certificate issued by the City under this bylaw in respect of an eligible property.

“Façade restorations”: means aesthetic improvements to the front of a building including installing, restoring, replacing or repairing awnings, windows, doors, cladding, and architectural features, but does not include work done on building frontages that face a lane, interior renovations, painting, or cleaning.

“Family oriented multi-family housing” means multi-family residential development where at least 40% of the dwelling units contain three or more bedrooms.

“Greyfield redevelopment” means the redevelopment of previously developed land which is either:

- a) vacant; or

- b) has structures, all of which are derelict and uninhabitable, as determined by the chief building inspector.

Greyfield redevelopment does not include:

- a) demolition, or remediation of property if not done in conjunction with the construction of a commercial or residential development; or
- b) redevelopment of land for parking lots unless in conjunction with an eligible commercial or residential use.

“Grocery Store” means a retail outlet, with a net floor area of at least 650 square meters, (7,000 square feet) devoted primarily to the sale of common household foods and food-related commodities, including produce, packaged food products, dairy products, meats, cheeses, and breads.

“Heritage property” means a property which is:

- a) Listed on the City's Heritage Register, or
- b) Subject to a Heritage Revitalization Agreement.

“Heritage Restoration” means capital works subject to a Heritage Revitalization Agreement with the City to preserve, protect, restore or recreate heritage property or parts of heritage property.

“Heritage Revitalization Agreement” means a Heritage Revitalization Agreement under section 947 of the *Local Government Act*.

“High-Technology Service” means high technology service as defined under Zoning Bylaw 2011-23, but does not include a call centre.

“Investment Zones” means the Downtown Core Economic Investment Zone and the Downtown Periphery Economic Investment Zone each as defined in Section 2) of this bylaw.

“Live Work Unit” means a live work unit as defined under Zoning Bylaw 2011-23.

“Net Floor Area” means Net floor Area as defined under Zoning Bylaw 2011-23.

“Occupancy Permit” means an occupancy permit, as defined under Building Bylaw 94-45.

“Office Building” means a building in which a commercial, professional, or government organization carries out its activities but excludes businesses that service or repair goods, retail uses, or manufacturing.

“Park” means those areas colored green on the map attached as Schedule “B”.

“Remediation Costs” means costs which are:

- a) for activities necessary to obtain a certificate of compliance under the *Environmental Management Act* including costs for assessments, ministry fees, and remediation
- b) incurred after the date of adoption of this bylaw.

“Revitalization Tax Exemption Agreement” means an agreement between the City and an owner of property eligible for incentives under this bylaw in respect of the matters described in section 226(7) of the *Community Charter*.

“Tax credit” means a one-time deduction, applied to the municipal portion of a property’s taxes. Where the value of the deduction is greater than the value of annual municipal taxes, the remaining sum shall be applied to future years until the deduction equals zero.

“Tax reduction” means a reduction, listed in Column 5 of Schedule A, expressed as a percentage, and applied to a property’s taxes for land, improvements or both.

“Temporary community amenities”: means vacant, privately-owned land or buildings, developed to provide one or more amenities, for a limited period of time, to the general public free of charge. This includes community gardens, sport and gaming facilities, and park space. Temporary community amenities do not include parking lots, special events or car washes.

“Valued infrastructure and amenities” means capital improvements provided by a downtown land-owner, on either City-owned property, private property or property owned by the provincial or federal government, made available for public use free of charge and includes bike racks, public washrooms, benches, play equipment, recreational equipment, and street trees, but does not include landscaping, painting and aesthetic improvements.

“Zoning Bylaw” means City of Penticton Zoning Bylaw No. 2011-23 as amended or superseded.

REASONS, OBJECTIVES AND METHOD

- 2) Council hereby establishes a Revitalization Tax Exemption Program, pursuant to section 226 of the *Community Charter*, to:
 - a) stimulate and encourage the construction of new buildings and major renovations of existing buildings within the following areas:
 - i) Downtown Core Economic Investment Zone, being those properties within that part of the City shown shaded red on the map attached as Schedule “B”;
 - ii) Downtown Periphery Economic Investment Zone, being those properties within that part of the City shown shaded orange on the map attached as Schedule “B”;
 - b) encourage downtown landowners to support the creation of valued infrastructure and amenities on City streets that are within the Downtown Core Economic Investment Zone and the Downtown Periphery Economic Investment Zone
 - c) encourage downtown landowners to support the creation of valued infrastructure and amenities in parks and public spaces which are those areas shown in green on the map attached as Schedule “B”.
 - d) encourage the timely introduction of key commercial and residential land uses which will contribute particularly to the vibrancy, economic growth and live ability of Downtown.
- 3) The Revitalization Tax Exemption Program is intended to accomplish the Council’s objectives by:

- a) providing property tax relief for eligible construction within the Downtown;
- b) withholding incentives for developments that are not critical to the revitalization of the Downtown.

ELIGIBLE DEVELOPMENTS

- 4) The types of development that shall be eligible for incentives in the Downtown Core Economic Investment Zone are:
 - a) Grocery Stores
 - b) New multi-family residential units
 - c) New family-oriented multi-family units
 - d) Cultural Facilities
 - e) Façade restorations
 - f) New commercial construction or renovations
 - g) Temporary Community Amenities
 - h) Greyfield redevelopments
 - i) Brownfield redevelopments
 - j) Valued infrastructure and amenities
 - k) Office Buildings
 - l) Bakeries
 - m) Butcher Shops
 - n) Hotels
 - o) Heritage Restoration
 - p) Live-work units
- 5) The types of development that shall be eligible for incentives in the Downtown Periphery are:
 - a) New multi-family residential units
 - b) New family oriented multi-family units
 - c) Brownfield redevelopment
 - d) Valued infrastructure and amenities

- e) Heritage restoration
- f) Live-work units

GENERAL CONDITIONS

- 6) Developments shall only be eligible for incentives under this bylaw if they:
 - a) are subject to a building permit issued before March 1, 2018; and
 - b) have been issued an occupancy permit no later than June 30, 2020. **(Bylaw 2017-74)**
(Bylaw 2019-31)
- 7) Developments listed under Section 4 and Section 5 of this bylaw, which have a construction value equal or greater than that specified in Column 3 of Schedule A, shall be eligible for property and improvement tax incentives listed under Column 5 of Schedule A for the term stated under Column 4 of Schedule A.
- 8) Notwithstanding Section 7, where a maximum number of eligible developments for a particular type of development is specified in Column 2 of Schedule A, the number of that particular type of development eligible for incentives under this bylaw shall not exceed the maximum number of eligible developments stated in Column 2 of Schedule A.
- 9) Unless expressly stated to the contrary under Schedule A, where a development meets the definition of more than one type of development listed under Column 1 of Schedule A, the development shall be eligible for incentives for only one development listed under Schedule A.
- 10) Where a property is eligible to receive incentives under both Economic Investment Zone Bylaw 2011-56 and this bylaw, the property shall only be eligible for incentives under one bylaw.

SPECIAL CONDITIONS

Temporary Community Amenities

- 11) In order to be eligible for incentives under this bylaw, Temporary Community Amenities, shall be:
 - a) protected by a statutory right of way, covenant or similar agreement guaranteeing public access for the duration of the use,
 - b) be provided for public use for a period of no less than one year, and
 - c) kept clean and in good repair to a standard that is reasonably consistent with comparable public spaces or facilities,

Brownfield Redevelopment

- 12) To be eligible for incentives for brownfield redevelopment under this bylaw, the owner shall provide:
 - a) a copy of the certificate of compliance for the property for which the owner is seeking incentives, and
 - b) receipts and other financial statements to provide evidence of payment of remediation costs.

Valued Infrastructure and Amenities

- 13) To be eligible to receive incentives for value infrastructure and amenities:
- a) the landowner must own property within the Downtown Core Economic Investment Zone or Downtown Periphery Economic Investment Zone;
 - b) the valued infrastructure or amenity must be located within:
 - i) the Downtown Core Economic Investment Zone;
 - ii) the Downtown Periphery Economic Investment Zone; or
 - iii) a park;
 - c) the landowner must obtain written approval from:
 - i) The City, by a resolution of Council, in the case of proposed developments on City-owned land;
 - ii) The federal government, in the case of federally-owned land, or
 - iii) The province, in the case of provincially-owned land.
- 14) A request to construct valued infrastructure and amenities must be approved by Council. The City may refuse a request to install valued infrastructure or amenities if:
- a) the infrastructure or amenities would be destroyed or seriously compromised as a result of pending infrastructure upgrades or capital projects,
 - b) the valued infrastructure or amenities are inconsistent with the goals and objectives of the Official Community Plan, Parks and Recreation Master Plan or any other policy document approved by Council,
 - c) the infrastructure or amenities can reasonably be expected to interfere with the use or enjoyment of neighbouring properties, or
 - d) the infrastructure or amenities would create maintenance or operational costs for the City, which Council considers to be excessive in relation to the City's budget or the anticipated public benefit from the purpose and valued infrastructure and amenities.
- 15) A property owner is not eligible for incentives for valued infrastructure and amenities under this bylaw unless:
- a) the owner enters into an agreement with the City obliging the owner to remove the valued infrastructure or amenity, at their cost, upon request of the City.
 - b) the owner enters into an agreement with the City that transfers ownership of the valued infrastructure to the City.
- Hotel
- 16) In order to be eligible for incentives for Hotels under this bylaw a hotel development must be
- a) rated as "three stars" or better by the Canada Select accommodation rating program, and

- b) include the creation of at least five new rooms

Office Buildings

17) In order to be eligible for incentives for Office Buildings under this bylaw an Office Building must:

- a) have a net floor area of at least 420 square meters, or
- b) be occupied by one or more businesses employing a total of at least 20 people.

INELIGIBLE DEVELOPMENTS

18) Notwithstanding anything in this bylaw, the following types of development are ineligible for incentives under this bylaw:

- a) gas stations;
- b) drive-through restaurants;
- c) parking lots, when not constructed in conjunction with a development eligible for incentives under this bylaw;
- d) automobile sales;
- e) single-family dwellings or duplexes; and
- f) any use listed on Schedule 2 of the Contaminated Sites Regulations.

EXTENT OF TAX EXEMPTIONS

19) Notwithstanding anything in this bylaw, if further improvements are made to a property during the term of a property tax exemption under this bylaw, those further improvements are not eligible for incentives under this bylaw; regardless of whether or not the improvements meet the eligibility criteria for incentives under this bylaw.

20) Notwithstanding anything in this bylaw, a development for which construction has commenced prior to the adoption date of this bylaw, but in respect of which an Occupancy Permit has not been issued, shall not be eligible for incentives under this bylaw, regardless of whether the improvements meet the eligibility criteria for incentives under this bylaw.

CALCULATION OF TAX EXEMPTIONS

21) Where Schedule A provides for tax exemption on land, the tax exemption for any given year is calculated as follows:

$$\text{Tax Exemption} = (\text{Land Value} \times \text{Current Year Tax Rate}) \times \text{tax reduction}$$

22) Where Schedule A provides for a property tax exemption on new improvements the tax exemption for any given year is calculated as follows:

$$\text{Tax Exemption} = (\text{Construction Value} \times \text{Current Year Tax Rate}) \times \text{tax reduction}$$

- 23) Where Schedule A provides for a tax credit, the tax exemption for any given year is calculated as follows

Tax Exemption = [(Value of Improvements + Land Value) x Current Year Tax Rate] - Tax Credit.

REQUIREMENTS FOR ISSUANCE OF EXEMPTION CERTIFICATES

Requirements for Issuance

- 24) Before an Exemption Certificate will be issued under this bylaw for a particular property, the following requirements must be met:
- a) the property owner must have been issued an Occupancy Permit in respect to the development which is eligible for incentives under this bylaw;
 - b) all property taxes, including penalties and interest, due and owing in respect of the property must be fully paid;
 - c) the property owner must have entered into a Revitalization Tax Exemption Agreement with the City; and
 - d) the development must, notwithstanding anything in this bylaw, be substantially completed in accordance with any permits issued under part 26 of the *Local Government Act*.

Conditions of Exemption Certificate

- 25) An Exemption Certificate issued under this bylaw will be subject to the property owner complying with all of the following conditions:
- a) all property taxes, including penalties and interest, that are payable in respect of the eligible property, and all other properties within the City owned by that person, must be fully paid;
 - b) any criteria which made the development eligible for incentives under this bylaw, including "star" ratings, development type, and net floor area must be maintained for the duration of the tax incentive available under this bylaw; and
 - c) the property owner must not be in breach of the Revitalization Tax Exemption Agreement.

RECAPTURE OF EXEMPTED TAXES

- 26) If a property that has benefited from a tax exemption under the Revitalization Tax Exemption Program established by this bylaw ceases to meet all the conditions of the Exemption Certificate, then the Exemption Certificate shall be cancelled and all the taxes which were exempted in respect of that property shall be repaid, plus interest, as if the taxes had never been exempted, and the Collector shall add those taxes to the roll for that property.

SEVERABILITY

27) If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the bylaw.

SCHEDULES

28) Schedules "A" and "B" are attached to and form an integral part of this bylaw.

READ A FIRST time this	6 day of	January, 2014
READ A SECOND time this	6 day of	January, 2014
READ A THIRD time this	6 day of	January, 2014
ADOPTED this	20 day of	January, 2014

Notice of intention to proceed with this bylaw was published on the 10th day of January, 2014 and the 15th day of January, 2014 in the Penticton Western newspapers, pursuant to Section 94 of the *Community Charter*.

Original signed by

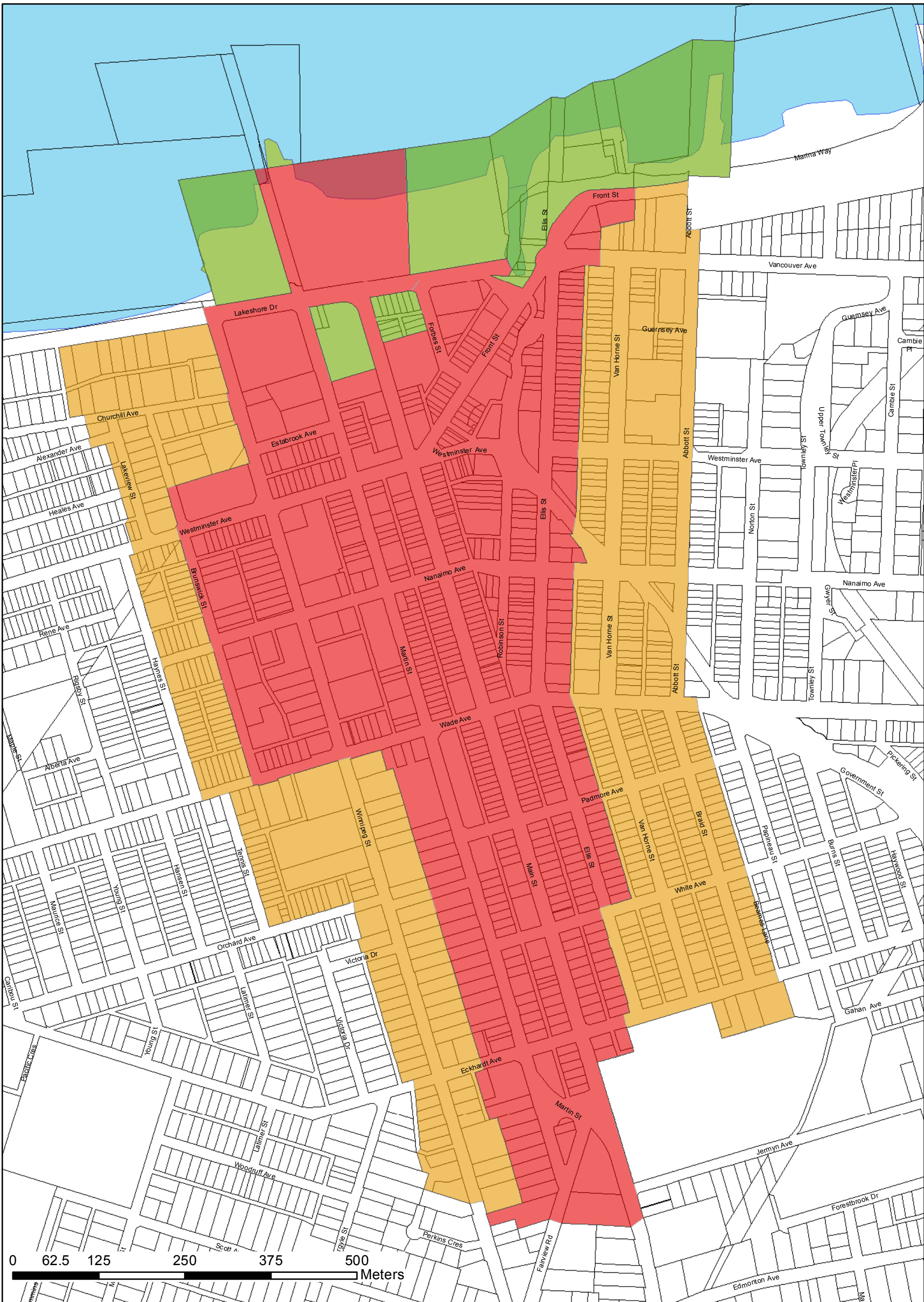
Garry Litke, Mayor

Original signed by

Dana Schmidt, Corporate Officer

Schedule A: Incentives

1) Type of Development	2) Maximum Number of Eligible Developments	3) Minimum Construction Value	4) Term of Tax Exemption		5) Reductions	
			Land	Improvements	Tax reduction: land	Tax reduction: improvements
Eligible Developments: Downtown Core						
Grocery Store	1	\$50,000	10 years	10 years (Bylaw 2015-47)	100%	100%
New multi-family residential units	No limit	\$150,000	0 years	10 years	0%	100%
New family-oriented multi-family units	No limit	\$150,000	5	10	100%	100%
Cultural Facility	2	\$ 200,000	10 years	10 years	100%	100%
Façade restorations	5/year	\$5,000	Varies	Varies	Tax Credit equal to full value of improvements up to a maximum of \$10,000	
New commercial construction or renovations	No limit	\$150,000	0 years	5 years	0%	100%
Temporary Community Amenities	No limit	\$5,000	For duration of use	For duration of use	100%	100%
Greyfield redevelopment	1		0 years	10 years	0%	100%
Brownfield redevelopment						
Less than \$50,000 in remediation costs	0	n/a	0 years	n/a	n/a	n/a
\$50,000 - \$100,000 in remediation costs	1	\$1,500,000	5 years	5 years	100%	100%
Over \$100,000 in remediation costs	1	\$1,500,000	10 years	10 years	100%	100%
Valued infrastructure and amenities	No limit	\$250	Varies	Varies	Tax Credit equal to full value of improvements up to a maximum of \$10,000	
Office Building	No limit	\$1,000,000	5 years	5 years	50%	100%
Bakery	1	\$50,000	10 years	10 years	100%	100%
Butcher Shop	1	\$50,000	10 years	10 years	100%	100%
Hotel	1	\$2,000,000	10 years	10 years	100%	100%
Heritage Restoration	No limit	\$5,000	0 years	5 years in addition to any other incentives available under this bylaw	0%	100%
Live-work unit	No limit	\$150,000	0 years	10 years	0%	100%
Eligible Developments: Downtown Periphery						
New multi-family residential units						
3-5 units	No Limit	\$300,000	0 years	5 years	0%	100%
More than 5 units	No limit	\$600,000	0 years	7 years	0%	100%
New Family Oriented Multi-Family units						
3-5 units	No limit	\$300,000	5	5	50%	100%
More than 5 units	No limit	\$600,000	5	10	100%	100%
Brownfield redevelopment						
\$0- \$100,000 in remediation costs	1	\$1,500,000	5 years	5 years	100%	100%
Over \$100,000 in remediation costs	1	\$1,500,000	10 years	10 years	100%	100%
Valued infrastructure and amenities	No limit	\$250	Varies	Varies	Tax Credit equal to full value of improvements up to a maximum of \$10,000	
Heritage Restoration	No limit	\$5,000	0 years	5 years in addition to any other incentives available under this bylaw	0%	100%
Live-work unit	No limit	\$150,000	0 years	10 years	0%	100%



Schedule B: Downtown Economic Investment Zones

- Downtown Core
 Park
 Downtown Periphery
 LegalParcels

