

The Corporation of the City of Penticton

Bylaw No. 2014-44

A bylaw to create an Industrial Economic Investment Zone that provides tax relief for eligible projects.

WHEREAS the Council wishes to stimulate, employment growth, construction and alteration of buildings within Penticton's Industrial sector; and

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:

1. **CITATION**

This Bylaw may be cited as "Industrial Sector Economic Investment Zone Bylaw No. 2014-44".

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 the Industrial 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:

"Building Bylaw" means City of Penticton Building Bylaw No. 94-45 (1994) as amended or superseded from time to time;

"Building Permit Fee" means both the applicable Building and Plumbing Permit fees, but does not include demolition permit fees or penalties, specified in City of Penticton Fees and Charges Bylaw or Building Bylaw as amended or superseded from time to time;

"Building Permit" means permission or authorization in writing from the Chief Building Official to perform building work regulated by the Building Bylaw;

"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;

"Current Year Tax Rate" means the 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 under Section 7 which is eligible for incentives under Section 9;

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

"Investment Zones" means the Industrial Economic Investment Zone as defined in Section 5(a) of this bylaw;

"Catalyst Development" means a development under Section 8 eligible for special incentives under Section 10;

"Net Floor Area" means Net floor Area as defined under Zoning Bylaw;

"Occupancy Permit" means an occupancy permit, as defined under Building 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*;

"Zoning Bylaw" means City of Penticton Zoning Bylaw No. 2011-23 as amended or superseded.

REASONS, OBJECTIVES AND METHOD

5. Council hereby establishes a Revitalization Tax Exemption Program, pursuant to section 226 of the *Community Charter*, to:
 - (a) stimulate and encourage employment growth and construction of new buildings and renovations of existing buildings within the Industrial Economic Investment Zone, being those properties within that part of the City shown shaded blue on the plan attached as Schedule "A";

(b) encourage the timely introduction of industrial land uses which will contribute particularly to the vibrancy, economic growth and liveability of Penticton.

6. The Revitalization Tax Exemption Program is intended to accomplish the Council's objectives by:

(a) providing property tax relief for eligible construction within the Investment Zones; and

(b) providing increased tax reductions for a Catalyst Development within the Industrial Economic Investment Zones; and

INVESTMENT ZONES AND ELIGIBLE DEVELOPMENTS

The Industrial Economic Investment Zone

Eligible Developments

7. The kinds of development in the Industrial Economic Investment Zone eligible for incentives under this bylaw are developments which meet all of the following criteria:

(a) are the subject of a Building Permit for new construction or renovations having a construction value of \$50,000 or greater;

(b) have been issued a Building Permit between July 1st 2014 and December 31, 2017; and

(c) have received an Occupancy Permit on or before December 31, 2018.

Ineligible Developments

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

(a) gas stations.

Catalyst Development

8. The kinds of development in the Industrial Economic Investment Zone that is eligible for special incentives under this bylaw are those developments which meet the following criteria:

(a) are the subject of a Building Permit for new construction or renovations having a construction value of \$1,000,000 or greater;

Catalyst new construction or renovations qualify as long as the \$1,000,000 value is made up of:

- \$1,000,000 or greater in construction value as provided at time of Building Permit submission; and/or

- A combination of the following:

- 25% of the land sale value, providing that the land subject to the new building permit, was purchased by the same property owner applying for the building permit, within 1 year of the building permit application; and
 - A building permit construction value that when added to the 25% of land value adds up to a total of \$1,000,000 or greater.
- (b) have been issued a Building Permit between July 1st, 2014 and December 31, 2018; and
- (c) have received an Occupancy Permit on or before December 31, 2019.

AVAILABLE INCENTIVES FOR ELIGIBLE DEVELOPMENTS AND KEY LAND USES

Incentives for Eligible Developments

9. Where a development is eligible for incentives under this bylaw, the development shall be eligible for:
- (a) a property tax exemption on the value of eligible improvements for a maximum term of 5 years.

Ineligible Developments

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

- (a) gas stations.

Incentives for Catalyst Developments

10. Where a development is a Catalyst Development under this bylaw, the development shall be eligible for:
- (a) a property tax exemption of:
- (i) 100% of property taxes payable on land and eligible improvements, for a maximum term of 3 years; and
 - (ii) 100% of property taxes payable on the value of eligible improvements for a further term of up to 2 years.
- (b) At the conclusion of the incentives available under Section 10(a) (i) & (ii), and with the submission of proof that the Catalyst Development has created and sustained over twenty (20) New Full Time Penticton Jobs, as outlined in Section 10(c) over the period of five years outlined under Section 10(a) (i) & (ii), the development shall be eligible for a further property tax exemption of:
- (i) 100% of property taxes payable on the value of eligible improvements for an additional term of 5 years.

- (c) New Penticton Jobs means the total of new local jobs in Penticton that have been created by the business operating as part of the eligible development qualifying for incentives under Section 10(a) of this Bylaw. Twenty (20) or more New Full Time Penticton Jobs must have been created by the development and sustained for the period of five years under Section 10(a) to qualify for the incentives available under Section 10(b) of this Bylaw. Proof of the new local jobs must be provided showing the company's payroll identifying the twenty (20) full time jobs created and sustained for the five year period are all located in the City of Penticton.

CALCULATION OF EXEMPTION AND SECURITIES

Extent of Tax Exemptions and Fee Reductions

11. The extent of the property tax exemptions available for Eligible Developments under this bylaw is limited to the municipal property tax increase directly attributable to the value of improvements eligible for incentives under this bylaw.
12. The extent of the property tax exemptions available for Catalyst Developments under this bylaw is limited to:
 - (a) 100% of all property taxes payable on land and new improvements, but not pre-existing improvements for a maximum term of 3 years, and
 - (b) The municipal property tax increase directly attributable to the value of improvements eligible for special incentives under Section 10, for a further term of up to 2 years.
 - (c) At the conclusion of the incentives available under Section 10(a) (i) & (ii), and with the submission of proof that the Catalyst Development has created and sustained over twenty (20) new jobs over a five year period, the development shall be eligible for a further property tax exemption of:
 - (i) 100% of property taxes payable on the value of eligible improvements for an additional term of 5 years.
13. 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 the improvements meet the eligibility criteria for incentives under this bylaw.
14. Notwithstanding anything in this bylaw, a development for which construction has commenced prior to July 31st 2014, 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

15. A property tax exemption under Section 10(a) for any given year is calculated as follows:

Tax Exemption = (Value of New Improvements + Land Value) x Current Year Tax Rate.

16. A property tax exemption under Section 10(a) and 10(b) for any given year is calculated as follows:

Tax Exemption = Construction Value x Current Year Tax Rate.

17. If an Exemption Certificate is not issued for the development in accordance with this bylaw, the City may draw down the security and apply the monies as the remainder of the Building Permit Fee.

EXEMPTION CERTIFICATES

Requirements for Issuance

18. 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 within an Exemption Certificate

19. 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, business 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

20. 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

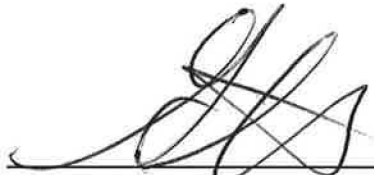
21. If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the bylaw.

22. **SCHEDULE**

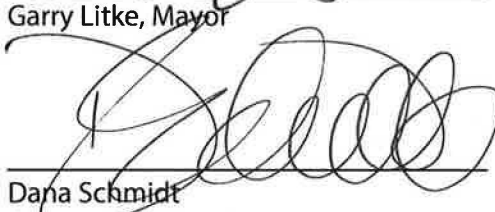
Schedule 'A' is attached to and forms an integral part of this bylaw.

READ A FIRST time this	6 day of	October, 2014
READ A SECOND time this	6 day of	October, 2014
READ A THIRD time this	6 day of	October, 2014
RESCIND and READ THIRD as amended	20 day of	October, 2014
ADOPTED this	3 day of	November, 2014

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



Garry Litke, Mayor



Dana Schmidt
Corporate Officer

SCHEDULE "A"

