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<b>Policy Title:</b>	<b>Non-Profit Tax Mitigation Policy</b>
<b>Policy Number:</b>	<b>PDA002</b>
<b>Report Number:</b>	<b>C2014-0919</b>
<b>Approved by:</b>	<b>Council</b>
<b>Effective Date:</b>	<b>2014 December 15</b>
<b>Business Unit:</b>	<b>Assessment</b>

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## **BACKGROUND**

1. Non-profit organizations that provide public facilities are generally exempt from property tax through the *Municipal Government Act* (RSA 2000, c M-26) (MGA) and the *Community Organization Property Tax Exemption Regulation* (AR281/98) (COPTER). These property tax exemptions require that property and/or facility is actually used for an exempt purpose. Taking direction from a 2008 Court of Queen's Bench decision (*Edmonton (City) v. North Pointe Community Church, 2008 ABQB 110*), exemptions based on use do not generally apply to properties and/or facilities that are under construction and not actually in use for an exempt purpose.
2. Prior to this policy, Council provided tax relief for the affected non-profit organizations through its tax cancellation powers under section 347 of the MGA on a case by case basis.

## **PURPOSE**

3. This policy will ensure that tax cancellations for properties and/or facilities that are under construction in Calgary are conducted in an equitable and consistent manner through an open and transparent process.
4. This policy will:
  - a. guide how Council addresses the issue of property taxes for a non-profit organization that holds a property and/or facility under construction in Calgary and is not exempt from taxation by using its tax cancellation powers in section 347 of the MGA;
  - b. set out the eligibility criteria that qualifies a non-profit organization for a tax cancellation under the policy; and,

- c. set out the procedure through which tax cancellations are administered.
5. The policy does not limit Council's discretion in exercising its section 347 powers under the MGA.

### **APPLICABILITY**

6. This policy applies to properties and/or facilities that qualify under the following sections in the MGA and COPTER, where "use" has been interpreted by the Court of Queen's Bench not to include the construction period of the property and/or facility:
  - a. Sections 362(1)(k-m), 362(1)(n)(ii)-(iv), and 362(o) of the MGA, and
  - b. Sections 15(a)-(c) and 15(e)-(k) of the COPTER

### **DEFINITIONS**

7. In this Council Policy:
  - a. "Building Permit" means a permit issued under the *Calgary Building Permit Bylaw 64M94* and defined in the *Alberta Building Code 2014*.

### **POLICY**

8. For up to four years, Council will consider cancelling the municipal taxes for non-profit organizations that hold a property and/or facility that is under construction in Calgary when all of the following criteria have been met:
  - a. A building permit for the site has been issued;
  - b. The non-profit organization has filed the necessary application forms to qualify for the tax cancellation under this policy to Assessment; and,
  - c. Upon completion and occupancy of the facility, the organization has filed an application for property tax exemption under the MGA or COPTER to Assessment and the application has been approved.
9. Transition Program
  - a. Notwithstanding section 11(a)(iii), to aid with transition, this policy will apply to projects that would have qualified had the program been in place on 2013 January 01, so long as an application for cancellation under this section is filed by 2015 December 31.

## **PROCEDURE**

10. Applications for tax cancellation and property and business tax exemption are available directly from Assessment and from calgary.ca and must be submitted to Assessment for consideration.
11. Timing
  - b. Cancellation Period
    - i. The cancellation period begins when a building permit has been issued so long as an application for cancellation has been filed within the same calendar year.
    - ii. The cancellation period ends either 4 years from the date of that the cancellation period begins or when the subject property becomes exempt from taxation, whichever is earlier.
    - iii. If an application is filed in a calendar year following the issuance of a building permit, then the cancellation period will begin on January 1 of the year in which an application is submitted.
  - c. Cancellation Timing
    - i. Applications will be reviewed by Assessment and those properties and/or facilities that qualify for tax cancellation under this policy will be placed on the semi-annual Assessment and Tax Circumstances Report as soon as possible after qualification.

## **AMENDMENTS**

- 2016 October 13 - Minor revision relates to the update of *Alberta Building Code 2006* to *Alberta Building Code 2014*, which defines “Building Permit” for the purposes of this Council policy