

Memo



Date: July 6, 2011
File: 1220-20
To: City Manager
From: Director, Policy & Planning
Subject: Amendments to Bylaw No. 9561 - Downtown and Rutland Urban Centre Revitalization Tax Exemption Areas
Report Prepared by: Gary Stephen

Recommendation

THAT Council receives for information the report of the Policy & Planning Department dated July 6, 2011, with respect to proposed interim changes to the Downtown and Rutland Urban Centre Revitalization Tax Exemption program;

AND THAT Council gives initial consideration to Bylaw No. 10566 to enact interim amendments to Revitalization Tax Exemption Bylaw No. 9561, as described in the July 6, 2011 report of the Policy & Planning Department;

AND FURTHER THAT Council Policy No. 314, being Parking Credits for Mixed Use Developments within the Downtown Urban Centre be amended as outlined in the July 6, 2011 report of the Policy and Planning Department.

Purpose

For Council to give initial consideration to amendments to the Revitalization Tax Exemption Bylaw No. 9561 on an interim basis prior to other changes possibly being pursued as an outcome of the Downtown Plan targeted for completion by 2012.

Background

On May 16, 2011, Council resolved:

THAT Council receives, for information, the Report of the Policy & Planning Department dated May 6, 2011, with respect to proposed interim changes to the Downtown and Rutland Urban Centre Revitalization Tax Exemption program as per Council Service Request #175123;

AND THAT Council directs staff to prepare, for initial consideration, a bylaw to enact interim amendments, as described in the May 6, 2011 Report of the Policy & Planning Department, to the existing Revitalization Tax Exemption Bylaw No. 9561.

Council also requested more information on the communication plan with the DKA and URBA when the Bylaw comes back for initial consideration and that staff report back to Council within six (6) months time with an update on how the program is working.

On-going implementation of the Tax Exemption program will be facilitated by Land Use Management staff as part of the pre-application meeting process and in discussions with development interests that could take advantage of the program. Staff will also be sending out advisory notification on the changes to the incentive program to the DKA and URBA by email so that they can forward that information to their membership.

Staff will also report back to Council within six (6) months on how the program is working.

The proposed interim amendments to Bylaw 9561 as described in the May 6, 2011 Report of the Policy & Planning Department are provided in Attachment 1 and maps of the respective tax exemption areas are provided in Attachment 2 (City Centre) and Attachment 3 (Rutland).

The proposed changes to the Revitalization Tax Exemption Bylaw 9561 will also impact Council Policy No. 314 Parking Credits for Mixed Use Developments within the Downtown Urban Centre. Some developers have suggested that provision of sufficient parking is an impediment to development. There will be an opportunity to investigate the potential to adjust downtown parking requirements as part of forthcoming projects such as the review of the Zoning Bylaw, a Parking Strategy and the implementation of the Downtown Plan. Council Policy No. 314 was endorsed in 2004 to provide some interim relief to downtown development projects that have struggled to meet the parking requirements due to their cost and / or parcel size limitations. Parking credits of up to 25 spaces are provided where a qualified mixed use project within the Downtown Urban Centre complies with the policy. In addition to the 25 parking credits available to the larger downtown core area, Council Policy No. 314 also provides a further 25 parking credits for appropriate development within a much smaller City Centre Tax Incentive Area (Lawrence / Leon Avenues between Abbott and Water St).

If a project can be supported by staff based on all considerations other than the provision of required parking and there are credits available, staff may recommend to Council that some, or all, of the parking shortfall be covered by parking credits provided by Council Policy No. 314. Any parking that is waived by Council approval of the Development Variance Permit would be funded by Council at the equivalent cash in-lieu of parking rate as established once a year during budget preparation. The funding of this policy would be from new taxation as a result of construction, although with properties that receive the tax exemption, there is no new incremental tax created from construction. Future taxation on other projects elsewhere that do not qualify for a tax exemption would generate the funding to cover tax exempt projects.

The cost of creating parking stalls has increased substantially and the annual budget of \$187,500 that would previously have created 25 stalls at a cost of \$7,500 per stall (in 2004 when the policy was originally adopted), will now only create 8 parking stalls at a cost of \$22,500 per stall.

Changes to the Policy No. 314 have therefore been prepared based on funding that is available for 8 parking stalls. The potential for additional stalls in the Revitalization Tax Incentive Area has been removed because the area proposed in amendments to Bylaw 9561 has been increased to encompass a larger area that reflects the majority of downtown (similar to the original downtown parking credit area). A two tiered parking credit is no longer necessary, and the additional 25 stalls do not fit within the current budget allocation of \$187,500.

Given that the OCP defined boundary of the Downtown Urban Centre has changed staff recommends the following:

1. Revise the boundary of the City Centre Revitalization Tax Incentive Area
2. Revise the number of parking stalls available in the program to fit available funding,
3. Update the language and mapping attached to Council Policy No. 314 to bring them into compliance with the new OCP and as well as the revised Revitalization Tax Exemption Bylaw 9561.

The proposed changes to Policy No. 314 are indicated in Attachment 4.

Internal Circulation

General Manager, Community Sustainability
Director of Land Use Management
Director of Finance

Legal/Statutory Authority

Section 226 of the *Community Charter* establishes the authority for and conditions under which Council may establish a revitalization tax exemption program.

Legal/Statutory Procedural Requirements

Section 227 of the *Community Charter* establishes the notice requirements particular to revitalization tax exemption bylaws.

Existing Policy

Kelowna 2030 Official Community Plan - Policy 5.1.3
Council Policy No. 314 - Parking Credits for Mixed Use Developments within the Downtown Urban Centre

Financial/Budgetary Considerations

As noted above, the cost of creating parking stalls has increased substantially and the money (\$187,500) that would have created 25 stalls (at a cost of \$7,500 per stall) in 2004 when the policy was originally adopted will now only create 8 parking stalls (at the current cost of \$22,500 per stall).

Should Council wish to keep the available parking credits at 25, it will be necessary to allocate additional funding for the program. The total current cost at \$22,500 per stall would require an additional \$382,500 (17 stalls at \$22,500), to be funded from new taxation. That additional funding would need to be submitted for consideration as part of the 2012 budget process.

External Agency/Public Comments

URBA has requested that the boundary of the Rutland Tax Incentive Area be expanded to include the entire BIA or at least include lands along the north and south side of Highway 33 west to Hollywood Road. Staff have incorporated an adjustment to the boundary of the proposed Rutland Tax Incentive Area (Attachment 3) to Hollywood Road as per the URBA request. That change has been reflected in Bylaw 10566, for Council's consideration.

Considerations not applicable to this report

Personnel Implications
Community & Media Relations Comments
Alternate Recommendation

Submitted by:



Gary Stephen
Long Range Planning Manager

Approved for inclusion:



Signe K. Bagh, MCIP
Director, Policy & Planning

cc:
General Manager, Community Sustainability
Director of Land Use Management
Director of Finance

Attachment 1 - Proposed Interim Amendments to Bylaw 9561
Attachment 2 - City Centre Tax Incentive Area Map
Attachment 3 - Rutland Tax Incentive Area Map
Attachment 4 - Council Policy No. 314 (revised)



start of amendments

Section	Existing	Amended
Preamble	<p>AND WHEREAS Council wishes to establish a revitalization tax exemption program in the Downtown Urban Centre and Rutland Urban Centre areas of the City of Kelowna;</p> <p>AND WHEREAS Council has included within “Kelowna 2020 – Official Community Plan Bylaw No. 7600” a designation of parts of the Downtown Urban Centre and Rutland Urban Centre as revitalization areas and provided reasons for that designation, as required by the Community Charter;</p>	<p>AND WHEREAS Council wishes to establish a revitalization tax exemption program in the Downtown Urban Centre and Rutland Urban Centre areas of the City of Kelowna in order to encourage redevelopment of those areas, identified in Schedule “A” of this Bylaw, which are experiencing challenges in attracting investment and are not achieving their full potential to serve the residents of Kelowna as vital, animated urban spaces;</p> <p>AND WHEREAS Council wishes that the following objectives of the program be known:</p> <ul style="list-style-type: none"> • <u>To encourage new residential and commercial development to locate within urban centres in order to sustain and enhance the existing commercial centres, reduce greenhouse gas emissions associated with transportation, and promote healthy and pedestrian-oriented lifestyles,</u> • <u>To promote a higher standard of urban design within urban centres in order to increase the attractiveness of these locations to existing and potential residents,</u> • <u>And to generally reinforce the prominence and importance of urban centres within Kelowna;</u> <p>AND WHEREAS Council has included within this Bylaw a description of the reasons for and the objectives of the program and a description of how the program is intended to accomplish the objectives, as required by the Community Charter;</p>
Sec. 5	<p>The amount of an annual Tax Exemption shall be equal to:</p> <p>a. 100% of the municipal share of the property tax due annually in relation to the improvements on the Parcel, where</p>	<p>The amount of an annual Tax Exemption shall be equal to:</p> <p>a. <u>For “Tax Incentive Area 1,” 100% of the municipal share of the property tax due annually in relation to the</u></p>

	<p>the Owner is the first developer to apply for an exemption and complete a Project in the applicable Revitalization Area under this bylaw; or</p> <p>b. 100% of the municipal share of the property tax due annually on the Parcel, where</p> <p>i. a portion of the Project includes residential units and where at least 10% of the total number of those residential units meet the affordability criteria as identified in the Kelowna 2020 - Official Community Plan Bylaw No. 7600, as amended from time to time; and</p> <p>ii. the owner enters into a housing agreement with the City, pursuant to section 905 of the Local Government Act, as amended from time to time, which sets out the maximum rents that can be charged and limits the conversion of rental units to ownership units, during the term of the Tax Exemption; or</p> <p>c. 75% of the municipal share of the property tax due annually on the Parcel, for any Project that does not fall under either a. or b. above;</p> <p>but in any case shall not:</p> <p>d. be more than the incremental increase in the assessed value of improvements on the Parcel between the year before the commencement of construction of the Project, and the year following the year in which the Tax Exemption Certificate is issued; nor</p> <p>e. include an exemption from any local service tax payable.</p>	<p><u>improvements on the Parcel;</u></p> <p>b. <u>For "Tax Incentive Area 2," 75% of the municipal share of the property tax due annually in relation to the improvements on the Parcel which can be attributed to a residential land use, and/or 50% of the municipal share of the property tax due annually in relation to the improvements on the Parcel which can be attributed to a commercial land use. For mixed-use buildings the above tax exemptions shall be pro-rated across the building to arrive at a combined exemption (e.g. half the building is residential [0.5*75%=37.5%] and half the building is commercial [0.5*50%=25%] for a combined exemption of 62.5%);</u></p> <p>c. <u>For "Tax Incentive Area 3," 100% of the municipal share of the property tax due annually in relation to the improvements on the Parcel;</u></p> <p>but in any case shall not:</p> <p>d. be more than the incremental increase in the assessed value of improvements on the Parcel between the year before the commencement of construction of the Project, and the year following the year in which the Tax Exemption Certificate is issued; nor</p> <p>e. include an exemption from any local service tax payable.</p>
<p>Sec. 6(b)</p>	<p>the construction value of the Project, as determined based on the building permit(s) issued, must be \$250,000.00 or greater.</p>	<p>the construction value of the Project, as determined based on the building permit(s) issued, must be \$250,000.00 or greater.</p>

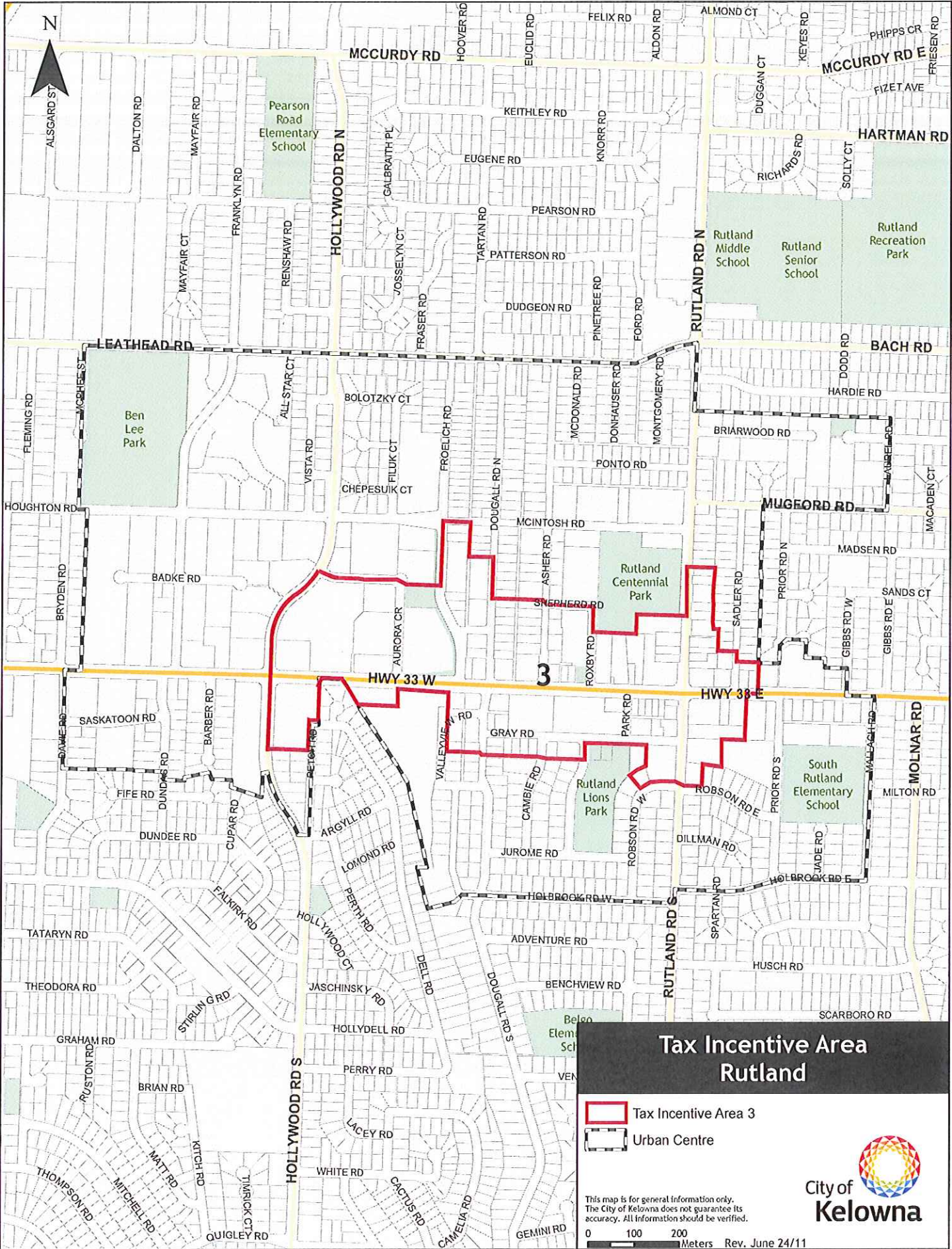
Sec. 6(c)	the land use into which the Project is intended to fit must be one of the uses permitted in the applicable zone for the Parcel, as set out in City of Kelowna Zoning Bylaw No. 8000, as amended from time to time, is consistent with the future land use designation for the Parcel, as set out in Kelowna 2020 – Official Community Plan Bylaw No. 7600, as amended from time to time, and the Project must meet all other applicable City policies and bylaws; and	the land use into which the Project is intended to fit must be one of the uses permitted in the applicable zone for the Parcel, as set out in City of Kelowna Zoning Bylaw No. 8000, as amended from time to time, is consistent with the future land use designation for the Parcel, as set out in <u>Kelowna 2020 – Official Community Plan Bylaw No. 7600</u> " <u>Kelowna 2030 – Official Community Plan Bylaw No. 10500</u> ", as amended from time to time, and the Project must meet all other applicable City policies and bylaws; and
<u>Sec. 6(e)</u>	nil	<u>the form and character of the Project must be largely consistent with the applicable Development Permit Area Design Guidelines contained within Chapter 14 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500;</u>
Sec. 10	The maximum initial term of a Tax Exemption shall be five years. An owner may apply to Council for a single renewal term of five additional years, pursuant to this bylaw and the applicable Agreement.	The maximum initial term of a Tax Exemption shall be five <u>ten</u> years. An owner may apply to Council for a single renewal term of five additional years, pursuant to this bylaw and the applicable Agreement. <u>The Tax Exemption is transferrable to subsequent property owners within the term of the agreement.</u>
Sec. 11	If an owner of a Parcel wishes Council to consider entering into an Agreement with him, the owner must apply to the Manager of Policy, Research & Strategic Planning, or her designate, in writing and must submit the following with the application:	If an owner of a Parcel wishes Council to consider entering into an Agreement with him , the owner must apply to the Manager of Policy, Research & Strategic Planning; <u>Director of Land Use Management</u> or her designate, in writing and must submit the following with the application:
Sec. 13	The Director of Finance for the City, or his designate, is designated the municipal officer for the purpose of section 226(12) of the Community Charter.	The Director of Finance <u>Financial Services</u> for the City, or his designate, is designated the municipal officer for the purpose of section 226(12) of the Community Charter.
Schedule "A"	[Maps.]	[See attached two maps.]
Schedule "B" Preamble B.	Council has established a revitalization tax exemption program in parts of the Downtown and Rutland Urban Centres, and has included within "Kelowna 2020 – Official Community Plan Bylaw No. 7600" a designation of an area which includes the Parcel as a revitalization area; and	Council has established a revitalization tax exemption program in parts of the Downtown and Rutland Urban Centres , and has included within " <u>Kelowna 2020 – Official Community Plan Bylaw No. 7600</u> " " <u>City of Kelowna Revitalization Tax Exemption Bylaw No. 9561</u> " the designation of an <u>areas</u> which includes the Parcel as a revitalization area; and

<p>Schedule "B" Sec. 1</p>	<p>The Project – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in section 6.2 of Chapter 6 of Kelowna 2020 – Official Community Plan Bylaw No. 7600. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:</p>	<p>The Project – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in section 6.2 of Chapter 6 of Kelowna 2020 – Official Community Plan Bylaw No. 7600 "City of Kelowna Revitalization Tax Exemption Bylaw No. 9561". Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:</p>
<p>Schedule "B" Sec. 4(c)</p>	<p>The completed Project must substantially satisfy the performance criteria set out in Appendix "D" hereto, as determined by the City's Director of Planning & Development Services in his sole discretion, acting reasonably;</p>	<p>The completed Project must substantially satisfy the performance criteria set out in Appendix "D" hereto, as determined by the City's Director of Planning & Development Services Land Use Management or designate, in his their sole discretion, acting reasonably;</p>
<p>Schedule "B" Sec. 5</p>	<p>Calculation of Revitalization Tax Exemption – the amount of the Tax Exemption shall be equal to [choose one from below and insert applicable wording</p> <p>a. 100% of the municipal share of the property tax due annually on the Parcel, where the Owner is the first developer to apply for an exemption, and complete a Project in the applicable Revitalization Area under this bylaw; or</p> <p>b. 100% of the municipal share of the property tax due annually on the Parcel, where</p> <p>i. a portion of the Project includes residential units and where at least 10% of the total number of those residential units meet the affordability criteria as identified in the City's Official Community Plan Bylaw No. 7600, as amended from time to time; and</p> <p>ii. the owner enters into a housing agreement with the City, pursuant to section 905 of the Local Government</p>	<p>Calculation of Revitalization Tax Exemption – the amount of the Tax Exemption shall be equal to [choose one from below and insert applicable wording</p> <p>a. <u>For "Tax Incentive Area 1," 100% of the municipal share of the property tax due annually in relation to the improvements on the Parcel;</u></p> <p>b. <u>For "Tax Incentive Area 2," 75% of the municipal share of the property tax due annually in relation to the improvements on the Parcel which can be attributed to a residential land use, and/or 50% of the municipal share of the property tax due annually in relation to the improvements on the Parcel which can be attributed to a commercial land use. For mixed-use buildings the above tax exemptions shall be pro-rated across the building to arrive at a combined exemption (e.g. half the building is residential [0.5*75%=37.5%] and half the building is</u></p>



	<p>Act, as amended from time to time, which sets out the maximum rents that can be charged and limits the conversion of rental units to ownership units, during the term of the Tax Exemption; or</p> <p>c. 75% of the municipal share of the property tax due annually on the Parcel, for any Project that does not fall under either a. or b. above;</p> <p>but in any case shall not be more than the incremental increase in the assessed value of improvements on the Parcel between the year before the commencement of construction of the Project, and the year following the year in which the Tax Exemption Certificate is issued.]</p>	<p><u>commercial [0.5*50%=25%] for a combined exemption of 62.5%];</u></p> <p>c. <u>For "Tax Incentive Area 3," 100% of the municipal share of the property tax due annually in relation to the improvements on the Parcel;</u></p> <p>but in any case shall not be more than the incremental increase in the assessed value of improvements on the Parcel between the year before the commencement of construction of the Project, and the year following the year in which the Tax Exemption Certificate is issued.]</p>
<p>Schedule "B" Sec. 6</p>	<p>Initial Term of Tax Exemption – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Bylaw No. 9561, are met the Tax Exemption shall be for the taxation years _____ to _____, inclusive.</p>	<p>Initial Term of Tax Exemption – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Bylaw No. 9561, are met the Tax Exemption shall be for the taxation years _____ to _____, inclusive.</p>
<p>Schedule "B" Sec. 7</p>	<p>Renewal Term – provided that the Tax Exemption Certificate is not cancelled by the City pursuant to the terms of this agreement, the Owner may, at its option, by written notice delivered to the City before September 1 in the last year of the initial term outlined in section 6 above, renew the Tax Exemption for one five year renewal term on all the same terms and conditions as herein set out, except that this section shall not apply and shall have no further force and effect.</p>	<p>Renewal Term – provided that the Tax Exemption Certificate is not cancelled by the City pursuant to the terms of this agreement, the Owner may, at its option, by written notice delivered to the City before September 1 in the last year of the initial term outlined in section 6 above, renew the Tax Exemption for one five year renewal term on all the same terms and conditions as herein set out, except that this section shall not apply and shall have no further force and effect.</p>
<p>Schedule "C"</p>	<p>This certificate certifies that the Parcel is subject to a revitalization tax exemption equal to _____ or the total amount of the municipal share of property tax due in relation to the improvements on the Parcel, whichever is less (the Exemption"), for each of the taxation years 20__ to 20__ inclusive.</p>	<p>This certificate certifies that the Parcel is subject to a revitalization tax exemption equal to <u>the following improvement portion(s) of the assessment value of the Parcel: Class 01 Residential: _____ and Class 06 Business/Other: _____</u> multiplied by the municipal rate of tax in effect for <u>class 01 – Residential and/or Class 06 – Business/Other</u>, for each of the taxation years 20__ to 20__ inclusive.</p>

end of amendments





Tax Incentive Area Rutland

-  Tax Incentive Area 3
-  Urban Centre



This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



City of Kelowna
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Council Policy

Parking Credits for Mixed Use Developments Within the Downtown Urban Centre

APPROVED March 15, 2004

RESOLUTION: R375/10/04/26

REPLACING: R387/06/05/01; R261/04/03/15

DATE OF LAST REVIEW: April 2010

On an annual basis, starting January 1, 2004, Council will support the provision of a maximum ~~25~~ **8** parking stall credits within the Downtown Urban Centre that can be applied to development projects that meet the following criteria;

- The development proposal is located within the Downtown Urban Centre and located within the Urban Centre boundaries ~~boundary~~ shown as Area A, ~~on Map 6.2 in Kelowna 2000 — Official Community Plan Bylaw No. 7600~~ **identified on the map attached to this Council Policy.**
- The development proposal is a mixed use (commercial and residential) project where the commercial component is less than 50% of the gross floor areas (excluding areas for parking).
- Only the commercial component, or a portion thereof, of the required parking is being requested to be waived.

~~The existing 25 units outlined above will be augmented by 25 parking credits available specifically to projects within the City Centre Tax Incentive Area, identified on the map attached to this Council Policy. Development within this area will therefore potentially have access to 50 parking stall credits. These credits will be available to any development where in addition to the criteria outlined above, the commercial component does not exceed an FAR of 1.0.~~

Credits will be assigned on a first-come, first-served basis. Credits will be available January 1st of each year within the designated City Centre Tax Incentive Area. There will be no carry-over of unused credits from one year to the next.

The parking requirement for the residential component of a mixed use building may be reduced where the developer puts forward a sustainable car-sharing proposal. The amount of the reduction will be based on the particulars of each proposal.

The credits may be applied for by way of a Development Variance Permit Application to relax the required parking for the proposed development. Planning and Corporate Services Staff will evaluate the proposal and make a recommendation to Council based on the suitability of the proposed development and the availability of parking credits. If the project can be supported by staff based on all considerations other than the provision of required parking and there are credits available, staff may recommend to Council that some or all of the parking shortfall be covered by parking credits provided by this policy. Any parking that is waived by Council approval of the Development Variance Permit would be funded by Council at the equivalent cash in-lieu of parking rate once a year during budget preparation. The funding of this policy would be from new taxation as a result of construction.

Council will review this policy annually to determine if the policy should be extended for the upcoming year, cancelled, or otherwise amended.

REASON FOR POLICY

Development incentive for mixed use projects within the Downtown Urban Centre.

LEGISLATIVE AUTHORITY

Local Government Act Section 922 (Development Variance Permits)

PROCEDURE FOR IMPLEMENTATION

On application for a Development Variance Permit to relax commercial parking requirements. Funding once a year during budget preparation.

Parking Credit Map - Area "A":

