



REQUEST FOR DECISION

Meeting: May 12, 2025

DRAFT TAX INCENTIVE BYLAW No. 1802 & 1803

DESCRIPTION/BACKGROUND:

The Town has residential and non-residential tax incentive bylaws (bylaws 1741 and 1693 respectively). The legislation governing these bylaws was recently updated by the province and Council has directed Administration to complete a review of the bylaws. With the legislative changes, the residential tax refund bylaw can now follow the template of the non-residential tax incentive. This change allows for clarity and consistency between both bylaws. Additionally, Council has requested the tax incentives be increased to enhance our economic development climate.

The current Bylaws include provisions for a reduced rate in municipal taxes for developers of over 20 lot subdivisions, provided the lots are held for re-sale and provided non-residential and residential improvements are at least a \$200,000 increase in assessment. The vacant lot provision within the bylaw is something not seen within other municipal bylaws, this can assist the developer when creating subdivisions and allow some time for land sales (legal advice noted caution as to the length of timeframe).

Residential Tax Incentive (Bylaw 1741)			Requested Changes	
	20 Lots	Single Lot*	10-year 100% waiver until development occurs or sold	
Year 1	50%	75%	Begins post sale/devel. Year 1	100%
Year 2	20%	50%	Year 2	75%
Year 3	10%	10%	Year 3	50%
Year 4	0%	0%	Year 4	25%

*with \$200k in improvements

*with \$300k in improvements

Non-Residential Tax Incentive (Bylaw 1693)		Requested Changes	
Year 1	75%	Year 1	100%
Year 2	50%	Year 2	75%
Year 3	25%	Year 3	50%
Year 4	0	Year 4	25%

There has also been a request from a developer that a tax waiver of 100% be applied to land that remains vacant until such a time that it is sold (title transferred) or the land begins development. This can assist with input costs to a developer, but caution should be used when invoking a lengthy timeframe for this provision as development is intended to pay for development. Within the Municipal Government Act there is a time period allowable for such incentives for two 15-year periods. Administration and Legal have not seen an example of a municipality utilizing these time periods. If any properties qualify for the 15 year incentive, it cannot be removed, even if the bylaw is repealed, and must be granted to any qualifying properties.

In any given development, some of the costs of municipal infrastructure would typically be the Town's responsibility to provide. For example, there are portions of the road upgrades that might benefit both the

Town and the developer, and the associated infrastructure costs would be shared. Benefiting portions are normally determined after detailed engineering has been completed.

That being noted, with an extended waiver of taxes, tax revenues from lots may not be realized even though the Town may be paying operational costs for on- or off-site developments such as storm pond maintenance, road plowing, sidewalk and road maintenance. The longer the timeframe the less incentive for a developer to complete development. These Bylaws are for any development that occurs within the Town, so precedent will be set and available to any new development if the criteria are overly general. If the Town has any of the three new area structure plans commence development, there may be additional off-site or upgrading costs that the Town will bear and if there is borrowing required there may be payments that would not be off-set by any tax revenue until development occurs. This may create an unequal burden on the existing tax base (as noted again by legal – see below).

Council has requested a time frame of 10 years for a 100% tax waiver until the title has transferred or development commences, and the residential bylaw has been drafted as such for review. This provision does not apply to non-residential properties as without a subdivision trigger it would not qualify under legislation and could be subject to a legal challenge. (Please see the attached comparisons noting what similar municipalities have for tax incentive bylaws.)

One additional consideration for Council is a provision that will offset municipal infrastructure costs through reductions in the tax incentive. Some municipalities include the following wording in their incentive bylaws, which ensures that tax incentives are reduced by the amount that the municipality has spent on infrastructure costs:

Should the Town determine that the installation of municipal infrastructure is required to support the development, a reduction of the tax incentive shall apply that equals the total costs associated with the installation of municipal infrastructure as determined by the Town CAO. Should the cost associated with the installation of municipal infrastructure exceed the tax incentive amount, the tax incentive shall not apply, and the assessed property shall be responsible for paying for the differential between what the tax incentive amount would be and the costs associated with the installation of municipal infrastructure.

The bylaws have been prepared without this wording. If Council wishes to include this provision, a motion will have to be made directing this change.

DISCUSSION:

Comments from Legal: *With respect to any tax incentive bylaw passed under section 364.2, the bylaw must set the criteria that must be met for a property to qualify for an exemption (s 364.2(3)(a)). Taxpayers can then apply for a tax incentive if they own properties that meet the criteria. If the taxpayer meets the criteria, the municipality must approve the application and give that taxpayer the incentive as set out in the bylaw. There is no discretion to deny an application if it meets all eligibility criteria. Taxpayers can apply to the Court for judicial review to challenge any decision to deny a tax incentive application (s364.3).*

Accordingly, it is very important that the eligibility criteria be carefully crafted to only include those properties that Council wishes to target with an incentive, and to exclude any properties that Council does not wish to target with an incentive. One potential danger in crafting broad and wide-ranging eligibility criteria is that you could end up with a situation where more properties end up qualifying for a tax incentive than Council had originally anticipated would be the case. This could put the municipality in a tough position, as that would erode the municipality's tax base.

If Council wishes to offer any other incentives to developers (such as having the municipality cover a portion of infrastructure costs that would normally be borne by the developer), the bylaw should clearly state that the amount of any tax incentive will be reduced to account for any other incentives that are given in respect of the same development (this is similar to how Lethbridge County has structured their tax incentive bylaw).

Comments from ORRSC Planner: *When considering tax incentives for development, it is important to achieve a healthy balance that is both beneficial to the developer while also encouraging investment into the incentivized site. Generally, tax incentives are provided where assessment values will be increased due to improvements of the site at the issuance of a development permit. Other methods of encouraging development can be utilized for land development, prior to the development permit stage, through the planning and subdivision processes. For instance, an Area Structure Plan (ASP) may specify that sidewalks are only required on one side of a street, although this decreases the pedestrian friendliness of the development, it also reduces the financial burden of the developer. Additionally, the Town may make concessions through the development agreement such as agreeing to cost sharing for off-site improvements despite Section 655 of the MGA granting the municipality the authority to impose conditions requiring the developer to pay for offsite improvements that benefit the development, with consideration for other properties that may eventually benefit from oversizing improvements (Section 651).*

Given the vast amount of land that has an approved ASP or is currently undergoing the development of an ASP, the tax implications of a long-range tax incentive on vacant lots could be harmful to the Town's tax base as the subdivided lots still carry a financial burden even when vacant. As indicated by Legal, if concessions/incentives are being given a reduction to the tax incentive should be made.

POSSIBLE RESOLUTIONS:

Moved by Councillor _____ to give Bylaw No. 1802, the Town of Claresholm Non-Residential Tax Incentive Bylaw first reading.

Moved by Councillor _____ to give Bylaw No. 1803, the Town of Claresholm Residential Tax Incentive Bylaw first reading.

ATTACHMENTS:

- 1.) Draft Bylaw No. 1802 & Draft Bylaw No. 1802.
- 2.) Municipalities tax incentive comparisons.

APPLICABLE LEGISLATION:

- 3.) Section 364.2 of the Municipal Government Act RSA 2000, c.M-26.

PREPARED BY: Tara Vandervalk, Development Services Manager

APPROVED BY: Abe Tinney, CAO

DATE: May 9, 2025
