

TOWN OF CRESTON

BYLAW NO. 1918

A Bylaw to establish a Revitalization Tax Exemption Program.

WHEREAS under Section 226 of the *Community Charter*, Council may provide a Revitalization Tax Exemption Program for land or improvements or both that is applicable to designated kinds of property, or related activities or circumstances;

WHEREAS Council wishes to establish a Revitalization Tax Exemption Program for the Eligible Improvements defined in Section 2 i) of this Bylaw;

WHEREAS Council is of the opinion that the development of new commercial businesses, or the redevelopment of existing commercial businesses, which encourage investment and employment, is a critical component of the economic revitalization and growth of the Town of Creston's Commercial Areas;

WHEREAS in accordance with Section 165 of the *Community Charter*, the Town has set out the objectives and policies in relation to the use of revitalization tax exemptions in the Five Year Financial Plan (2020-2024) Bylaw No. 1899, 2020 and this Bylaw is consistent with those objectives and policies;

WHEREAS the purpose of this Bylaw is to encourage the economic revitalization and economic growth of the Town of Creston by means of the development of new commercial businesses within the Designated Revitalization Area;

WHEREAS Council's reasons for creating the Revitalization Tax Exemption Program are as follows:

- a) Council recognizes that a critical component of the continued economic revitalization and growth of the Town is to build upon the success of its prior initiatives by encouraging the development of new commercial businesses, or the redevelopment of existing commercial businesses in the Town's zones that permit commercial uses, which will stimulate investment in the Town and provide new employment opportunities and commercial services for its existing and future residents, thereby attracting further economic growth and increasing the Town's tax base;
- b) the Town of Creston's Official Community Plan identifies the commercial objective of creating a strong and vibrant commercial economy in the Town of Creston; and,
- c) the Town of Creston's 2018-2019 Corporate Strategic Plan identifies economic development as a corporate priority;

WHEREAS the objectives of the Revitalization Tax Exemption Program are to:

- a) encourage new commercial businesses in new and renovated buildings in the Town's zones that permit commercial uses and thereby establish the commercial services and the investment and employment opportunities that will attract additional investment and economic growth to the Town of Creston; and
- b) reinforce the municipality's "open for business" approach and attract redevelopment and new development of commercial businesses within the municipality;

AND WHEREAS notice of this Bylaw has been given in accordance with Sections 94 and 227 of the *Community Charter*;

NOW THEREFORE the Council of the Town of Creston, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Revitalization Tax Exemption Bylaw No. 1918, 2020".
2. In this Bylaw:
 - a) "Appropriately Zoned Land" means Parcels that are zoned and licensed as described in Section 4 of this Bylaw;
 - c) "Assessed Value" means the value of land and improvements in a specified year, as determined by the Assessment Authority in the assessment region of the Province of British Columbia in which the land and improvements are located;
 - d) "Calendar Year" and "Year" means all months inclusive from January to December;
 - e) "Chief Building Official" means the person appointed by Council to that position or a person authorized by the Chief Building Official to perform his/her duties under this Bylaw;
 - f) "Council" means the Council of the Town of Creston;
 - g) "Designated Revitalization Area" means the area designated as such under Section 3 of this Bylaw;
 - h) "Director of Finance and Corporate Services" means the person appointed by the Council to that position or other Corporate Officer of the Town of Creston;
 - i) "Eligible Improvement" means:
 - .i an existing building, used only for an Eligible Use, on Appropriately Zoned Land and having a renovation project value of \$50,000.00 or greater as determined by the Town's Chief Building Official and for which a valid Building Permit has been issued by the Town after the adoption of this Bylaw or within 365 days prior to adoption of this Bylaw;
 - .ii a new building, used only for an Eligible Use, that is constructed on Appropriately Zoned Land and having a construction project value of \$150,000.00 or greater as determined by the Town's Chief Building Official and for which a valid Building Permit has been issued by the Town after the adoption of this Bylaw or within 365 days prior to adoption of this Bylaw.
 - j) "Eligible Land" means the area of a Parcel occupied by the footprint of the Eligible Improvements on the land to be detailed in the Revitalization Tax Exemption Agreement;
 - k) "Eligible Use" means a Principal Eligible Use;
 - l) "Municipal Property Taxes" means the municipal portion of taxes imposed on the land and improvements by the Town under Section 197(1)(a) of the *Community Charter*;
 - m) "Owner" means the registered Owner of the Eligible Improvement;
 - n) "Parcel" means a parcel upon which one or more improvements are to be constructed that may qualify the land or improvements, or both, for a tax exemption under this Bylaw;
 - o) "Principal Eligible Use" means a commercial use permitted on Appropriately Zoned Land as defined under Section 4 of this Bylaw;
 - p) "Recapture Amount" means the amount an Owner is required to pay to the Town under Section 8 of this Bylaw;

- q) “Revitalization Tax Exemption Agreement” or “Agreement” means an Agreement between the Owner of the Eligible Improvements and the Town of Creston that is substantially in the form attached to this Bylaw as Schedule “A”;
- r) “Revitalization Tax Exemption Certificate” means a Revitalization Tax Exemption Certificate issued by the Town of Creston pursuant to this Bylaw and pursuant to the provisions of Section 226 of the *Community Charter*, substantially in the form attached to this Bylaw as Schedule “B”;
- s) “Term” means the number of years for which a tax exemption is granted under Section 9 of this Bylaw;
- t) “Town” means the Town of Creston.

3. DESIGNATED REVITALIZATION AREA

- 3.1 The Designated Revitalization Area consists of all properties within the Town of Creston that are located in a commercial zone under the Town’s Zoning Bylaw No. 1123,1989 as defined in Section 4 of this Bylaw, that permits *commercial uses*.

4. APPROPRIATELY ZONED LAND

- 4.1 To qualify as an Eligible Improvement, an improvement must be located on a Parcel that is zoned *General Commercial C-1, Local Commercial C-2, Tourist Commercial C-3, Licensed Premises Commercial C-4, Mixed Use Commercial C-5, Highway Service Commercial HSC, Highway Service Commercial – Hotel/Convention Centre HSC-H, or Highway Service Commercial – Light Manufacturing HSC-M* as detailed in Schedule “A” of Zoning Bylaw No. 1123,1989; and, have a valid Building Permit issued by the Town of Creston for the construction of a Principle Eligible Improvement.

5. REQUIRED CONSTRUCTION VALUE

- 5.1 Revitalization Tax Exemptions will apply only to:
 - a) a redevelopment or alteration of an existing Eligible Improvement that has a construction value in excess of \$50,000.00; or
 - b) construction of a new Eligible Improvement, under this Bylaw, with a construction value in excess of \$150,000.00;

both values are to be determined by the Chief Building Official whose decision shall be final.

6. APPLICATION FOR EXEMPTION CERTIFICATE

- 6.1 An application for a Revitalization Tax Exemption Certificate must be made to the Town’s Director of Finance and Corporate Services on or before August 31 in the year prior to the first year in respect of which a tax exemption is sought and be accompanied by an Occupancy Permit for the Eligible Improvement issued by the Town.

- 6.2 The application must include sufficient information, as required by the Director of Finance and Corporate Services, to verify that the proposed development is an Eligible Improvement.
- 6.3 The Town of Creston will accept applications for a Revitalization Tax Exemption only in the years 2021, 2022 and 2023, and no applications will be accepted after August 31, 2023.
- 6.4 After obtaining a Building Permit from the Town for the construction of an Eligible Improvement, the Applicant may submit a Revitalization Tax Exemption Application in the form provided by the Town, but the Revitalization Tax Exemption Certificate must not be issued until the requirements and conditions for a Revitalization Tax Exemption Certificate prescribed in this Bylaw, the Agreement and the form of the Revitalization Tax Exemption Certificate in Schedule B to this Bylaw, together with any additional requirements and conditions required by the Town, have been met by the Applicant.
- 6.5 If construction commenced prior to the time limit in subsection 2(i) of the definition of Eligible Improvement in this Bylaw, the Revitalization Tax Exemption Application will not be eligible for consideration under this Bylaw.

7. REVITALIZATION TAX EXEMPTION CERTIFICATE

- 7.1 Once all conditions and requirements prescribed in this Bylaw and the Agreement as prerequisites for the issuance of a Revitalization Tax Exemption Certificate have been met, the Town's Director of Finance and Corporate Services must issue a Revitalization Tax Exemption Certificate for the property that is the subject of the Agreement.
- 7.2 If the Revitalization Tax Exemption Certificate is issued on or before October 31, the tax exemption takes effect in the following Calendar Year.
- 7.3 A Revitalization Tax Exemption Certificate must be issued for the Eligible Improvements in the form attached as Schedule "B" and must include the conditions set out in that form.

8. CANCELLATION OF CERTIFICATE

- 8.1 A Revitalization Tax Exemption Certificate issued for Eligible Improvements is subject to the requirement that all of the conditions set out in the Revitalization Tax Exemption Agreement continue to be met during the Term established in Section 9 of this Bylaw.
- 8.2 Council may cancel a Revitalization Tax Exemption Certificate if any one or more of the conditions or requirements set out in the Revitalization Tax Exemption Agreement are breached, and the cancellation will be effective as of the date of the breach.
- 8.3 If the Revitalization Tax Exemption Certificate is cancelled during a year in which the Owner of Eligible Improvements has received an exemption from municipal taxes, a Recapture Amount representing the amount of the Revitalization Tax Exemption granted to the Owner from the date of the breach of the condition or requirement, as applicable, is payable to the Town by the Owner.
- 8.4 If the breach occurred during the Calendar Year, the Recapture Amount will be the portion of the annual tax exemption for the balance of the taxation year remaining from the effective date of cancellation of the Certificate.

9. TERM AND EXEMPTION AMOUNT

- 9.1 The maximum Term of an exemption under this Program is five (5) years commencing on January 1 of the first Calendar Year after the year in which the Revitalization Tax Exemption Certificate is issued as long as it is issued prior to October 31.
- 9.2 100% percent of the Amount calculated in accordance with Section 9.3 of this Bylaw will be exempted in each year of the five (5) year Term:
- 9.3 The amount of the Revitalization Tax Exemption (the “Amount”) is the increase in the general municipal property tax levied on the difference in the assessed value of improvements on the Parcel between the year prior to the commencement of construction of the Eligible Improvements and the year following the issuance of the Revitalization Tax Exemption Certificate, that is, the difference in assessed value attributed to the Eligible Improvements.
- 9.4 The assessed value of the improvement as determined by the BC Assessment Authority will determine the value of the Revitalization Tax Exemption. The value of construction, as determined by the Chief Building Official for the purpose of establishing Program eligibility, may not necessarily reflect the value of the improvement as determined by the BC Assessment Authority.
- 9.5 The maximum Revitalization Tax Exemption under this Bylaw must not exceed the increase in the assessed value of improvements on the property in the Calendar Year before the new construction or alteration began and the Calendar Year in which the new construction or alteration is completed.
- 9.6 Tax rate increases will still apply on the non-exempted assessment.
- 9.7 An exemption under this Program does not affect the Owner’s liability for municipal utility user fees or parcel taxes, or taxation imposed by or on behalf of other government or public bodies.
- 9.8 The Schedules to this Bylaw form a part of and are enforceable in the same manner as this Bylaw.
- 9.9 If a Schedule is referred to or mentioned in this Bylaw without identifying its location as being in another bylaw or enactment, it is a reference to a Schedule attached to this Bylaw.

READ A FIRST by title and SECOND TIME by content this 29th day of September 2020.

PUBLIC NOTICE, pursuant to Sections 94 and 227 of the *Community Charter*, was given the 15th and 21st day of October, 2020.

READ A THIRD TIME by title this 22nd day of December, 2020.

ADOPTED this 22nd day of December, 2020.

“Ron Toyota”

Mayor Ron Toyota

“Kirsten Dunbar”

Kirsten Dunbar, Corporate Officer

SCHEDULE "A"
Town of Creston
Revitalization Tax Exemption Bylaw No. 1918, 2020

REVITALIZATION TAX EXEMPTION AGREEMENT

This Agreement dated for reference the _____ day of _____, 20____ is

BETWEEN:

(the "Owner")

AND:

The Town of Creston,
238 – 10th Avenue North
PO Box 1339
Creston, British Columbia
V0B 1G0

(the "Town")

Whereas:

- A. The Owner is the registered Owner in fee simple of lands in the Town of Creston at **[civic address]** legally described as **[legal description]** (the "Parcel");
- B. Under Bylaw No.1918, 2020 (the "Bylaw"), the Town established a Revitalization Tax Exemption Program (the "Program") for all properties within the Town of Creston that are located in a commercial zone under the Town's Zoning Bylaw No. 1123,1989, that permits commercial use(s) as a principal use. To be considered as an Eligible Improvement under the Program, the Owner's Parcel must:
 - a) be zoned *General Commercial C-1, Local Commercial C-2, Tourist Commercial C-3, Licensed Premises Commercial C-4, Mixed Use Commercial C-5, Highway Service Commercial HSC, Highway Service Commercial – Hotel/Convention Centre HSC-H, or Highway Service Commercial – Light Manufacturing HSC-M* as detailed in Schedule "A" of Zoning Bylaw No. 1123; 1989, have a renovation project value of \$50,000.00 or greater as determined by the Town's Chief Building Official; and, have a valid Building Permit issued by the Town of Creston for the renovation of an existing building on the Parcel for use as a Principle Eligible Improvement; or
 - b) be zoned *General Commercial C-1, Local Commercial C-2, Tourist Commercial C-3, Licensed Premises Commercial C-4, Mixed Use Commercial C-5, Highway Service Commercial HSC, Highway Service Commercial – Hotel/Convention Centre HSC-H, or Highway Service Commercial – Light Manufacturing HSC-M* as detailed in Schedule "A" of Zoning Bylaw No. 1123;1989, provide a new construction project of a commercial use; have a construction project value of \$150,000.00 or greater as determined by the Town's Chief Building Official; and, have a valid Building Permit issued by the Town for the construction of a new building on the Parcel to be used as a Principle Eligible Improvement.

- C. The objectives of the Revitalization Tax Exemption Program are to:
- a) encourage new commercial businesses in new and renovated buildings in the Town's zones that permit commercial uses and thereby establish the commercial services and the investment and employment opportunities that will attract additional investment and economic growth to the Town of Creston; and
 - b) reinforce the municipality's "open for business" approach and to attract new and improved commercial development to the municipality;
- D. The Owner proposes to construct new improvements, or alter existing improvements (the "Project"), on the Parcel and has applied to the Town for a tax exemption under the Revitalization Tax Exemption Program in respect of the Project and the Town has agreed to grant the exemption for the Project.

THIS AGREEMENT is evidence that in consideration of the following conditions and requirements, the Owner and the Town covenant and hereby agree that:

1.0 Eligibility

A Revitalization Tax Exemption will only be granted for the Parcel if the Project meets the requirements for an Eligible Improvement as set out in the Bylaw and Recital B on page 1 of this Agreement.

2.0 The Project

The Owner must ensure that the Project is constructed, maintained, operated and used for the purposes of a Principle Eligible Improvement, as defined in the Bylaw, throughout the Term of the Tax Exemption in a fashion that will be consistent with and will foster the objectives of the Revitalization Tax Exemption Program as set out in the Bylaw.

3.0 Operation and Maintenance of Project

Throughout the Term of the Tax Exemption, the Owner must operate, repair and maintain the Project and keep the Project in a state of good repair, as a prudent Owner would do.

4.0 Revitalization Tax Exemption

Subject to fulfillment of the conditions and requirements for issuance set out in this Agreement and in the Bylaw, the Town will issue a Revitalization Tax Exemption Certificate (the "Certificate") to the Owner and provide the relevant assessor of BC Assessment with a copy of the Certificate entitling the Owner to a municipal property tax exemption in respect of the Parcel (the "Tax Exemption") for the Calendar Years set out in this Agreement.

5.0 Conditions

The following conditions must be met before the Town will issue a Certificate to the Owner:

- 5.1 The Owner must make application for a Building Permit from the Town on or after the adoption of this Bylaw or within 180 days prior to adoption of this Bylaw, and prior to August 31, 2023 for the Project;
- 5.2 The Owner must complete, or cause to be completed, construction of the Project in conformance with the conditions of the Building Permit(s) issued for the Parcel and in compliance with all laws, statutes, regulations and orders of any authority having jurisdiction, including bylaws of the Town, that are applicable to the Project, and obtain an Occupancy Permit for the Eligible Improvement and submit that permit with the application for the Certificate; and,

5.3 The Owner must use the Eligible Improvement for the Principle Eligible Use.

6.0 Calculation of Revitalization Tax Exemption

The amount of the annual Tax Exemption shall be equal to the municipal property tax on the increase in the assessed value of improvements on the Parcel, attributable to the construction of the Eligible Improvements, between the year before the commencement of construction of the Project and the year immediately after the year in which the Tax Exemption Certificate is issued if issued prior to October 31.

7.0 Term of Revitalization Tax Exemption

The maximum Term of an exemption under the Program is five (5) years commencing on January 1 of the first Calendar Year after the year in which the Revitalization Tax Exemption Certificate is issued, as long as it is issued prior to October 31 in the previous year.

8.0 Cancellation

The Town may cancel the Certificate if the Owner requests cancellation in writing or fails to meet any of the conditions and requirements specified in the Bylaw, this Agreement or Certificate as conditions on which the Tax Exemption was provided.

9.0 Recapture

If pursuant to the terms and conditions specified in this Agreement or the Revitalization Tax Exemption Certificate, the Certificate is cancelled, the Owner will remit to the Town, no later than 30 days after receiving notice from the Town of the cancellation and the amount owing, the Recapture Amount prescribed in this Bylaw.

10.0 No Refund

For greater certainty, under no circumstances will the Owner be entitled, under this Agreement, the Bylaw, the Certificate or the Town's Revitalization Tax Exemption Program, to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

11.0 Enurement

This Agreement shall enure to the benefit of and is binding on the parties and their respective heirs, executors, administrators, successors and assigns.

12.0 Notices

Any notice or other communication required or contemplated to be given or made by any provision of this Agreement shall be given or made in writing and delivered personally (and if so shall be deemed received when delivered) or mailed by prepaid registered mail in any Canada Post Office (and if so shall be deemed delivered on the sixth business day following such mailing except that, in the event of interruption of mail service notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is addressed as follows:

To the Owner at:

And to the Town at:

The Town of Creston
PO Box 1339
238 – 10th Avenue North
Creston, British Columbia, V0B 1G0

or to such other address to which a party hereto from time to time notifies the other parties in writing.

13.0 No Assignment

The Owner may not assign its interest in this Agreement except to a subsequent Owner in fee simple of the Parcel.

14.0 Severance

If any portion of this Agreement is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

15.0 Interpretation

Wherever the singular or masculine is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.

16.0 Further Assurances

The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.

17.0 References

A reference in this Agreement to the Town or the Owner includes their permitted assigns, heirs, successors, officers, employees and agents.

18.0 Effective Date

This Agreement shall be effective from and after the reference date in this Agreement, but only if this Agreement has been duly executed and delivered by the Owner to the Town and duly executed by the Town.

19.0 Expense

Unless otherwise expressly provided in this Agreement, the expense of performing the obligations and commitments of the Owner contained in this Agreement, and of all matters incidental to those obligations and commitments is solely at the expense of the Owner

20.0 Owner's Representations

The Owner represents and warrants to the Town that:

- a) all necessary corporate actions and proceedings have been taken by the Owner to authorize its entry into and performance of this Agreement;
- b) upon execution and delivery on behalf of the Owner, this Agreement constitutes a valid and legally binding contractual obligation of the Owner;
- c) neither the execution and delivery, nor the performance, of this Agreement shall breach any other agreement or obligation respecting the Lands; and
- d) the Owner has the corporate capacity and authority to enter into and perform this Agreement.

Approval of this Agreement by Resolution No. _____ of the Council of the Town of Creston was given on the _____ day of _____, 20____.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

THE TOWN OF CRESTON)
by its authorized signatories:)
)
)
)
)
_____)
Mayor)
)
)
_____)
Corporate Officer)

(Insert name of Owner, if a corporation or)
corporate body) by its authorized signatories:)
)
)
_____)
Name and title)
)
)
_____)
Name and title)

Name of Owner, if an individual

Name of Witness

Address of Witness

SCHEDULE "B"
Town of Creston
Revitalization Tax Exemption Bylaw No. 1918, 2020
REVITALIZATION TAX EXEMPTION CERTIFICATE

SECTION 226 OF THE COMMUNITY CHARTER

In accordance with the Town of Creston's Downtown Revitalization Tax Exemption Bylaw No. 1918, 2020 and in accordance with the Revitalization Tax Exemption Agreement dated for reference the _____ day of _____, 20____ (the "Agreement") entered into between the Town of Creston (the "Town") and _____ (the "Owner"), the registered Owner(s) of the parcel described below:

This **Certificate** certifies that the Parcel is subject to a Revitalization Tax Exemption in an amount equal to the tax on the increase in the assessed value of the Parcel, after the Eligible Improvements have been completed on the Parcel, between the year before the commencement of construction of the Project, and the year immediately after the Tax Exemption Certificate is issued.

The Parcel to which the tax exemption applies is located in the Town of Creston and is described as follows:

Civic Address:

PID:

Legal Description:

The Tax Exemption is for the Calendar Years commencing with the year _____ and ending with the year _____.

The Tax Exemption is provided on the following conditions:

1. The Owner does not breach any covenant or condition in the Agreement and performs all obligations to be performed by the Owner as set out in the Agreement.
2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it.
3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent.
4. The Owner, or a successor in title to the Owner, does not apply to amend the Town of Creston's Zoning Bylaw No. 1123,1989 as amended, consolidated or replaced from time to time, to rezone the parcel from the zoning in effect at the time the Certificate was issued.
5. The Parcel is not put to a use other than those uses permitted in the applicable Commercial Zone as detailed in Zoning Bylaw No. 1123,1989 and amendments thereto.
6. The Principal Use of the Parcel remains a Principal Eligible Use throughout the Term of the Tax Exemption.

7. As a condition of the issuance of this **Certificate**, the Owner must obtain an Occupancy Permit from the Town for the Eligible Improvement and submit it with the Owner's application for this **Certificate**.

If any of these conditions are not met then the Council of the Town of Creston may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the property for which the Certificate was issued will remit to the Town the Recapture Amount calculated in accordance with Bylaw 1918, 2020 within the notice period specified in the Agreement.

Director of Finance & Corporate Services
Town of Creston

Date