



## VULCAN COUNTY

Vulcan - Alberta

### **BYLAW 2022-031**

Being a bylaw of Vulcan County in the Province of Alberta to incentivize new development of large-scale linear property projects with long-term stability and predictable tax incentives.

**WHEREAS** the Municipal Government Act, RSA 2000, c.M-26 pursuant to section 364.2, authorizes municipalities to allow full or partial exemption from taxation for non-residential properties.

**AND WHEREAS** Vulcan County is committed to promoting investment opportunities;

**AND WHEREAS** Vulcan County considers it desirable to encourage new development of large-scale linear properties for the general benefit of the municipality;

**AND WHEREAS** Council advertised its intention to consider the provision of this Bylaw pursuant to the requirements of the Municipal Government Act, R.S.A. 2000 as amended or repealed and replaced from time to time;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 Vulcan County, in the Province of Alberta, duly assembled enacts as follows:

1. This bylaw may be called the "Linear Tax Stability Bylaw".
2. **Definitions**
  - a) **"Applicant"** means a person who applies for a Tax Stability Agreement;
  - b) **"Application Fee"** means the fee established by this Bylaw to be paid at the time an application is submitted pursuant to this Bylaw;
  - c) **"Assessed Person"** means an assessed person as defined under section 284(1) of the Municipal Government Act;
  - d) **"CAO"** means the Chief Administrative Officer of the County, or delegate;
  - e) **"Commenced"** means the act of proceeding with any physical structures that require approval under Vulcan County's Land Use Bylaw;

- f) **"Commercial Operation Date"** means the New Project and/or an Expansion Project are operational as determined in accordance with MRAT and the Municipal Government Act;
- g) **"Complete Application"** means an application submitted pursuant to this Bylaw that includes the Application Fee, the application form, any information and documents set out on the application form and any additional application requirements for the Tax Stability Agreement under this Bylaw, including any additional documentation requested by the County to verify the accuracy of the information provided;
- h) **"County"** means the municipal corporation of Vulcan County, a municipality established under the authority of the Municipal Government Act;
- i) **"Council"** means the Council of Vulcan County;
- j) **"Decision"** means the decision to grant a Tax Stability Agreement, to reject the application, or to cancel the Tax Stability Agreement;
- k) **"Eligible Capital Costs"** means the lower of the actual total capital costs incurred to construct the New Project, or the estimated cost to the Assessed Person to construct the New Project at the time of Final Investment Decision as outlined in the Complete Application, and will include any new expenditures on labour, engineering, materials or other costs associated with the construction, but will not include the costs of any improvements or machinery and equipment that existed on the land before construction commenced or the land itself, or other non-capital costs such as legal/regulatory/permitting fees;
- l) **"Exemption"** means the portion of taxes on non-residential property that have been determined to be exempt in accordance with this Bylaw, and which are computed separately under this Bylaw for non-residential property;
- m) **"Expansion Project"** means development that adds to the existing facilities physical space or associated infrastructure, but does not include the replacement and upgrading of the components of an existing facility;
- n) **"Final Investment Decision"** means the final approval and sanction by the owners of a New Project;
- o) **"Large-Scale"** refers to the threshold value of Eligible Capital Costs as outlined in the eligibility criteria in section 5 of this Bylaw.
- p) **"Linear"** means the type of property falling within the assessment class specified in section 284(k) of the Municipal Government Act;
- q) **"Municipal Government Act"** means the Municipal Government Act, RSA 2000, c M-26;

- r) **"MRAT"** means the Matters Relating to Assessment and Taxation Regulation, 2018, AR 203/2017;
- s) **"New Project"** means a new construction of a large-scale Linear Project on a Property;
- t) **"Non-Residential"** means the type of property falling within the assessment class specified in section 297(1)(b) of the Municipal Government Act;
- u) **"Property"** means the property or properties on which an Applicant is applying to qualify for a Tax Stability Agreement;
- v) **"Qualifying Property"** means a Property which meets the criteria under this Bylaw for a Tax Stability Agreement;
- w) **"Supplementary Assessment"** means a supplementary assessment as set out in Part 9, Division 4 of the Municipal Government Act;
- x) **"Tax Reduction"** means an exemption from taxation for non-residential property as provided for in Part 10, Division 2 of the Act but shall not include an exemption from non-residential property taxes on land. For purposes of clarity, the exemption from taxation applies only to municipal taxes imposed by Vulcan County under Part 10, Division 2 of the Act, excluding any municipal taxes on land, and does not apply to any Provincial or local requisitions.
- y) **"Tax Stability Agreement"** means a written agreement setting out the terms and conditions for a Tax Incentive for the Qualifying Property, entered into between the applicant and Vulcan County following approval of an application made pursuant to this Bylaw.

### **3. Interpretation**

The following rules apply to interpretation of this Bylaw:

- a) headings, titles, margin notes, and preambles in this Bylaw are for ease of reference only;
- b) gender-specific words, phrases, and references are intended to be gender-neutral, and the singular includes the plural as the context requires;
- c) every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid by a Court, all other provisions of this Bylaw remain valid and enforceable; and
- d) references to bylaws and enactments in this Bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder.

## **PART II – AUTHORITY AND CRITERIA FOR EXEMPTION**

### **4. Authority to Grant Exemption**

The Chief Administrative Officer has the authority to determine whether an Exemption will be granted in accordance with the terms and conditions of this Bylaw.

### **5. Criteria for Exemption**

- a) To be eligible for an Exemption through a Tax Stability Agreement, the following eligibility criteria must be met:
  - (i) be a New Project and/or an Expansion Project with Eligible Capital Costs of more than \$100,000,000 Canadian dollars;
  - (ii) the Non-Residential Linear Property must have an expected lifespan of over 15 years;
  - (iii) the Non-Residential Linear Property must not be subject to any other tax reduction or tax incentive agreement granted pursuant to any Vulcan County bylaw; and
  - (iv) be commenced subsequent to this bylaw coming into force.
  
- b) Requirements for Qualifying Property:
  - (i) be physically located within Vulcan County;
  - (ii) obtain all applicable necessary development approvals from the County;
  - (iii) obtain all applicable required approvals from provincial or federal governments or regulators with respect to the non-residential property; and
  - (iv) not have development compliance issues, be in violation of a development agreement, or in violation of the Safety Code Act at any time during the taxation years for which the Exemption applies.
  
- c) Requirements for Applicant:
  - (i) Applicant is the Assessed Person or authorized agent for the Assessed Person;
  - (ii) Applicant must submit a Complete Application in accordance with the terms of this Bylaw;

- (iii) Assessed Person must not be in arrears or have amounts owing with regards to property tax, utilities, or other fees owed to the County at any time during the taxation years for which the Exemption applies;
- (iv) Assessed Person must not be in bankruptcy or receivership;
- (v) Assessed Person must be in compliance with terms and conditions of any grant or other financial assistance received from the County, irrespective of the New Project, or the Qualifying Property;
- (vi) 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 County whether as part of the application process or during the term of the Tax Stability Agreement; and
- (vii) Assessed Person and their agent must meet all requirements under this Bylaw and the *Municipal Government Act*.

## **6. Ineligible Projects**

New projects that transition operations or relocate development from an incorporated urban municipality within the boundaries in Vulcan County will not be eligible for an Exemption.

The Chief Administration Officer may exercise discretion to refuse to have the County grant an Exemption when:

- a) an entity related to the Assessed Person is in bankruptcy, or receivership;
- b) the Assessed Person owns any interest in another property that is going through foreclosure;
- c) an entity related to the Assessed Person owns any interest in another property going through foreclosure;
- d) the Property is the subject of some form of litigation;
- e) the Assessed Person is involved in litigation with the County; or
- f) in the sole discretion of the Chief Administrative Officer, there is any other reason to believe that the Exemption is not in the public interest.

## **7. Exemption Effect**

An Exemption may have effect for up to:

- a) Ten (10) consecutive taxation years
- b) No subsequent application for exemption or deferral of taxes will be accepted for the New Project.
- c) Notwithstanding anything in this Bylaw, no exemption will be permitted to apply in a taxation year that is more than 15 years after an exemption is approved in accordance with this bylaw.

## **8. Change of Ownership**

- a) A change in ownership of the Property will not affect the Exemption unless the new owner falls within one or more of the terms for disqualification under section 6 of this Bylaw.
- b) To maintain eligibility for the Exemption, the new owner must assume the obligations that arise under the Tax Stability Agreement.

## **PART III – APPLICATION AND DECISION PROCESS**

### **9. Application for Exemption**

The application process for an Exemption is as follows:

- a) Applicants must submit a Complete Application to the County, and the Chief Administrative Officer 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 of one thousand dollars (\$1,000) Canadian;
- c) No new applications will be received for projects that have already received Vulcan County development permit approval prior to this Bylaw coming in to effect, nor for projects commencing after January 1, 2030.
- d) A Complete Application must be received before construction of the New Project and/or Expansion Project has Commenced;
- e) Applicants whose applications are returned as incomplete or ineligible may resubmit an application without payment of a further application fee;

- f) notwithstanding the Complete Application requirements, the County may require any additional information that, in the discretion of the County, is necessary to complete the application and may require the Applicant's consent to be given for the County to obtain such additional information;
- g) 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; and
- h) the County will advise Applicants in writing if their application is accepted for consideration. Applications accepted for consideration will become the property of the County and may not be returned.
- i) the Chief Administrative Officer will 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 County, other governments, government agencies, or persons.

**10.** The Chief Administrative Officer will consider each application and:

- a) grant the Exemption and enter into a Tax Stability Agreement with the Applicant; or
- b) reject the application and advise the Applicant with written reasons as to why.

**11.** The Chief Administrative Officer is authorized to enter into a Tax Stability Agreement with the Applicant if an Exemption is granted.

**12.** The Chief Administrative Officer will issue a written Decision to the Applicant outlining the following information:

- a) whether a Property qualifies for the Exemption, and the years to which the Exemption applies, which must not include any taxation year earlier than the taxation year in which the Exemption is granted, if applicable;
- b) any reason why the Property fails to qualify for the Exemption and provide the date by which an application for an appeal to Council must be made;
- c) the extent of any exemptions granted on the Property pursuant to the terms of this Bylaw; and
- d) any conditions, the breach of which will result in the loss of the Exemption and the taxation year or years in which the conditions apply.

13. In issuing a Decision under subsection (12), and in the Tax Stability Agreement, the Chief Administrative Officer may set conditions requiring the Applicant to provide information requested by the County to enable the County to monitor whether the Property continues to meet the terms of this Bylaw throughout the period for which the Exemption is granted, or to ensure that the calculation of the Exemption is accurate, including the provision by the Applicant of consent for the disclosure of such information to the Chief Administrative Officer by employees or agents of the County, other governments, government agencies, or other persons.
14. It will be a deemed condition of all Decisions that section 5 of this Bylaw be complied with on an ongoing basis.
15. At any time, the Chief Administrative Officer may require the Applicant to provide any documents as the Chief Administrative Officer may deem necessary to verify any information contained in the application or to confirm ongoing compliance with the eligibility criteria of the Exemption.
16. When a condition of the Decision is breached, a Property no longer qualifies for an exemption under this Bylaw, or information becomes available that shows that the Property should not qualify for an exemption under this Bylaw, the Chief Administrative Officer will issue a written Decision cancelling the exemption, provide an explanation why the exemption has been cancelled, and what criterion or conditions must be met in order for the exemption to be reinstated, if applicable. The written Decision will also provide the date in which an appeal to Council must be submitted.

#### **PART IV – CALCULATION AND APPLICATION OF THE EXEMPTION**

17. An Exemption granted pursuant to this Bylaw will be calculated and applied in accordance with this section:
  - a) for up to a maximum of 10 consecutive eligible tax years identified in the Tax Stability Agreement, the Non-Residential property shall receive a Tax Reduction, on the incremental increase in the annual property taxes levied on the non-residential property attributable; whereas, to reduce the property tax rate on any property, or any portion of a property, to an effective rate equaling the lessor of:
    - i. the effective posted annual municipal tax rates as approved and adopted by Council; and
    - ii. a minimum threshold of 10.00 mills.
  - b) notwithstanding anything in this section or in any Tax Stability Agreement, no Tax Reduction under this section shall apply so as to reduce the applicable property tax rate on any property, or any portion of a property, below the effective posted annual tax rates or the minimum threshold of 10.00 mills, whichever is the lessor.



- c) For clarification purposes, the exemption from taxation applies only to municipal taxes imposed by Vulcan County under Part 10, Division 2 of the Act, excluding any municipal taxes on land, and does not apply to any Provincial or local requisitions.

### **18. Commencement of Exemption**

The Exemption will begin in effect when:

- a) the Commercial Operation Date is reached; and
- b) the Applicant has demonstrated that all applicable conditions of the Decision, the Tax Stability Agreement and requirements under this Bylaw have been met.

### **19. Tax Stability Agreement**

A Tax Stability Agreement will be required for all granted Exemptions. The Tax Stability Agreement will 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 Stability Agreement and the Exemption, and the taxation year or years to which the conditions apply;
- c) the date which the Exemption will begin in effect, which will be the Commercial Operation Date;
- d) the amount of the Exemption, to be calculated and allocated in accordance with section 17 of this bylaw; and
- e) any other information or conditions provided by the County.

### **20. Cancellation of Exemption**

If at any time after an Exemption is granted, the County 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 Stability Agreement;

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

- c) A written Decision to cancel an Exemption must be provided to the Applicant and must include reasons for the cancellation, identify the taxation year or years to which the cancellation applies, and provide the date by which an application for an appeal to Council must be made.

## **PART V – APPEAL TO COUNCIL**

**21.** An Applicant may appeal to Council in the following situations:

- a) an Application for Exemption is refused or rejected;
- b) an Exemption is cancelled for one or more taxation years;
- c) a Tax Stability Agreement is cancelled; or
- d) content of the Tax Stability Agreement is inconsistent with the Bylaw or the *Municipal Government Act*.

**22.** A request for appeal must be submitted in writing to the Chief Administrative Officer 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 an Exemption is cancelled for one or more taxation years;
- c) written notice being sent to the Applicant that a Tax Stability Agreement is cancelled; or
- d) execution of a Tax Stability Agreement as the case may be.

**23.** Council will consider an appeal at:

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

**24.** Remedies available to Council upon conclusion of an appeal are:

- a) Council may uphold or revoke a decision of the Chief Administrative Officer with respect to the outcome of an application or cancellation of an Exemption or Tax Stability Agreement; or
- b) Council can revise or direct the Chief Administrative Officer to revise a Tax Stability Agreement.

- c) In accordance with section 460(7) of the *Municipal Government Act*, complaints about a Decision may not be made to the assessment review board.

**25. Severability**

If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed valid.

**26. Enactment**

- a) This bylaw shall come into effect upon third and final reading thereof.

READ a first time on this 17<sup>th</sup> day of August, 2022.

READ a second time on this 2<sup>nd</sup> day of November, 2022.

READ a third time and passed on this 2<sup>nd</sup> day of November, 2022.

[original signed]

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Jason Schneider, Reeve

[original signed]

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Nels Petersen, CAO