

Office of:
City Solicitor

February 25, 2010

For Submission to
City Council Meeting
March 8, 2010

His Worship the Mayor and
Members of City Council

RE: Bylaw 5637: Tax Arrears Payment Plan

Attached hereto for Council's consideration and first reading is Bylaw 5637. This Bylaw was prepared to update the Tax Arrears Payment Plan Bylaw 4793 passed by City Council on June 3, 1996.

The following changes are incorporated into the proposed Bylaw:

1. The definition of "Tax Penalties Bylaw" has been updated.
2. Cash payments have been added to acceptable methods of payment.
3. Payment installment agreements have been expanded to include weekly and bi-weekly payment schedules.
4. The payment installment date has been expanded from the first date of the month to dates established under the Tax Arrears Plan Agreement to allow tax payers to make payment on the days they receive funds.
5. The time established for default from the Tax Arrears Plan after nonpayment of an installment will be increased from 10 days to 21 days to allow sufficient time for the taxpayer, administration and financial institutions to research, address and resolve bank return items.

These changes are proposed to provide the Administration flexibility in assisting City taxpayers in successfully completing their Tax Arrears Plan and meeting their financial obligations to the City.

This Bylaw will be brought back to Council for further consideration on March 22, 2010.


Douglas S. Hudson, Q.C.,
City Solicitor

BYLAW 5637

A BYLAW OF THE CITY OF LETHBRIDGE TO PROVIDE
FOR THE PAYMENT OF TAXES IN ARREARS

WHEREAS Council considers it advisable to authorize the establishment of a Tax Arrears Payment Plan;

NOW THEREFORE THE COUNCIL OF THE CITY OF LETHBRIDGE, DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:

1. **TITLE**
This Bylaw may be referred to as the Tax Arrears Payment Plan Bylaw.

2. **TAX ARREARS PAYMENT PLAN**
The City Tax Collector is authorized to establish plans for payment by installments of taxes in arrears and possibly current taxes, to be known as "Tax Arrears Payment Plan".

3. **DEFINITIONS**
In this Bylaw
 - (a) "City" means the municipal corporation of the City of Lethbridge;
 - (b) "City Tax Collector" means the City Assessor and Tax Collector, a designated officer appointed pursuant to the provisions of the Municipal Government Act;
 - (c) "Current taxes" means taxes other than taxes in arrears;
 - (d) "Tax Arrears Plan" means a Tax Arrears Payment Plan established pursuant to Section 2;
 - (e) "Taxes" means all taxes imposed by the City pursuant to the Municipal Government Act or any other statute of the Province of Alberta, including property taxes, local improvement taxes, maintenance taxes, business revitalization zone taxes, the amounts which in the event of non-payment are deemed at law to be taxes or recoverable as or in the same manner as taxes and any penalties on such taxes or amounts;

- (f) "Taxes in Arrears" means taxes which remain unpaid after December 31 of the year in which they were imposed, including penalties on such taxes;
- (g) "Taxpayer" means a person liable to pay taxes;
- (h) "Tax Penalties Bylaw" means the annual Incentives for Prepayment, Penalty and Tax Deferral Bylaw;
- (i) "Year" means calendar year.

4. **APPLICATION**

- 4.1 A Taxpayer with taxes in arrears due and owing to the City may, at anytime, apply to the City Tax Collector to pay taxes in arrears and possibly current taxes, by installments pursuant to a Tax Arrears Plan.
- 4.2 An application pursuant to Subsection 4.1 shall be approved by the City Tax Collector provided that the following conditions have been satisfied:
 - (a) The Taxpayer shall have completed an application in the form prescribed by the City Tax Collector;
 - (b) The Taxpayer shall have completed such application form or forms provided by the City Tax Collector as may be required to enable the City to collect;
 - i) installment payments pursuant to the Tax Arrears Plan by way of pre-authorized transfer of funds from an account of the Taxpayer at a bank, treasury branch, trust company or credit union; or
 - ii) if approved by the Tax Collector, by providing post-dated cheques; or
 - iii) cash payments.
 - (c) The Taxpayer shall undertake to pay all taxes pursuant to the Tax Arrears Plan on a weekly, bi-weekly or monthly installment basis over a term not exceeding twenty-four (24) months.
- 4.3 The effective date of the Tax Arrears Plan shall be the date the Taxpayer's application made pursuant to Subsections 4.1 and 4.2 is approved by the City Tax Collector.

- 4.4 Subject to Sections 7, 8 and 9, the Taxpayer shall pay all taxes pursuant to the Tax Arrears Plan without further application under this Bylaw for the duration of the term of the Tax Arrears Plan from the effective date of the Tax Arrears Plan.

5. **WEEKLY, BI-WEEKLY AND MONTHLY INSTALLMENTS**

- 5.1 All taxes paid pursuant to a Tax Arrears Plan shall be paid with weekly, bi-weekly or monthly installments calculated pursuant to this section and payable on the dates established under the Tax Arrears Plan.

- 5.2 The term of a Tax Arrears Plan shall be determined by the City Tax Collector having regard to:

- (a) the Taxpayer's ability to pay;
- (b) the amount of taxes in arrears; and
- (c) such other matters as the City Tax Collector considers reasonably advisable;

and shall not exceed a maximum of twenty-four (24) months from the effective date of the Tax Arrears Plan.

- 5.3 The amount of weekly, bi-weekly and monthly installments to be paid pursuant to Subsection 5.1 shall be calculated by determining whether or not the arrears of taxes, or both the arrears and anticipated current taxes are to be paid under the plan:

Option A - Payment of Arrears and Current Tax:

- (a) the estimated current taxes payable during the term of the Tax Arrears Plan;
- (b) all taxes in arrears up to the effective date of the Tax Arrears Plan; and
- (c) the estimated penalties pursuant to section 6 based upon the term of the Tax Arrears Plan;

Option B - Payment of Arrears (Owner to pay current taxes on time):

- (a) all taxes in arrears up to the effective date of the Tax Arrears Plan; and

- (b) the estimated penalties pursuant to Section 6 based upon the term of the Tax Arrears Plan;

divided by the number of weekly, bi-weekly and monthly installments included in the term of the Tax Arrears Plan. All weekly, bi-weekly and monthly installments shall be applied first in payment of the taxes in arrears.

- 5.4 The Taxpayer, after the commencement of a Tax Arrears Plan, may apply to have the term of the Tax Arrears Plan reduced, or, if the term of the Tax Arrears Plan is less than twenty-four (24) months, the Taxpayer may apply to have the term of the Tax Arrears Plan extended, subject to the discretion of the City Tax Collector, to the maximum of twenty-four (24) months in accordance with Subsection 5.2. Upon the term being reduced or extended, the weekly, bi-weekly and monthly installments shall be adjusted by the City Tax Collector accordingly.

6. **PENALTIES**

- 6.1 Subject to Sections 7, 8 and 9 of this Bylaw, penalties pursuant to the Tax Penalties Bylaw shall not be applied to current taxes or taxes in arrears during the term of a Tax Arrears Plan.
- 6.2 The Taxpayer shall instead pay a discounted rate of penalty from the effective date of the Tax Arrears Plan on the taxes in arrears accruing up until the effective date of the Tax Arrears Plan and on the current taxes which become taxes subject to penalties after July 1 of each year during the term of the Tax Arrears Plan.

The discounted penalty shall be the existing tax penalty rate as provided by the Tax Penalties Bylaw at the effective date of the Tax Arrears Plan, less eight percent (8%), and this discounted rate of penalty shall be adjusted during the term of the Tax Arrears Plan in accordance with any changes in the tax penalty rate.

7. **WITHDRAWAL FROM A TAX ARREARS PLAN**

- 7.1 A Taxpayer paying taxes pursuant to a Tax Arrears Plan may withdraw from the Tax Arrears Plan at any time upon at least two (2) weeks written notice to the City Tax Collector.
- 7.2 In the event that a Taxpayer withdraws from a Tax Arrears Plan:

- (a) all taxes in arrears and, if the date of withdrawal is after June 30 of any given year, all current taxes shall become due and payable on the effective date of withdrawal;
- (b) the Taxpayer shall not be entitled to any discounts pursuant to this Bylaw from the effective date of withdrawal.

8. **DEFAULT**

- 8.1 (a) If a weekly, bi-weekly or monthly installment required to be paid pursuant to a Tax Arrears Plan remains unpaid by the 21st day after the payment was due pursuant to this Bylaw, the Taxpayer shall be deemed to be in default of the Tax Arrears Plan. In the event of such default, the participation of the Taxpayer in the Tax Arrears Plan may be cancelled at the discretion of the City Tax Collector, however, should the Taxpayer default more than twice during the term of the Tax Arrears Plan, the Tax Arrears Plan shall be automatically cancelled.
- (b) If a Taxpayer chooses Option B for the payment of arrears and does not pay their current year's taxes prior to the due date, the Taxpayer shall be deemed to be in default of the Tax Arrears Plan. In the event of such default, the participation of the Taxpayer in the Tax Arrears Plan may be cancelled at the discretion of the City Tax Collector, however, should the Taxpayer default more than twice during the term of the Tax Arrears Plan, the Tax Arrears Plan shall be automatically cancelled.
- 8.2 If the participation of a Taxpayer in a Tax Arrears Plan is cancelled:
- (a) all taxes in arrears and, if the date of cancellation is after June 30 of any given year, all current taxes shall become due and payable on the effective date of cancellation;
 - (b) the Taxpayer shall not be entitled to any discounts pursuant to this Bylaw from the effective date of cancellation; and
 - (c) the Taxpayer shall be liable to pay penalties pursuant to the Tax Penalties Bylaw from the effective date of cancellation, on all taxes, whether current taxes or taxes in arrears.

9. **SALE OF LAND**

When a Taxpayer sells property to which a Tax Arrears Plan applies, the Tax Arrears Plan shall be deemed to be cancelled and all taxes in arrears and, if the date of closing is after June 30 of any given year, all current taxes shall become due and payable effective on the date of closing.

10. **ADJUSTING OF WEEKLY, BI-WEEKLY AND MONTHLY INSTALLMENTS**

The City Tax Collector may revise the amount of the monthly installments payable under a Tax Arrears Plan:

- (a) to reflect changes to the assessed value of the property or business;
- (b) to reflect changes in the discounted tax penalty rate as determined by changes to the tax penalty rate pursuant to the Tax Penalties Bylaw;
- (c) to reflect differences between the estimated and actual current taxes during the term of the Tax Arrears Plan;
- (d) to account for a lump sum payment of taxes made by the Taxpayer;
- (e) to reflect the imposition, termination or lump sum payment of local improvement taxes, maintenance levies and/or any other related charges;
- (f) to reflect the increase in payments and penalties required as a result of a failure to pay a weekly, bi-weekly or monthly installment;
- (g) to provide for payment pursuant to the Tax Arrears Plan of amounts which in the event of non-payment are deemed at law to be taxes or recoverable as or in the same manner as taxes; or
- (h) to provide for or reflect such other matters as the City Tax Collector reasonable considers advisable.

11. **CITY TAX COLLECTOR**

The City Assessor is designated as the City Tax Collector to carry out the duties for the administration of this Bylaw.

12. **MUNICIPAL GOVERNMENT ACT**

This Bylaw does not affect any provisions of or stay any tax recovery proceedings pursuant to the Municipal Government Act (2000) Chapter M-26.1.

13. **EFFECTIVE DATE**

This Bylaw shall come into force on the date of final passing thereof.

14. **REPEALED**

Bylaw No. 4793 is repealed as of March 31, 2012.

READ A FIRST TIME THIS 8 day of March, A.D., 2010

Robert A. Julek
MAYOR

Shirley
CITY CLERK

READ A SECOND TIME THIS 22 day of March, AD, 2010

Robert A. Julek
MAYOR
Deputy

Alita Kempfeld
CITY CLERK

READ A THIRD TIME THIS 22 day of March, AD, 2010

Robert A. Julek
MAYOR

Alita Kempfeld
CITY CLERK