

## OPTIONS TO REVISE POLICY C607A (TAX FORGIVENESS)

### Recommendation

That the September 18, 2024, Financial and Corporate Services report FCS02567, be received for information.

<b>Requested Action</b>	Information only		
<b>ConnectEdmonton's Guiding Principle</b>	<b>ConnectEdmonton Strategic Goals</b>		
<b>CONNECTED</b> This unifies our work to achieve our strategic goals.	Healthy City		
<b>City Plan Values</b>	THRIVE.		
<b>City Plan Big City Move(s)</b>	Inclusive and compassionate	<b>Relationship to Council's Strategic Priorities</b>	Conditions for service success
<b>Corporate Business Plan</b>	Managing the corporation		
<b>Council Policy, Program or Project Relationships</b>	<ul style="list-style-type: none"> <li>• Council Policy C607A - Retroactive Municipal Tax Relief</li> <li>• 2023-2026 Operating Budget</li> </ul>		
<b>Related Council Discussions</b>	<ul style="list-style-type: none"> <li>• June 1, 2022, Financial and Corporate Services report FCS01139 Review of Policy C607 - Retroactive Municipal Tax Relief</li> <li>• March 12, 2024, Financial and Corporate Services report FCS02350 Budget Process Update</li> </ul>		

### Executive Summary

- City Council directed that Administration find \$240 million in savings that can be redirected to Council priorities and identified Council's tax forgiveness policy as an opportunity for savings.
- Over the past four years, two thirds of the tax forgiveness awarded by Administration as per Council's tax forgiveness policy is for properties that become exempt after construction or a major renovation takes place.

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- This category is the most likely to result in significant savings, and four options are presented to restrict this category of tax forgiveness. These are:
  - Reduce the amount of construction/renovation time during which taxes may be forgiven;
  - Restrict forgiveness to principal amounts only (excluding penalties);
  - Restrict the types of property eligible for this type of forgiveness; and
  - Cap the amount of forgiveness available under this category.

## REPORT

Municipal councils in Alberta have broad authority to cancel, reduce, refund and defer taxes under section 347 of the *Municipal Government Act* (MGA). Edmonton's City Charter allows Council to delegate this authority to Administration, as long as the annual total amount to be cancelled, reduced, refunded or deferred is less than \$500,000. The City Assessor has been delegated to exercise this authority in alignment with Council's tax forgiveness policy.

Policy regarding tax forgiveness is set out in Council Policy C607A - Retroactive Municipal Tax Relief. This policy directs Administration to forgive taxes in certain circumstances using delegated authority and is also intended to guide Council in making tax forgiveness decisions that cannot be delegated to Administration. Forgiveness can include both principal tax levies and penalties applied on any unpaid taxes. While Council Policy C607A is not binding on Council, it provides a consistent basis for making these decisions and helps maintain reasonable public expectations for tax forgiveness. This policy was last reviewed in June 2022<sup>1</sup>, resulting in several minor amendments. The next review is scheduled for 2026.

In late 2022, Council passed a budget amendment known as OP12, which required Administration to reduce expenses by \$15 million for each year of the four-year budget, and to identify a minimum \$240 million in savings to be redirected to priority areas of housing, climate change, public transit and core services. On March 12, 2024, (Financial and Corporate Services report FCS02350 Budget Process Update) Council reviewed a list of options to achieve an ongoing \$10 million in OP12 savings and indicated support for restricting tax forgiveness (Attachment 4, item P-5).

The City does not maintain a budget for tax forgiveness. When forgiveness is granted, the funds come from a tax loss budget that is also used to accommodate other assessment and tax variances, such as losses from assessment reductions at the Assessment Review Board. The forgiveness amount fluctuates yearly depending on the number and scope of approved forgiveness requests under Council Policy C607, and how much forgiveness is granted by Council beyond the policy. Because the annual amount depends on the requests, the proposed savings moved in OP12 cannot be fully predicted but Council can reduce the average forgiveness amount by restricting its tax forgiveness policy.

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<sup>1</sup>June 1, 2022, Financial and Corporate Services report FCS01139 Review of Policy C607 - Retroactive Municipal Tax Relief

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### Current Tax Forgiveness Policies and Impacts

Council Policy C607A provides for several categories of tax forgiveness. Each category is described briefly below, along with statistics about how much forgiveness was granted since 2020. A summary table is provided in Attachment 1.

#### Errors of Fact

This category allows forgiveness of taxes when there was an objective error of fact in the previous year's assessment. For example, if a historic assessment was based on the existence of a finished basement that was not actually finished, the assessment value may be incorrect. The error can be fixed with a revised assessment notice for the current year, but tax forgiveness is the only option to address errors in prior years. Under Council Policy C607A, tax forgiveness for errors in the prior year can be approved for up to \$5,000. Limiting forgiveness to the single prior year reflects the expectation that property owners review their assessment notices and confirm the details of the assessment are correct.

**Table 1. Errors of Fact**

Year	2020	2021	2022	2023	Annual Average
Requests	41	25	16	42	31
Taxes Forgiven	\$18,213	\$7,135	\$7,998	\$13,174	\$11,630

#### Payment Errors

Forgiveness is authorized when the City makes an error in processing a payment and penalties are levied as a result. For example, a property owner pays their taxes on time but the City applies the payment to the wrong account, resulting in penalties. Forgiveness is limited to the penalties associated with the error.

While payment errors generally require little penalty forgiveness, a single error in 2021 accounted for nearly \$110,000 in tax forgiveness.

**Table 2. Payment Errors**

Year	2020	2021	2022	2023	Annual Average
Requests	17	12	12	28	17
Taxes Forgiven	\$25,632	\$112,371	\$4,224	\$5,166	\$36,848

#### Death and Illness Resulting in Late Payment of Taxes

This category of forgiveness is available to cancel late payment penalties if the property owner or a member of their immediate family dies or is hospitalized during the payment period (i.e., the time between receiving a tax notice and the payment due date). The category is limited to residential property not owned by a corporation; it is not available if the tax account is in arrears. Forgiveness is limited to penalties accumulated over a maximum of two months.

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**Table 3. Death and Illness Resulting in Late Payment of Taxes**

Year	2020	2021	2022	2023	Annual Average
Requests	1	2	6	11	5
Taxes Forgiven	\$153	\$304	\$1,817	\$2,246	\$1,130

Destruction of Improvements

Property taxes are levied for an entire calendar year based on each property’s condition as of December 31 of the previous year, regardless of whether the property changes within the current year. This basic function of the taxation system can create difficult situations when a property is destroyed or rendered uninhabitable during the year. Tax forgiveness for this category is authorized to a maximum of \$5,000. Forgiveness is calculated based on the value of the destroyed part of the property and is prorated based on the months the property is destroyed until the end of the year. This typically applies to properties damaged or destroyed by fire. It does not apply to voluntary demolitions.

In 2022, a large portion of the \$35,657 of forgiveness was related to three separate condominium fires, which resulted in \$27,420 in tax forgiveness across 134 tax accounts.

**Table 4. Destruction of Improvements**

Year	2020	2021	2022	2023	Annual Average
Requests	4	2	141	6	38
Taxes Forgiven	\$3,150	\$872	\$35,657	\$27,057	\$16,684

Construction of Exempt Facilities

Most property tax exemptions are based on the use of the property. Because property under construction or significant renovation cannot be used for an exempt purpose, exemptions usually do not apply (even if that property will be exempt upon completion). Council Policy C607A allows tax forgiveness for several types of exemptable properties during the period of their construction or major renovation for up to three years. There is no cap on the amount that can be forgiven in this category.

Examples of properties in this category include religious organizations, cancer treatment centres, private schools, arts organizations and non-profit groups. This category accounts for the majority of tax forgiveness authorized under Council Policy C607A because it can span up to three years worth of taxes at the non-residential tax rate, and is often for more valuable properties and improvements.

**Table 5. Construction of Exempt Facilities**

Year	2020	2021	2022	2023	Annual Average
Requests	5	6	5	2	5
Taxes Forgiven	\$176,384	\$359,271	\$138,657	\$61,451	\$183,941

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### Council-Directed Tax Forgiveness Beyond Council Policy C607A

Council has the authority to forgive taxes beyond what is permitted in Council Policy C607A. These cases generally occur for types of requests not contemplated in the Policy or when there is a request the Policy would reject, but Council would still like to consider forgiveness. In these circumstances, requests for forgiveness beyond Council Policy C607A must be initiated by a Council motion, since the Policy does not allow Administration to take action on any requests not already outlined within it.

Since 2021, Council has authorized nearly \$2 million in tax forgiveness beyond Council Policy C607A as outlined in the table below.

**Table 6. Council-Directed Tax Forgiveness**

Year	Name	Account	Taxes Forgiven
2021	Theatre Network	2716157	\$35,149
2022	Affordable Housing Properties	Multiple	\$474,743
	Kingsway Legion	10189875	\$45,710
	Leduc Annexation	Multiple	\$52,492
	Turkish Society	9998985	\$23,608
2023	Al-Mustafa Academy & Humanitarian Society	10290545	\$113,863
	YWCA	9948253	\$18,427
	Leduc Annexation	Multiple	\$10,610
2024	Explore Edmonton	10972146	\$1,193,777
TOTAL			\$1,968,379

Council-directed tax forgiveness can sometimes be funded through the tax loss budget, but alternative funding sources must sometimes be identified if the amount is substantial.

If there are types of forgiveness that Council would generally approve that are not authorized under Council Policy C607A, Administration recommends that the Policy be amended to reflect Council's preferences. Misalignment between Council's tax forgiveness policy and its forgiveness decisions makes it more difficult to manage public expectations.

### Options to Restrict Tax Forgiveness

Because the amount of taxes forgiven can vary widely from year to year depending on the number and size of requests made, it is not possible to accurately estimate the amount of money to be saved by restricting tax forgiveness policy. However, most of the categories eligible for forgiveness under Council Policy C607A provide limited opportunities for significant savings.

The one category that is large enough to allow for significant savings is the construction of exempt facilities. This category accounted for about two thirds of all tax forgiveness provided under Council Policy C607A from 2020-2023. Administration is also aware of several large properties planned or under construction that are likely to qualify in the near future. The forgiveness in some of these cases may be so large that there is a risk of reaching the \$500,000

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cap on forgiveness that can be delegated to Administration, in which case the request would be brought forward to Council.

If Council wished to restrict its forgiveness policy, it could reduce the amount of time available for forgiveness, restrict forgiveness to principal amounts only (excluding penalties), restrict the types of property eligible for forgiveness, and/or cap the amount of taxes forgiven.

### Reducing Time Available for Forgiveness

Otherwise-exempt properties under construction can have up to three years of their taxes forgiven, between the time the construction commences (i.e., foundations are laid) to when the building is ready for occupation. Reducing this to one year would result in savings, though the amount would depend on how the year is calculated for projects where construction lasts more than a year. Assessment values generally increase each year a property is under construction because it is worth more as it approaches completion. The taxes in the final 12 months of construction are almost always higher than the taxes in the first 12 months of construction.

If forgiveness under this section had been limited to the last 12 months of construction, this would have avoided an average of approximately \$73,000 in forgiveness per year from 2020 to 2023.

### Restricting Forgiveness to Principal Amounts Only

As worded, the policy currently cancels municipal taxes and any associated penalties that have accumulated on those tax amounts. This policy approach allows non-profit organizations to not pay the municipal portion of their tax bill over the construction period. Penalties accumulate as normal, but if the organization receives approval for tax cancellation, then the associated penalties are also forgiven.

From a policy perspective, this provides greater benefit to the organization (allowing them to manage cash flow), but also encourages non-payment of taxes. While conferring a benefit to qualifying organizations, it can also incur risk for these organizations. If, for example, an organization does not qualify for full tax forgiveness, taxes and penalties may remain on outstanding amounts. Organizations are generally encouraged to pay their taxes annually and in full, but this provision provides an incentive not to do so. The policy could be reworded to be clear that penalties will not be forgiven. This may reduce forgiveness amounts, but most organizations heed the City's advice to pay annually.

If forgiveness under this section was limited to principal amounts only, this would have avoided an average of approximately \$15,000 in forgiveness per year from 2020 to 2023.

### Restricting Eligible Property Types

Not all types of property that would be exempt when complete are eligible for forgiveness while under construction. Further restricting eligible property types would produce savings, though the amount would be difficult to predict. Currently, eligible properties include schools, educational facilities, hospital buildings, nursing homes, religious buildings, buildings used for burial purposes, lodge accommodations and properties exempt under the provincial *Community Organization Property Tax Exemption Regulation* (COPTER).

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Eighteen properties have been granted forgiveness under this category since 2021, including 14 religious properties, three non-profit organizations and one non-profit arts facility.

### Capping the Amount of Taxes Forgiven

There is currently no limit on the amount of taxes to be forgiven if a property qualifies under this category, though there are limits on several other categories. Placing a per-request limit on this category would allow the City to collect some revenue from larger exempt properties during their construction phase, many of which are institutional, while still supporting smaller exempt properties.

### **Tax Forgiveness Approach in Calgary**

While all municipal councils in Alberta can cancel, reduce, refund or defer taxes under MGA section 347, only Edmonton and Calgary can delegate this authority to Administration. Calgary recently undertook a review of its tax forgiveness policies, resulting in a new Council policy covering errors of fact and a compassionate property tax relief program. Calgary's policy is more stringent on errors of fact, requiring that errors be identified in the current year rather than the following year. There is no cap on the amount of relief available for each request, though the entire policy is subject to the legislated \$500,000 cap.

Calgary also has a separate policy on non-profit tax mitigation. It is similar to this part of Edmonton's policy, but Calgary's provides forgiveness of up to four years while a property is under construction and more types of exempt property are eligible. Decisions on this type of forgiveness are not delegated to Administration, but are compiled and brought forward for a Council decision once a year.

### **Budget/Financial Implications**

A more restrictive tax forgiveness policy would mean fewer expenditures from the tax loss reserve account. More restrictions may not allow for any changes to the tax loss reserve account budget, since the amount of savings could not be accurately estimated and the bulk of this budget is used to manage tax losses resulting from Assessment Review Board decisions. However, less tax forgiveness would mean that more of this fund could roll over into the following year, ultimately reducing the following year's budget requirement.

### **Legal Implications**

Section 347 of the MGA allows Council to cancel, reduce, refund or defer municipal taxes and arrears when it considers it equitable to do so. Bylaw 18652 - The Municipal Tax Relief Delegation Charter Bylaw delegates the ability to forgive taxes to the City Assessor in accordance with Council Policy C607A. Council Policy C607A is also intended to guide Council in its use of this authority, but Council can grant tax forgiveness beyond the policy if it wishes.

### **Community Insight**

The City regularly receives applications for tax forgiveness, and these are the primary source of information about the demand for tax forgiveness. Public input regularly calls for greater and more lenient tax forgiveness policies, though those providing that input generally have personal



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interests in receiving greater leniency. Administration did not undertake broad engagement on this topic.

### GBA+

Administration does not record demographic information about residents who request property tax relief, so it is not possible to determine whether certain groups are advantaged or disadvantaged via tax forgiveness policy.

According to a Canada Mortgage and Housing Corporation report compiling income estimates from Statistics Canada, the real median household income (after-tax) of property owners in the Edmonton census metropolitan area was \$108,000 in 2022, compared to \$61,000 for renters<sup>2</sup>. Broadly when considering tax forgiveness policy, the owner category would likely be the direct beneficiaries of any tax forgiven by the City.

### Attachment

1. Summary of Tax Forgiveness 2020-2023

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<sup>2</sup> CMHC: "Real Median Household Income (After-Tax), by Tenure, 2006 – 2022"  
[cmhc-schl.gc.ca/professionals/housing-markets-data-and-research/housing-data/data-tables/household-characteristics/real-median-household-income-after-tax-tenure](https://cmhc-schl.gc.ca/professionals/housing-markets-data-and-research/housing-data/data-tables/household-characteristics/real-median-household-income-after-tax-tenure)

Note: figures are in 2022 constant dollars.