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# By-law #01-2018

## Commercial Development District Improvement Plan By-law

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**WHEREAS** it is desirable to permit the phasing-in, over a period of up to 10 years, of an increase to the taxable assessed value of certain commercial properties located in the Town of Oxford Commercial Development District and to provide a partial rebate of taxes paid by the Owner during the phasing-in period;

**AND WHEREAS** the *Municipal Government Act* allows the municipality with the approval of the Minister of Municipal Affairs to pass this By-law;

The Council of the Town of Oxford, under the authority of the *Municipal Government Act*, pursuant to Section 71C and subject to approval of the Minister in Section 71D, enacts the following By-law:

### **Title**

1. This By-law is entitled the “Commercial Development District Improvement Plan By-law”.

### **Definitions**

2. In this By-law:

- a) “Actual Taxable Assessed Value” means the taxable assessed value pursuant to the assessment roll for the taxation year in which the Rebate Eligible Assessment is to be determined, subject to any adjustments to taxes arising from assessment appeals or changes to the taxable assessed value made by the Property Valuation Services Corporation (PVSC) through requests for reconsideration.
- b) “Annual Rebate” is the amount of the rebate in a year paid to an Owner of an Eligible Property that is subject to a Phased In Assessment Agreement pursuant to section [10] of this By-law.
- c) “Base Year Taxable Assessed Value” means the taxable assessed value of an Eligible Property in the taxation year in which a Phased In Assessment Agreement is signed for the Eligible Property, subject to any adjustments to taxes arising from assessment appeals or changes to the taxable assessed value made by the Property Valuation Services Corporation (PVSC) through requests for reconsideration.

- d) “Commercial Development District” or “CDD” means the area of the Town of Oxford established by section [4] of this By-law.
- e) “Development” means investment that, in the opinion of the Town of Oxford, results in an increase in the productive use of an Eligible Property or a building on an Eligible Property, and includes, but is not limited to, construction of a new building, remediation of the property or the expansion or renovation of an existing building to realize more effective use of the Eligible Property’s potential.
- f) “Development Support Program” is a program designed to stimulate building construction and the expansion of the economy of the Town of Oxford.
- g) “Eligible Property” means an eligible property as defined in section 71C(1)(d) of the *Municipal Government Act*
- h) “Owner” means the person named on the assessment roll as responsible for the taxes for a property.
- i) “Phased In Assessment Agreement” is an agreement signed by the Town of Oxford and the Owner of an of an Eligible Property and is written in substantially the same form as the Agreement set out in Appendix “B” of this By-law.
- j) “Rebate Eligible Assessment” in a taxation year means the amount calculated using the following formula:

$$\text{Rebate Eligible Assessment} = \text{Actual Taxable Assessed Value} \text{ minus } \text{Base Year Taxable Assessed Value}.$$

### **Application**

- 3. This By-law repeals and replaces By-law #0-12017.
- 4. This By-law applies to Eligible Properties located in the CDD.
- 5. The CDD for the Town of Oxford is depicted in the attached Appendix “A” and is hereby established in accordance with the Town of Oxford *Municipal Planning Strategy*.

### **Development Support Program**

- 6. A Development Support Program is established to aid Owners of Eligible Properties in the CDD by providing the possibility of an annual partial rebate on taxes paid by the Owner if the Owner has undertaken Development of their Eligible Property.
- 7. Prior to receiving support through the Development Support Program, an Owner of an Eligible Property must enter into a Phased In Assessment Agreement with the Town of Oxford.

**Eligibility**

8. An Eligible Property must undergo Development before the Owner of the property can participate in the Development Support Program.

**Phased In Assessment Agreement**

9. The eligibility criteria for the Development Support Program and the limits on the program are as established in this By-Law. In the event of a conflict between a Phased In Assessment Agreement and this By-Law, the provisions of this By-Law shall prevail.

**Rebate Calculation**

10. An Annual Rebate shall be calculated each year for each Eligible Property that is the subject of a Phased In Assessment Agreement as follows:

<b>Year</b>	<b>Annual Rebate</b>
1	90% of Rebate Eligible Taxes
2	80% of Rebate Eligible Taxes
3	70% of Rebate Eligible Taxes
4	60% of Rebate Eligible Taxes
5	50% of Rebate Eligible Taxes
6	50% of Rebate Eligible Taxes
7	40% of Rebate Eligible Taxes
8	30% of Rebate Eligible Taxes
9	20% of Rebate Eligible Taxes
10	10% of Rebate Eligible Taxes

Where Rebate Eligible Taxes = Commercial tax rate for the Town of Oxford x the Rebate Eligible Assessment

**Rebate Limits**

11. The total of Annual Rebates provided to an Owner over the term of participation in the Development Support Program must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty per cent of the total increase in taxes that would be payable during the same period in the absence of the application of the Development Support Program formula.

**Adjustments**

12. In the event there are any subsequent changes in the total taxes payable in any year due to reductions resulting from assessment appeals, and where such tax changes occur after Annual Rebates have been paid, future year entitlements may be reduced accordingly. Any overpayment of amounts arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the Town of Oxford.

### **Duration**

13. Annual Rebates will only become payable to the Owner after the Eligible Property is first reassessed by the Property Valuation Services Corporation (PVSC) to fully reflect the Development for which the Owner is receiving the rebate.

14. All support under the Development Support Program will cease if, during the term of the Phased In Assessment Agreement, a building on the subject property is demolished except to allow for eligible Development. Annual Rebates that would have been payable in the year in which the demolition occurs will be adjusted on a pro-rated basis to reflect the date of the demolition.

### **Staged Development**

15. In the case of a staged Development, where one portion of an Eligible Property is developed in advance of others, each portion of the Eligible Property will be treated as a separate Eligible Property. The first Annual Rebate payment of the component of the Development Support Program will be based on the Rebate Eligible Assessment arising from the increased assessment on the first portion of the Development. As other portions of the Eligible Property are developed, which result in further assessment increases, the Owner of the Eligible Property may apply to further participate in the Development Support Program based on the additional Rebate Eligible Assessment, subject to the continued availability of the Development Support Program and the Owner's ability to meet the eligibility requirements and Annual Rebate entitlements in place at that time.

### **Condominiums**

16. If a Development of an Eligible Property is condominiumized, each condominium unit will be treated as a stand-alone Eligible Property and must be able to meet all eligibility requirements of the Development Support Program, independent of other condominium units.

### **Repeal**

17. (1) If this By-Law, or any portion thereof, is repealed, any Owner of an eligible property in a CDD who has been accepted to participate in the Development Support Program prior to the date of repeal, will benefit from the Development Support Program, as applicable, in accordance with this By-Law, despite its whole or partial repeal.

(2) In the event of a repeal in (1), for the Owner of an eligible property in the CDD

who has been accepted into the Development Support Program as of the date of the repeal, this By-law will continue to be considered to be in force and effect only for the limited purpose of providing for the continuation of the Development Support Program for that Owner until the ten-year maximum term is completed or the Owner's participation in the Development Support Program is discontinued.

### **Other Conditions**

18. All proposed Developments must conform to all Provincial laws, municipal By-laws, policies, and processes and all improvements must be made pursuant to an approved building permit and applicable zoning requirements and development approvals.

19. The applicant to the Development Support Program must be the Owner of the Eligible Property that is to be the subject of the Phased In Assessment Agreement.

20. The Owner of an Eligible Property in the CDD must not be in arrears of property taxes or other fees and charges on the date that the Phased In Assessment Agreement is signed.

### **Payment**

21. The Town of Oxford will pay Annual Rebates once annually, in the last quarter of the year, provided that:

- a) there are no outstanding taxes, water rates, or other sums owed to the Town of Oxford with respect to the subject property;
- b) there are no outstanding work orders or orders or requests to comply from any municipal or provincial entity with respect to the subject property; and
- c) all other eligibility criteria and conditions are met.

22. An Owner will not be entitled to an Annual Rebate if the property subject to a Phased In Assessment Agreement does not meet the conditions of section 21 at the time the Annual Rebate is due to be paid.

23. Annual Development Rebates will not be applied as tax credits against property tax accounts.

24. In case of an assessment appeal, the Town of Oxford reserves the right to withhold Annual Development Rebates pending final disposition of the appeal.

### **Requirement to Review By-Law**

25. This By-law shall be reviewed by the Town of Oxford within four years of its coming into force and every four years thereafter in accordance with section 71(E) of the *Municipal Government Act*.

**THIS IS TO CERTIFY THAT** this By-law was passed by the Council of the Town of Oxford at a duly constituted meeting of said Council held the [day] day of [month], [year].

**SIGNED** by the Mayor and Town Clerk this [day] day of [month], [year].

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MAYOR

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TOWN CLERK

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# Council Meetings and Proceedings Policy

## Editor's Annotations

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### Enabling Legislation

*Municipal Government Act*, R.S.N.S. 1998, c.18:

- 71C (1) In this Section,
- (a) “commercial development district” means a district, established by a by-law made pursuant to subsection (2), that comprises one or more eligible properties;
  - (b) “eligible commercial property” means a commercial property, except the forest property owned by a person who owns fifty thousand acres or more of forest property in the Province;
  - (c) “eligible contaminated property” means a property or part thereof that
    - (i) was an eligible commercial property,
    - (ii) is designated as a contaminated site pursuant to subsection 87(1) of the *Environment Act*, and
    - (iii) is the subject of an agreement entered into pursuant to clause 89(1)(b) of the *Environment Act*;
  - (d) “eligible property” means an eligible commercial property or eligible contaminated property.
- (2) Notwithstanding subsection 57(2) but subject to Section 71D, where a council considers it necessary or advisable, the council may, by by-law, provide for
- (a) the phasing-in of an increase in the taxable assessed value of an eligible property located in a commercial development district over a period not exceeding ten years; and
  - (b) the cancellation, reduction or refund of taxes paid as a result of the phasing-in of the increase.

- (3) Subject to subsection (4), a by-law made pursuant to subsection (2) must establish, in accordance with a municipal planning strategy, one or more commercial development districts.
  - (4) A commercial development district may only be established in an area that is serviced by wastewater facilities and a water system.
  - (5) Subject to subsection (6), a by-law made pursuant to subsection (2) may
    - (a) where the taxes paid in the current year in respect of an eligible property exceed the taxes payable in respect of the eligible property under the by-law, authorize the refund of the amount by which the taxes paid exceed the taxes payable under the by-law;
    - (b) prescribe a base year for the purpose of a formula authorized by clause (c); and
    - (c) prescribe a formula to be applied to any increase in the taxable assessed value in a year above the taxable assessed value in the base year for the purpose of calculating the taxes payable.
  - (6) A formula prescribed by clause (5)(c) must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty per cent of the total increase in taxes that would be payable during the same period in the absence of the application of the formula.
  - (7) Notwithstanding subsection 57(2), where a by-law is made pursuant to subsection (2), the owner of an eligible property to which the by-law applies shall pay taxes with respect to the eligible property in accordance with the by-law instead of the taxes otherwise payable pursuant to this Act.
  - (8) Taxes payable in respect of an eligible property under a bylaw made pursuant to subsection (2) are a first lien upon the eligible property.
  - (9) Nothing in this Section authorizes the application of a commercial tax rate to an eligible property other than the commercial tax rate set by the council pursuant to subsection 73(1) for the area of the municipality determined to be an urban area receiving an urban level of services.
- 71D
- (1) Where a council makes a by-law pursuant to subsection 71C(2), the clerk shall submit a certified copy of the by-law to the Minister.
  - (2) The Minister shall review the by-law and determine whether the by-law appears to affect a provincial interest or conflict with the law.



- (3) Where the Minister determines that the by-law appears to affect a provincial interest, the Minister shall
  - (a) approve the by-law;
  - (b) approve the by-law with such amendments as the Minister considers necessary or advisable; or
  - (c) refuse to approve the by-law.
- (4) Where the Minister determines that the by-law appears to conflict with the law, the Minister shall
  - (a) approve the by-law with such amendments as the Minister considers necessary or advisable to resolve the apparent conflict with the law; or
  - (b) refuse to approve the by-law.
- (5) The by-law is of no force and effect until the Minister
  - (a) determines that the by-law does not appear to affect a provincial interest or conflict with the law; or
  - (b) approves the by-law, with or without amendments, and provides written notice to the clerk of the Minister's determination or approval.

71E A by-law made pursuant to subsection 71C(2) must be reviewed by the municipality within four years of its coming into force and every four years thereafter.

### **Important Notice**

The reader is cautioned that editorial and drafting choices involve interpretation of the law. Municipal units should consult with their own legal advisors before relying upon, and applying to their own circumstances, the comments or drafts contained in this Manual.

### **Comment**

- Section 71C of the Municipal Government Act provides municipalities with additional flexibility with respect to commercial taxation. This section of the Act authorizes municipal council to make a by-law providing for the phasing-in, over a period of up to ten years, of an increase to the taxable assessed value of certain commercial or contaminated properties. Properties must be serviced by water and wastewater and must be located in an area that the municipality has designated as a commercial development district (CDD) in accordance with the municipality's municipal planning strategy (MPS). This tool can be used to fulfill several council objectives such as: economic development, brownfield redevelopment or to stabilize commercial property tax increases.

- The model by-law is just one approach that municipalities can use to implement the phasing in of increases in taxable assessed values under s. 71C of the MGA. Your municipality may wish to review the legislation, and connect with your Municipal Advisor for support before adapting this model by-law for your context and designating a CDD in your municipality. Your advisor can provide you with a copy of the *Commercial Assessment Phase-In Tool: A Best Practice Guide*.
- Under the model by-law, both parties must enter into a Phased In Assessment Agreement before the municipality can provide support to a property owner through the Development Support Program. However, the by-law prevails in the event that there is a conflict between the Phased In Assessment Agreement and the by-law.
- Annual rebate amounts are calculated as a percentage of the rebate eligible assessment. The rebate eligible assessment is calculated by subtracting the actual taxable assessed value from the base year taxable assessed value. The enabling legislation limits the total rebate amount to no more than half of what the tax increase would have been over the course of the phase in period which is limited to a maximum of ten years.
- Section 13 of the model by-law allows the municipality to reduce future entitlements should a business owner successfully appeal current or past assessment increases after rebate amounts have been paid. Alternatively, section 25 of the model by-law allows the municipality to withhold further rebates pending final disposition of an assessment appeal. Overpayment amounts arising from assessment or tax reductions are considered to be a debt owing to the municipality.
- Section 17 of the model by-law addresses the issue posed by condominiums. The model by-law treats each unit of a condominium as a standalone property which must meet all eligibility requirements of the Development Support Program.
- Section 18 of the model by-law states that the by-law will continue in force for the owners of any eligible properties in the CDD that have already been accepted into the Development Support Program should council choose to repeal the by-law or a portion of the by-law.
- The enabling legislation requires that the municipality review the by-law within four years of coming into force and every four years afterwards.
- Before the by-law comes into force it must first be submitted to the Minister of Municipal Affairs for review and approval.
- In the draft By-law, green font highlights identify where the By-law reflects choices, which must be made by the initiating municipal unit. Red font highlights are sections to be personalized for your specific municipality.

- The Chapter # in the by-law title bar should be replaced by each municipal unit with the chapter # it assigns to this by-law.