

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

**REVITALIZATION TAX EXEMPTION BYLAW,
2015, NO. 2852**

**CONSOLIDATED FOR CONVENIENCE
September, 2019**

*In case of discrepancy, the original Bylaw
or Amending Bylaws must be consulted.*

Consolidates Amendments authorized by:

- Amendment Bylaw [No. 1], 2016, No. 2887
- Amendment Bylaw [No. 2], 2019, No. 2970

Bylaw No. 2852

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2852

A Bylaw to establish a revitalization tax exemption program

WHEREAS the Council of the Township of Esquimalt may, by bylaw, establish a revitalization tax exemption program;

AND WHEREAS Council wishes to support the beautification of the commercial and residential buildings on or near Esquimalt Road as outlined in Schedule A by partially exempting improvements from municipal property taxes calculated on the increase in assessed value, from the year of application, due to the revitalization;

AND WHEREAS Council has the following objectives for the program established by this Bylaw:

- to encourage beautification of the municipality through exterior alterations or upgrades to existing buildings or construction of new buildings;
- to support the conservation of built heritage; and
- to change the overall perception of the Township by creating a welcoming environment which will attract new businesses and new residential property owners.

AND WHEREAS Council has included within this Bylaw a description of the reasons for and the objectives of the program and a description of how the program is intended to accomplish the objectives, as required by the Community Charter

NOW THEREFORE, in open meeting assembled, the Council of the Township of Esquimalt enacts as follows:

Citation

1. This Bylaw may be cited for all purposes as "**Township of Esquimalt Revitalization Tax Exemption Bylaw, 2015, No. 2852**".

Definitions

2. For the purposes of this Bylaw:

"Agreement" means a Revitalization Tax Exemption Agreement between the owner of a Parcel and the Township, substantially in the format of and with the content of Schedule B which is attached to and forms part of this Bylaw;

"Council" means the Council of the Township of Esquimalt;

"Increased Assessed Value" means the difference between the assessed value of improvements on the Parcel for the year before the commencement of the Project and the assessed value of the improvements on the Parcel for the year following issuance of the Tax Exemption Certificate, with such values determined by the local assessment authority;

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“Parcel” means a legal parcel, of which at least 50% of the parcel’s land area is within the Revitalization Area, upon which an owner proposes a Project;

“Project” means a revitalization project on a Parcel involving the construction of a new improvement or alteration of an existing improvement, which meets the requirements of this Bylaw, and the construction or alteration of which is begun after an application for a Tax Exemption has been submitted to, and approved by, Council;

“Revitalization Area” means one of the areas outlined on Schedule A, which is attached to and forms part of this Bylaw;

“Tax Exemption” means a revitalization tax exemption pursuant to this Bylaw;

“Tax Exemption Certificate” means a revitalization tax exemption certificate issue by the Township pursuant to this Bylaw, the relevant Agreement, and the provisions of section 226 of the Community Charter, in the form of Schedule B, which is attached to, and forms part of, this Bylaw;

“Township” means the Corporation of the Township of Esquimalt.

General

3. There is hereby established a revitalization tax exemption program pursuant to the provisions of section 226 of the Community Charter.
4. The terms and conditions upon which a Tax Exemption Certificate may be issued are as set out in this Bylaw, in the relevant Agreement entered into between the Township and the Owner pursuant to this Bylaw, and in the Tax Exemption Certificate in relation to a particular Parcel.

Revitalization Tax Exemption Program

5.
 - (a) The reasons for the Program are to encourage the construction of new buildings, and exterior alterations and improvements of existing buildings located in the Revitalization Area.
 - (b) The Program is intended to accomplish Council’s objectives by providing property tax relief to Parcel owners who undertake a Project.
 - (c) In order for a Project to be considered by Council for an Agreement, the Project must be the subject of a building permit for new construction or alteration of an existing building, having a permit construction value of at least \$10,000, and be located within the Revitalization Area on one of the following property types:
 - (i) A portion of the Parcel that is zoned to permit a commercial use
 - (ii) A Parcel zoned to permit a residential use, with four or more dwellings at the completion of the construction or improvement
 - (d) The amount of the tax exemptions that may be provided under this Bylaw in any year is calculated as follows:

Years 1-5:	100% of the increased assessed value
Years 6-8:	75% of the increased assessed value

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Years 9-10: 50% of the increased assessed value

- (e) The eligible amount of an annual Tax Exemption shall be equal to the municipal taxes payable on the incremental increase in assessed value of improvements on the Parcel, due to the revitalization between:
 - (i) the year before the commencement of the Project, and
 - (ii) each year following the year in which the Tax Exemption Certificate is issued
 - (f) The maximum term of a tax exemption that may be provided under this Bylaw is 10 years.
 - (g) Where a building is demolished and a new building is constructed, the tax exemption calculation will be based on the value of the new improvement less the value of the building that was demolished.
 - (h) Parcels currently subject to a revitalization tax exemption under this program are ineligible for any additional tax exemptions.
6. If the Owner stratifies the Parcel under the *Strata Property Act*, the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata unit for:
- (a) The current and subsequent tax year, during the currency of this Agreement if the strata plan is accepted for registration by the Land Titles Office before September 1st; or
 - (b) For the next calendar year and each subsequent tax year, during the currency of this Agreement if the strata plan is accepted for registration at the Land Titles Office after September 1st
7. In order for a Project to be considered by Council for a Tax Exemption, the owner of the Parcel must apply, in writing, to the Director of Financial Services, or designate, and submit the following with the application:
- (a) A certificate that all assessed taxes and rates, charges and fees imposed on the Parcel have been paid, and where taxes, rates or assessments are payable by instalments, that all instalments owing at the date of application have been paid;
 - (b) A completed written application in a form prescribed by the Township and available in the office of the Director of Financial Services or designate;
 - (c) A description of the Project;
 - (d) A certificate from the owner's contractor or design professional in a form satisfactory to the Director of Financial Services certifying that the Project's value will exceed \$10,000 which will be confirmed through the building permit process;
 - (e) A Tax Exemption application fee in the amount of \$100.00.

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8. If the Tax Exemption Certificate is issued prior to October 30th of the current calendar year, then the tax exemption would be available for the following calendar year.
9. A Tax Exemption shall apply to a Parcel only after the following conditions are met:
 - (a) The Owner of the Parcel has satisfied all the provisions of the Bylaw;
 - (b) The Owner of the Parcel has entered into a valid Agreement with the Township;
 - (c) The Owner of the Parcel has satisfied all terms and conditions set out in the Agreement; and
 - (d) A Tax Exemption Certificate has been issued for the Parcel.
10. A Tax Exemption does not apply to:
 - (a) Municipal taxes imposed on the assessed value of land
 - (b) Taxes, charges or levies for local area services, specified areas, local improvement areas, or business improvement areas
 - (c) Municipal fees or charges
 - (d) Taxes imposed by a Regional District, Provincial Government or other authority.
11. Each Agreement shall require that an Owner of a Project meet the following construction requirements:
 - (a) The completed application for the building permit related to the Project must be submitted to the Township no later than six (6) months after the date of the Agreement; and
 - (b) Project construction must be completed on or before the 18 month anniversary of the date the building permit was issued for the project. **[Amendment No. 2, 2019, No.2970]**
12. Projects involving Parcels with any unpaid property taxes in arrears shall not be considered by Council for a Tax Exemption.
13. The Tax Exemption is transferable to subsequent property owners within the term of the Agreement.
14. If, pursuant to the terms and conditions specified in the Agreement or the Tax Exemption Certificate, the certificate is cancelled, the owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the Township an amount equal to the value of any Tax Exemption received after the date of the cancellation.
15. The Director of Financial Services, or designate, is considered the municipal officer for the purpose of section 226(12) of the Community Charter.

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16. An Agreement may include additional terms and conditions deemed necessary by the Director of Financial Services, or designate, in his or her sole discretion, acting reasonably.

READ a first time this 1st day of June , 2015

READ a second time this 1st day of June , 2015

READ a third time this 6th day of July , 2015

ADOPTED this 24th day of August , 2015

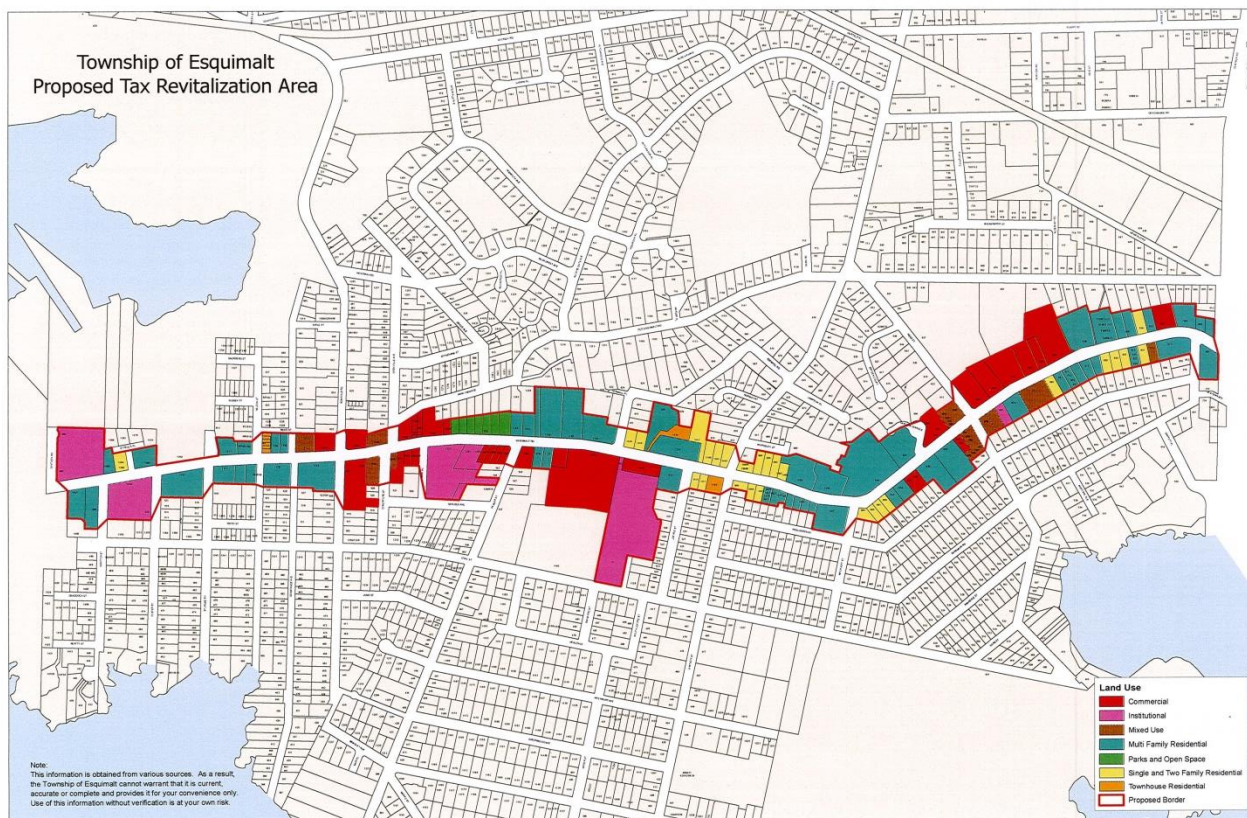
BARBARA DESJARDINS, MAYOR

ANJA NURVO, CORPORATE OFFICER

SCHEDULE A
[Amendment No. 1, 2016, No. 2887]

TAX REVITALIZATION AREA

Map of properties potentially eligible for a Revitalization Tax Exemption



SCHEDULE B

REVITALIZATION TAX EXEMPTION AGREEMENT

THIS AGREEMENT dated for reference the ____ day of _____, 20__ is

BETWEEN:

XXXX
(the "Owner")

AND:

CORPORATION OF THE
TOWNSHIP OF ESQUIMALT

1229 Esquimalt Road
Esquimalt, B.C.
V9A 3P1

(the "Township")

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of lands in the Township of Esquimalt at [civic address] legally described as [legal description] (the "Parcel");
- B. Council has established a revitalization tax exemption program (the "Program") and has included within the Township of Esquimalt Revitalization Tax Exemption Bylaw, 2015, No. 2852 (the "Bylaw") the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements [or alter existing improvements] on the Parcel as described in Appendix B attached to and forming part of this Agreement (the "Project") and has applied to the Township to take part in the Program in respect of the Project and the Township has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the Township covenant and agree each with the other as follows:

- 1. The Project – The Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the Program, as outlined in the Township of the Bylaw. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
 - a.
 - b.

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2. Operation and Maintenance of the Project – Throughout the term of this Agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
3. Revitalization Tax Exemption – Subject to fulfilment of the conditions set out in this agreement and in the Bylaw, the Township shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the improvements on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in this Agreement. The Tax Exemption Certificate shall be in the form of Appendix A, which is attached to and forms part of this Agreement.
4. Conditions – The following conditions shall be fulfilled before the Township will issue a Tax Exemption Certificate to the Owner in respect of the Project:
 - a. The Owner must obtain a building permit from the Township for the Project on or before _____, 20__;
 - b. The Owner must complete construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix B by no later than _____, 20__;
 - c. The completed Project must substantially satisfy the performance criteria set out in Appendix B hereto, as determined by the Township’s Director of Development Services or designate, in their sole discretion, acting reasonably.
 - d. The construction of the Project must not have been in response to an order of the Township or an order of another public authority.
 - e. The Owner must not have applied to the Township during the term of this Agreement to change the zoning of the Parcel to some use other than the proposed use stated in the application.
 - f. The Owner must not demolish or remove the Project during the term of the Tax Exemption and if the Project should be damaged or destroyed by fire or other cause beyond the control of the Owner, the Owner must repair or reconstruct the Project within 18 months of the date the damage occurred.
5. Calculation of Revitalization Tax Exemption – The amount of the Tax Exemption, as defined in the Bylaw, shall be equal to:

Years 1-5:	100% of the increased assessed value
Years 6-8:	75% of the increased assessed value
Years 9-10:	50% of the increased assessed value

but in any case shall not be more than the incremental increase in the assessed value of improvements on the Parcel between the year before the commencement of construction of the Project, and the year following the year in which the Tax Exemption Certificate is issued.

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6. Compliance with Laws – The Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules, regulations, policies, guidelines, criteria or the like made under or pursuant to any such laws.
7. Effect of Stratification – If the Owner stratifies the Parcel under the *Strata Property Act*, the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata unit for:
 - a. The current and subsequent tax year during the currency of this Agreement if the strata plan is accepted for registration by the Land Titles Office before September 1st; or
 - b. For the next calendar year and each subsequent tax year, during the currency of this Agreement if the strata plan is accepted for registration at the Land Titles Office after September 1st
8. Cancellation – The Township may in its sole discretion cancel the Tax Exemption Certificate at any time:
 - a. on the written request of the Owner; or
 - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the Township an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.
9. No Refund – For greater certainty, under no circumstances will the Owner be entitled under the Program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.
10. Notices – Any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail or if transmitted by facsimile to such party:
 - a. in the case of a notice to the Township, at:
THE TOWNSHIP OF ESQUIMALT
1229 Esquimalt Road
Esquimalt, B.C.
V9A 3P1

Attention:

Fax:

Email:

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- b. in the case of a notice to the Owner, at:
[insert name and address of owner]

Attention:

Fax:

Email:

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

- 11. No Assignment – The Owner shall not assign its interest in this Agreement except to a subsequent owner in fee simple of the Parcel who accepts the assignment and agrees to be bound by the Agreement.
- 12. Owner’s Representation – The Owner represents and warrants to the Township that:
 - a. If the Owner is a corporation, all necessary corporate actions and proceedings have been taken by the Owner to authorize its entry into and performance of this Agreement;
 - b. If the Owner is a corporation, the Owner has the corporate capacity and authority to enter into and perform this Agreement; and
 - c. Upon execution and delivery on behalf of the Owner, this Agreement constitutes a valid and binding contractual obligation of the Owner
- 13. Severance – If any portion of this Agreement is held 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.
- 14. 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.
- 15. Waiver – Waiver by the Township of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
- 16. Powers Preserved – This agreement does not:
 - a. Affect or limit the discretion, rights or powers of the Township under any enactment or at common law, including in relation to the use or subdivision of the Parcel; or
 - b. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel, and without limitation shall not confer directly or indirectly any exemption or right of set-off from connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the Township.

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17. Entire Agreement – This Agreement constitutes the entire agreement between the Owner and the Township with regards to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Township with the Owner
18. Modifications – No amendment or modification of any of the terms or provisions of this Agreement will be of any force or effect unless the amendment or modification is in writing and duly executed by the Township and the Owner.
19. Expense of the Owner – The expense of performing the obligations and covenants of the Owner contained in this Agreement, and of all matters incidental to them, is solely that of the Owner.
20. Reference – Every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows.
21. Enurement – This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.

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

Appendix A to Revitalization Tax Exemption Agreement

Tax Exemption Certificate

In accordance with the Township of Esquimalt Revitalization Tax Exemption Bylaw, 2015, No. 2852 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference the ____ day of _____, 20__ (the "Agreement") entered into between the Township of Esquimalt (the "Township") and

_____ (the "Owner"), the registered owner(s) of [insert legal description of property]

_____ (the "Parcel) located at [insert civic address] with a property tax folio of [insert BCA folio number]:

This certificate certifies that the Parcel is subject to a revitalization tax exemption equal to the following improvement portion(s) of the assessment value of the Parcel: Class 01 Residential: _____ and Class 06 Business/Other: _____ multiplied by the municipal rate of tax in effect for Class 01 Residential and/or Class 06 Business/Other, for each of the taxation years 20__ to 20__ inclusive.

The Tax Exemption is provided under the following conditions:

1. The Owner does not breach any term, condition or provision of, and performs all obligations set out in, the Agreement and the Bylaw;
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 must not apply to the Township during the term of the tax exemption to change the zoning of the Parcel to use other than the use of which the tax exemption was granted.
4. All property taxes, rates, fees and other charges levied by the Township, including penalties and interest on the Parcel (minus taxes exempted under the Bylaw) and on other land owned by the Owner within the Township must be paid during the term of the tax exemption.
5. 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;

If any of these conditions are not met then the Council of the Township of Esquimalt may cancel this Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title of the Owner as the case may be, shall remit to the Township an amount equal to the value of the exemption received after the date of the cancellation of the certificate.

Issued By: _____
Financial Officer for the Township of Esquimalt

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Appendix B to Tax Exemption Revitalization Agreement
Plans and Specifications for the Project