

The Corporation of the City of Penticton

Bylaw No. 2021-37

A Bylaw to provide for the rate of interest applied to an amount owing to or owing by the City

WHEREAS the Municipal Council of the City of Penticton may establish the manner in which interest is calculated if an enactment provides a requirement or authority to apply interest to an amount owed to, or owing by, the City;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title:

This bylaw may be cited for all purposes as "Interest Bylaw No. 2021-37".

2. Interpretation:

- 2.1 An enactment referred to herein is a reference to an enactment of British Columbia or Canada, as applicable, and regulations made thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Penticton, as amended, revised, consolidated or replaced from time to time.
- 2.2 The headings given to the parts, sections and paragraphs in this Bylaw are for convenience of reference only. They do not form part of this Bylaw and will not be used in the interpretation of this Bylaw.
- 2.3 The use of a word signifying the masculine shall include the feminine and every gender, and the use of a word signifying the plural shall include the singular and such references are used for convenience of reference only. They do not form part of this Bylaw and will not be used in the Interpretation of this Bylaw.
- 2.4 If any part, section or phrase of this Bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this Bylaw.

3. Definitions:

- 3.1 In this bylaw the following words have the meaning ascribed to them:

"deposit" means a sum of money held by the City or a person in accordance with an enactment, an agreement or a City requirement under which a person must deliver a deposit or security:

- (a) to ensure a work or service is completed or goods are delivered to the City,
- (b) as an initial instalment payment to secure the payment of further instalments,

but does not include a letter of credit or bond;

"development agreement" means a legally binding contract between the City and a parcel owner or the owner's agent in respect of the development of a parcel, and includes a phased development agreement, a restrictive covenant or a covenant made under section 219 of the *Land Title Act* R.S.B.C. 1996, c. 250;

"enactment" means a provincial statute, regulation or order, or a City bylaw, as applicable;

"local area service loan" means the financing by or through the City of a work or service provided to parcel owners or parcels in a geographical area established by bylaw for a local area service;

"prime rate" means the prime lending rate of the principal banker to the Province of British Columbia on the first day of each calendar year, compounded annually.

4. Payments Bearing Interest:

4.1 The City will pay interest to a person only in respect of the following matters:

- (a) Overpayment of property taxes,
- (b) Prepayment of property taxes,
- (c) Latecomer arrangement payment,
- (d) Rental deposit,
- (e) Deposit held as a condition of a land use permit, including but not limited to the following matters:
 - (i) Landscape
 - (ii) Development Permit
 - (iii) Development Variance Permit
 - (iv) Temporary Use
 - (v) Earthworks, including deposit or removal of soil,
- (f) Interest stipulated in an agreement with the City, including a development agreement.

4.2 For certainty, the City will not pay interest on a matter not set out in section 4.1.

4.3 Interest under a latecomer arrangement is calculated for the period beginning when the excess or extended work or service is completed up to the date that the connection is made, or the use begins.

5. Interest Rates:

5.1 The rate of interest that is payable by the City under section 4.1(a) is prescribed under *Municipal Tax Regulation* [BC Reg 426/2003].

5.2 The rate of interest per annum that is payable by the City under section 4.1(b), (c) and (e) is the greater of:

- (a) three (3%) per cent below the prime rate, or
- (b) zero.

5.3 The rate of interest that is payable by the City under section 4.1(d) is prescribed under section 4 of the *Residential Tenancy Regulation* [BC Reg 206/2020].

5.4 The rate of interest that is payable by the City under section 4.1(f) is as set out in the agreement.

6. Local Area Service Loan:

6.1 Unless otherwise provided in an enactment, including a City Bylaw, the City will charge interest on a local area improvement loan at prime rate plus two (2%) per cent per annum.

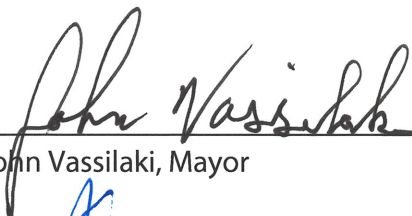
7. Interest Calculation:

7.1 Unless otherwise stipulated in an enactment or agreement, interest owing to or by the City will compound annually.

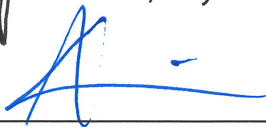
8. Refund:

- 8.1 Interest on a deposit held for a matter under section 4.1(e) accrues to the holder of the permit and will be paid to the permit holder minus any portion used by the City on default under section 8.2.
- 8.2 Despite the forgoing, if a deposit is held for completion of required works and services, and the works and services are required to be undertaken by the City due to default of the person or entity that made the deposit, the City will retain the pro rata portion of the deposit to offset the City's costs of acting in default, and in such case the City will not pay interest to the person or entity that made the deposit to the City other than on any portion of the deposit returned to the person or entity.
- 8.3 The City will refund deposit interest only on final completion of a contract or required works and services in accordance with an applicable bylaw, permit or agreement, and the interest will be included in the deposit refund payment made only to the original person that made the deposit to the City.

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|-------------------------|----|--------|----------------|
| READ A FIRST time this | 19 | day of | October, 2021 |
| READ A SECOND time this | 19 | day of | October, 2021 |
| READ A THIRD time this | 19 | day of | October, 2021 |
| ADOPTED this | 16 | day of | November, 2021 |



John Vassilaki, Mayor



Angie Collison, Corporate Officer

