

DEVELOPMENT POTENTIAL RELIEF

USER GUIDE

PROPERTY TAX AND
ASSESSMENT POLICY
BRANCH

Ministry of Finance

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The information contained in the Development Potential Relief User Guide (Guide) relates to amendments to the *Community Charter and Vancouver* under Bill 28 – *Municipal Affairs Statutes (Property Taxation) Amendment Act, 2022*.

If a municipality wishes to adopt a Development Potential Relief Bylaw, the information provided in this Guide serves as reference material. It remains the responsibility of the municipality to ensure its bylaw and public notice meet:

- i. all applicable requirements of Bill 28;
- ii. any other applicable legal requirements, including those contained in the *Community Charter, Vancouver Charter* and the *Assessment Act*.

This Guide is intended to provide helpful information and an overview of the requirements for implementing the Development Potential Relief legislation under the *Community Charter and Vancouver Charter*.

Municipalities should not rely on this Guide as a substitute for seeking independent legal advice or a municipality exercising its own discretion.

Introduction

A. Intent of the Legislation

- Recent amendments to the *Community Charter* and *Vancouver Charter* under Bill 28 – *Municipal Affairs Statutes (Property Taxation) Amendment Act, 2022* (Act) – enable municipalities, through an annual property tax bylaw, to apply different tax rates to the land and improvement values of eligible commercial properties (Development Potential Relief).
- The Act adds section 198.1 to Part 7, Division 3 of the *Community Charter* and section 374.6 to Part XX of the *Vancouver Charter*.
- The intent of the Development Potential Relief is to allow municipalities to reduce property taxes for eligible commercial properties by taxing all or a portion of the assessed value of the land at a municipal tax rate that is lower than the tax rate for the property class.
- The Development Potential Relief is permissive, not statutory, and would provide an additional property tax relief mechanism that municipalities could implement voluntarily where they feel that commercial tenants and owner-occupiers are paying disproportionately high property taxes due to development potential.
- BC Assessment (BCA) must consider the Highest and Best Use of properties (the most reasonable and profitable use) in determining assessed market values. As such, businesses and organizations occupying properties with future development potential pay taxes on a value that exceeds the value of the current commercial use.
- “Development potential” is a defined term used only in the purpose statement to signal that the relief is intended to target development potential. The legislation does not require municipalities or the Province of British Columbia (Province) to calculate a development potential value.

Note: Each municipality’s legal counsel should review the bylaw before it proceeds to Council to ensure it complies with all requirements in the legislation.

How the Relief Works

A. Percentage of Land Value

- In the bylaw, municipalities specify the percentage of land value for each property to be taxed at the lower rate.
- The percentage of the land value to be taxed at the lower rate can vary by areas (e.g., Business Improvement Area), properties (e.g., every property can have a different amount of relief expressed as a percentage of the land value that will be taxed at the reduced rate for the class), or kinds of properties (e.g., art studios).
- For example, a municipality could stipulate in the bylaw that 75 percent of the eligible land value of the arts co-operative at 187 Smith Street is taxed at the reduced tax rate; or 50 percent of the land value of all eligible properties in the Mount Pleasant Business Improvement Area; or 25 percent of the land value of eligible retail storefronts.

Note: For properties with both Class 5 and 6 land, municipalities can choose different land value percentages to be taxed at the lower rate for each class.

B. Reduced Tax Rates for Class 5/6 Land

- Municipalities can set a reduced tax rate for land in Class 5 and/or Class 6 that is lower than the standard rate for the class.
- The reduced rates for Class 5 and/or 6 land can be the same or different per the discretion of the municipality (i.e., the municipality can have different reduced rates for land in Class 5 and 6).
- The reduced tax rate is for municipal taxation only; the relief does not apply or

- flow through to taxes collected by the municipality on behalf of other taxing authorities, including provincial school taxes. For clarity, the Development Potential Relief legislation applies only to general municipal taxes.

Note: *Community Charter* section 197(3)(b) enables municipalities to set “separate rates” for each property class. This provision allows municipalities to set rates for different purposes as part of the general municipal tax for each class. For example, a municipality might have different rates for different purposes such as garbage, water, sewer and other services. Each item would sum to a single general municipal tax rate per property class.

If a municipality establishes separate rates under section 197(3)(b), then the rates established under section 198.1(3)(c)(i) and (ii) must be lower than the sum of the separate rates.

Eligibility Requirements

A. Provincial Criteria (section 198.1(5))

- In order to be eligible for this relief, a commercial property would first have to meet the following provincial eligibility criteria:
 - a. Must have land and improvements in Class 5 (light industry) and/or 6 (business and other).
 - b. Must be occupied as of October 31 of the previous tax year.
 - c. Must have a combined Class 5/6 land value that is a minimum of 95 percent of the total Class 5/6 assessed value.

B. Municipal Criteria

- Municipalities are also authorized to determine additional eligibility criteria (e.g., relief is targeted to certain areas identified in the OCP, properties with an active development permit, or properties that are under appeal are excluded).

C. Exclusions (section 198.1(6))

- A property is ineligible for Development Potential Relief if:
 - a. More than four years have passed since it first received the relief (or a prescribed period of more than four years).
 - b. Any portion is in Class 2,3,4,7,8 or 9 (it can only be split with Class 1).
 - c. It is a restricted-use property, or has a prescribed value or tax rate (e.g., ski hills).
 - d. Any portion is exempt from municipal taxation (unless otherwise specified by regulation).
 - e. The land value is subject to assessment averaging or phasing.

Bylaw Development

A. Key Steps (based on 2023 implementation)

- Interested municipalities may request the previous year’s data from BCA at any point to get an estimate of how many and which properties may be eligible (turnaround time will vary).
- As soon as practicable (and before the completed assessment roll is finalized), municipalities request data from BCA on list of properties eligible for 2023 based on provincial criteria in the legislation.
- BCA provides municipalities with the completed assessment roll by December 30, and the data on eligible properties (if requested).
- Municipalities undertake analysis to determine additional eligibility criteria and identify properties for relief.
- Municipalities provide BCA with a list of selected properties and the percentage of the land value to be taxed at the lower rate by March 15.
- BCA provides revised roll and additional “development potential” report to municipalities by mid-April.

- Municipalities must adopt the annual property tax bylaw by May 15.

Note: Note: the deadline to pass the tax rate bylaw is the only date that is legislated.

- B. Municipalities provide property owners with notice of the relief, either on the annual property tax notice or a separate form accompanying the tax notice.

B. Summary of Bylaw Requirements (section 198.1(2), (3), (4))

- The bylaw must be for the purposes of relieving the impact of development potential relief and relief can only be provided for eligible land.
- The bylaw must identify the properties for which relief is provided. Properties should be listed individually, preferably including folio or legal description.
- The bylaw must specify the percentage of the eligible land value that is subject to the relief for each property and for each property class.
 - a. Different percentages can be specified for different areas, properties or kinds of properties.
- The bylaw must establish one tax rate for each of Class 5 and/or 6 that is lower than the existing rate established for each class by the municipality.
- The bylaw may require an owner to give notice of the relief to any tenants on the property.
- Municipalities must adopt tax rate bylaws after adoption of the financial plan and before May 15; TBC municipalities may incorporate the Development Potential Relief Bylaw into the annual Tax Rate Bylaw or adopt a separate bylaw.

Public Notice

A. Financial Plan (section 165(3.1)(b.1))

- Municipalities must include provision of Development Potential Relief in the annual Financial Plan Bylaw.
- A municipality must have a financial plan for a five-year period that is adopted annually by bylaw, *before the annual property tax bylaw is adopted*.
- The financial plan must set out the objectives and policies of the municipalities for the five-year period in relation to the funding sources of the municipality (including property taxes), the distribution of property taxes among property classes and the use of permissive exemptions.

Regulation Authority

A. Province-wide Regulations (198.1(8))

- The Lieutenant Governor in Council is authorized to make regulations that:
 - a. Extend the eligibility period beyond five consecutive years.
 - b. Add exemptions that a property may be subject to and still qualify for relief.
 - c. Prescribe kinds of properties that are disqualified.

Note: The Province is enacting a regulation that will allow properties exempt under the Industrial and Business Property Exemption Regulation (IBPER) to remain eligible for the Development Potential Relief. The IBPER exempts \$10,000 of the improvement value from taxation for Class 4,5 and 6 properties.

