

VILLAGE OF PEMBERTON

BYLAW No. 733, 2013

Being a bylaw to provide a Revitalization Tax Exemption program in the Industrial (M1) and Education (E1) zones of the Village of Pemberton.

WHEREAS Council may, by bylaw, establish a revitalization tax exemption program;

AND WHEREAS Council wishes to establish a revitalization tax exemption program in the M1 and E1 zones of the Village of Pemberton pursuant to the *Community Charter*;

AND WHEREAS Council has the following objectives for the program established in this bylaw:

- To encourage new investment (new building or renovation) in the Industrial Park; and
- To encourage the development of an educational site;

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*;

AND WHEREAS Council has given notice of its intent to adopt this bylaw in accordance the *Community Charter* and considered this bylaw in conjunction with the objectives and policies set out in Section 165 (3.1) (c) of the *Community Charter* in the Village's financial plan;

NOW THEREFORE, the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS**:

1. CITATION

This Bylaw may be cited as "Village of Pemberton Revitalization Tax Exemption (M1 & E1 Zones) Bylaw No. 733, 2013."

2. DEFINITIONS

In this bylaw:

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

"Alteration" means the renewal or renovation of a building or a portion of a building, the renewal or renovation of which has a minimum value of \$100,000 or 30% of the Assessed Value of the Parcel, whichever is greater;

"Assessed Value" means the assessed value of the land and improvements on the Parcel as determined by BC Assessment Authority, subject to any Agreement for the purposes of calculating property taxes;

“Baseline Assessment” means the last published assessment of the land and improvements on the Parcel by the BC Assessment Authority, immediately before the commencement of the Project;

“Council” means the Council of the Village of Pemberton;

“Municipal Officer” means the Manager of Finance for the purposes of Section 226 (13) of the *Community Charter*;

“New Improvement” means a Project on a Parcel that is not an Alteration of an existing building on a Parcel;

“Parcel” means the legal parcel upon which an owner proposes a Project;

“Program” means the Revitalization Tax Exemption Bylaw Program established in this bylaw;

“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 of which has begun after an application for a Tax Exemption has been submitted to, and approved by Council;

“Renovation” means renewal or alteration of a building or a portion of a building;

“Revitalization Area” means a Parcel which is currently within a land use zone that permits industrial or educational use and as shown on Schedule “A”;

“Tax Exemption” means a Revitalization Tax Exemption obtained pursuant to this bylaw;

“Tax Exemption Certificate” means a Revitalization Tax Exemption Certificate issued by the Village of Pemberton pursuant to this bylaw, the relevant Agreement, and the provisions of the *Community Charter*, substantially in the form of Schedule B, which is attached and forms part of this bylaw; and

“Village” means the Village of Pemberton.

3. PROVISIONS

This Program is hereby established pursuant to the provisions of the *Community Charter* which is intended to achieve its objectives by:

- (1) Providing certainty to property owners; and
- (2) Reducing the municipal tax burden on Industrial (M1) and Educational (E1) properties that undertake a Project.

4. REQUIREMENTS FOR TAX EXEMPTION CERTIFICATE ISSUANCE

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 Village and the owner pursuant to this bylaw, and in the Tax Exemption Certificate in relation to a particular Parcel.

5. ISSUANCE OF A TAX EXEMPTION CERTIFICATE

- 5.1 In order for a Project to be considered for a Tax Exemption, the following requirements must be met:
- a) For a Project involving the construction of a New Improvement:
 - (i) 75% of the gross building floor area of the New Improvement must be dedicated to commercial, industrial and/or educational use;
 - (ii) the Parcel must be used in accordance the Village of Pemberton Zoning Bylaw No. 466, 2001, as amended, and the land use designation for the Parcel, as set out in the Village of Pemberton Official Community Plan Bylaw No. 654, 2011, as amended; and
 - (iii) there must have been no prior Tax Exemption Certificate issued under this bylaw in respect of the Parcel on which the Project will be completed.
 - b) For a Project involving an Alteration of an existing improvement:
 - (i) the value of the Alteration must be at least \$100,000 or 30 percent of the Assessed Value of the Parcel the year before the Alteration is to begin, whichever is greater;
 - (ii) the Parcel must be used in accordance the Village of Pemberton Zoning Bylaw No. 466, 2001, as amended, and the land use designation for the Parcel, as set out in the Village of Pemberton Official Community Plan Bylaw No. 654, 2011, as amended; and
 - (iii) there must have been no prior Tax Exemption Certificate issued under this bylaw in respect of the Parcel on which the Project will be completed.
- 5.2 Any New Improvement or Alteration completed prior to an approved application for a Tax Exemption is not eligible for a Tax Exemption under this bylaw.
- 5.3 Parcels currently subject to a municipal property tax exemption are not eligible for a Tax Exemption under this bylaw.
- 5.4 An exemption under the Program does not affect an owner's liability for municipal utility user fees, parcel taxes and/or taxes imposed by other government or public bodies and collected by the Village, including taxes under the *School Act*.

6. REVITALIZATION TAX EXEMPTION TERM AND CALCULATION

- 6.1 The maximum term of a revitalization Tax Exemption is five (5) years.

- 6.2 The amount of the Tax Exemption will be calculated as a percentage of the increased Assessed Value, as follows:
- a) 100 percent of the increase in Assessed Value in the first and second years;
 - b) 75 percent of the increase in Assessed Value in the third year;
 - c) 50 percent of the increase in Assessed Value in the fourth year; and
 - d) 25 percent of the increase in Assessed Value in the fifth year.
- 6.3 The amount of the annual Tax Exemption must not exceed the increased Assessed Value of a Parcel between the year before the construction or alteration began and the year in which the Tax Exemption Certificate is issued.

7. APPLICATION PROCESS

- 7.1 If the owner of a Parcel wishes to enter into an Agreement for a Tax Exemption under this bylaw, the owner must apply to the Chief Administrative Officer in writing using the application form prescribed by the Village, and must provide the following:
- a) a certificate that all taxes, utilities, rates, and charges imposed on the Parcel have been paid;
 - b) a copy of the property assessment notice for the Parcel for the year before the Project is to begin, as issued by the British Columbia Assessment Authority;
 - c) the value of the Project, which must be confirmed by one or more of the following:
 - (i) the building permit application process;
 - (ii) the development permit application process; or
 - (iii) a certificate from the owner's design professional in a form satisfactory to the Development and Engineering Services Director; and
 - d) an application fee in the amount of \$250.
- 7.2 Upon receipt of the written application referred to in section 7.1, complete with supporting documents and the application fee, the Village will provide an Agreement to be signed and returned to the Chief Administrative Officer, establishing the terms and conditions upon which the Village will grant a Tax Exemption.
- 7.3 Once the conditions established under this bylaw and in the Agreement have been met, a Tax Exemption Certificate must be issued in respect of the Parcel, on the terms and subject to the conditions set forth in the agreement.

8. CONDITIONS WITHIN AN EXEMPTION CERTIFICATE

8.1 An Exemption Certificate issued under this bylaw will be subject to the Parcel owner complying with all of the following conditions:

- a) All property taxes, including penalties and interest, that are payable in respect of the eligible Parcel, and all other Parcels or properties within the Village owned by that person, must be fully paid;
- b) Any criteria which made the development eligible for a Tax Exemption under this bylaw must be maintained for the duration of any tax Exemption granted pursuant this bylaw; and
- c) The property owner must not be in breach of the Revitalization Tax Exemption Agreement.

9. RECAPTURE OF EXEMPTED TAXES

If the owner of a Parcel that has been granted a Tax Exemption under the Program established by this bylaw ceases to meet all the conditions of the Tax Exemption Certificate as a result of wilful alterations, then the Tax Exemption Certificate shall be cancelled and all the taxes which were exempted in respect of that Parcel must be repaid, plus interest, as if the taxes had never been exempted, and the Collector shall add those taxes to the roll for that Parcel.

10. CANCELLATION

10.1 The Tax Exemption Certificate may be cancelled by Council in one or more of the following circumstances:

- a) Upon the request of the owner;
- b) If any of the conditions in the Tax Exemption Certificate or in the agreement are not met; or
- c) If the owner has allowed the property taxes to go into arrears or to become delinquent.

10.2 If the Tax Exemption certificate is cancelled by Council, the owner of the Parcel for which the Tax Exemption certificate was issued must remit to the Village, no later than thirty (30) days after the date of the cancellation of the Certificate, any amount equal to the value of any Tax Exemption received after the date of cancellation.

11. SEVERABILITY

If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason 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 the bylaw.

12. END DATE

After September 30, 2016, no further Tax Exemption certificates will be issued under this bylaw.

13. MUNICIPAL OFFICER

The Manager of Finance is designated the municipal officer for the purpose of section 226 (13) of the *Community Charter*, as amended.

READ A FIRST TIME this 4th day of June, 2013.

READ A SECOND TIME this 4th day of June, 2013.

NOTICE OF INTENTION TO PROCEED with Revitalization Tax Bylaw No. 733, 2013 was published in the Whistler Question on June 6, 2013 and June 13, 2013 and the Pique Newsmagazine June 27, 2013 and July 4, 2013 pursuant to Section 94 of the *Community Charter*.

READ A THIRD TIME this 9th day of July, 2013.

ADOPTED this 23rd day of July, 2013.

Mayor

Corporate Officer

**SCHEDULE A
REVITALIZATION AREA
EDUCATION (E1) AND INDUSTRIAL (M1)**

SCHEDULE "B"
REVITALIZATION TAX EXEMPTION AGREEMENT

This Agreement dated for reference the ____ day of _____, 201__ is

BETWEEN:

(Name and Address of Parcel Owner)
(the "Owner")

AND:

Village of Pemberton
7400 Prospect Street
P.O. Box 100
Pemberton, B.C.
V0N 2L0
(the "Village ")

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of lands in the Village of Pemberton at _____
(*civic address*) legally described as (*legal description*) (the "Parcel");
- B. The Council of the Village of Pemberton ("Council") has established a Revitalization Tax Exemption Program (RTEP) and has included within the Village of Pemberton Revitalization Tax Exemption Bylaw No. 733, 2013 the designation of Industrial (M-1) and Education (E1) zone as a revitalization area to:
- (i) strengthen the viability of existing businesses;
 - (ii) stimulate and encourage new private investment; and
 - (iv) better utilize Village infrastructure.
- C. The Owner proposes to (*construct a New Improvements or alter existing improvements*) on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the Village to take part in the Revitalization Tax Exemption Program in respect of the (*construction or alteration*), and the Village has agreed to accept the (*construction or alteration*) under the Revitalization Tax Exemption Program, on the terms and subject to the conditions set out in this Agreement;
- D. The Owner and the Village wish to enter into this Agreement and to register it against the Title to the Parcel as a covenant under Section 219 of the *Land Title Act*, as amended.

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

1. **The Project** - the scope of the Project is defined as follows:

- a) *insert project specifics, confirming construction of New Improvement or*
- b) *alteration of existing improvement that will be completed on the Parcel)*

c)

(the "Project").

The Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that is consistent with and will foster the objectives of the Revitalization Tax Exemption Program, as outlined in the Bylaw.

2. **Applicable Improvements** - the Tax Exemption provided for under the *Village of Pemberton Revitalization Tax Exemption Bylaw No. 733, 2013* (the "Bylaw") applies only to the Project. For greater certainty, the Village will not issue more than one (1) Tax Exemption certificate in respect of the Parcel.

3. **Operation and Maintenance of Project** - throughout the term of this Agreement and the renewal term, if any, the Owner will operate, repair and maintain the Project, and will keep the Project in a state of good repair as a prudent owner would do.

4. **Revitalization Tax Exemption Certificate** - subject to the Owner's fulfillment of the conditions set out in this Agreement and in the Bylaw, the Village will issue a Revitalization Tax Exemption Certificate to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the municipal property taxes due (excluding local services taxes) for the calendar years set out in this Agreement (the "Tax Exemption Certificate"). The Tax Exemption Certificate will be in the form attached as Schedule "C" to the Bylaw.

5. **Conditions Precedent** - the following conditions must be fulfilled before the Village will issue a Tax Exemption Certificate to the Owner in respect of the Project:

- a) the Owner must complete the Project in accordance with this Agreement;
- b) the Project must be completed, as determined by the Chief Administrative Officer, no later than September 30, 20____;
- c) the completed Project must:

- (i) *(for New Improvements: have 75 per cent of the gross building floor area dedicated to Commercial/Industrial/Educational use;*

OR

- (ii) *(for Alteration of existing improvement: have an Alteration value of at least \$100,000 or 30 per cent of the Assessed Value of the Parcel the year before the Project began, whichever is greater);*
 - d) the land use classification into which the completed Project is intended to fit must be one of the uses permitted in the applicable zone for the Parcel, as set out in the Village of Pemberton Zoning Bylaw No. 466, 2011, as amended, and must be consistent with the future land use designation for the Parcel, as set out in the Village of Pemberton OCP Bylaw No. 654, 2011 as amended ; and
 - e) there must have been no prior Tax Exemption Certificate issued under the Bylaw in respect of the Parcel on which the Project will be completed.
- 6. Conditions Subsequent** - the Tax Exemption Certificate is subject to the following conditions:
- a) the Owner may not sell, assign, or otherwise transfer all or any portion of its equitable or legal interest in the Parcel unless the transferee takes an assignment of this Agreement, and agrees to be bound by it; and
 - b) the property taxes in respect of the Parcel may not go into arrears or become delinquent.
- 7. Initial Term of Tax Exemption Certificate** - provided the requirements of this Agreement and the Bylaw are met, the Tax Exemption Certificate will be valid for the taxation years 20__ to 20__, inclusive.
- 8. No. Renewal Term of Tax Exemption Certificate** – the applicant understands that this exemption is for one (1) five (5) year period and there are no options for renewal.
- 9. Calculation of Revitalization Tax Exemption** - the amount of the Tax Exemption will be calculated as a percentage of the amount of any increase in the Assessed Value of land and improvements in and on the Parcel between the year before the construction or Alteration began and the year in which the Tax Exemption Certificate is issued (the “Increased Assessed Value”), as follows:
- (i) in 20__ and 20__, the Tax Exemption will be 100 per cent of the Increased Assessed Value;
 - (ii) in 20__, the Tax Exemption will be 75 per cent of the Increased Assessed Value;
 - (iii) in 20__, the Tax Exemption will be 50 per cent of the Increased Assessed Value;
 - (iv) in 20__, the Tax Exemption will be 25 per cent of the Increased Assessed Value; and
- 10. Cancellation** - Village Council may, in its discretion, cancel the Tax Exemption Certificate at any time in one or more of the following circumstances:
- a) on the request of the Owner;

- b) if any of the conditions in the Tax Exemption Certificate or in this Agreement are not met; and
- c) if the property taxes in respect of the Parcel have gone into arrears or become delinquent.

If such cancellation occurs, the Owner of the Parcel must remit to the Village an amount equal to the value of any Tax Exemption received after the date of cancellation.

11. **No Refund** - for greater certainty, under no circumstances will the Owner be entitled under the Village's Revitalization Tax Exemption Program to any cash credit, any carry forward Tax Exemption credit, or any refund for any property taxes paid.
12. **Covenants** - the covenants set forth in this Agreement will charge the Parcel pursuant to Section 219 of the *Land Title Act* and will be covenants the burden of which will run with the Parcel and bind the Parcel and every part or parts thereof, and every part to which the Parcel may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise. The benefit of all covenants made by the Owner herein will accrue solely to the Village and this Agreement may only be modified by agreement of the Village and the Owner, or discharged by the Village, pursuant to the provisions of Section 219 of the *Land Title Act* and this Agreement. All of the costs of the preparation, execution and registration of any amendments or discharges will be borne by the Owner.
13. **No Representations** - it is mutually understood, agreed, and declared by and between the parties that the Village has made no representations, covenants, warranties, guarantees, promises, or agreements (oral or otherwise), express or implied, with the Owner other than those expressly contained in this Agreement.
14. **Notices** - any notice or other writing required or permitted to be given or made under this Agreement will be sufficiently given if delivered by hand (and if so will be deemed to be received when delivered), or mailed by prepaid registered mail or courier (and if so will be deemed to be received on the sixth business day following such mailing other than in the event of interruption of mail service) or transmitted by facsimile to such party (and if so will be deemed to be received upon confirmation of a successful transmission):

a) in the case of the Village , at:

THE VILLAGE OF PEMBERTON
P.O. Box 100
7400 Prospect Street
Pemberton, BC V0N 2L0
Attention: Chief Administrative Officer
Facsimile: 604-894-6136

b) in the case of a notice to the Owner, at:

(insert name and address of Owner)
Attention:
Facsimile:

or at such other address or addresses as the party to whom such notice or other writing is to be given will have last notified the party giving the same in the manner provided in this section.

Without limiting the forgoing, the Village may notify the Owner by posting the notice or other writing on the Parcel, which shall be deemed to be received when posted.

15. **No Assignment** - the Owner may not assign its interest in this Agreement, except to a subsequent owner in fee simple of the Parcel.
16. **Severance** - if any portion of this Agreement or the Bylaw is held invalid by a court of competent jurisdiction, the invalid portion will be severed and the remainder of this Agreement will not be affected.
17. **Interpretation** - wherever the singular or masculine is used in this Agreement, the same will be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so required.
18. **Further Assurances** - the parties hereto will execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
19. **Waiver** - waiver by the Village of a default by the Owner must be in writing and will not be deemed to be a waiver of any subsequent or other default.
20. **Powers Preserved** - this Agreement does not:
 - a) affect or limit the discretion, rights or powers of the Village under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
 - b) affect or limit any enactment relating to the use or subdivision of the Parcel;
or
 - c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel, and, without limitation, will not confer directly or indirectly any exemption or right of set-off from development cost

charges, connection charges, application fees, user fees or other rates, levies or charges payable under any Bylaw of the Village.

21. **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.
22. **Enurement** - this Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
23. **Term and Renewal Term** - the term of this Agreement is five (5) years, commencing _____, and ending _____.

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

Executed by the **VILLAGE OF PEMBERTON** by its authorized signatories:

Mayor

Corporate Officer

Executed by _____ by its authorized signatories:

Name:

Name:

SCHEDULE "C"
TAX EXEMPTION CERTIFICATE

1. In accordance with the Village of Pemberton Village Revitalization Tax Exemption Bylaw No. 733, 2013 (the "Bylaw") and in accordance with a Revitalization Tax Exemption Agreement dated for reference the _____ day of _____, 20__ (the "Agreement") entered into between the Village of Pemberton (the "Village") and _____ (the "Owner"), this Certificate certifies that the Parcel (as defined below) is subject to a Revitalization Tax Exemption in an amount equal to the amount of any increase in municipal property taxes which would otherwise be payable as a result of any increase in the Assessed Value of land and improvements on the Parcel between *(the calendar year before the construction of a New Improvement or alteration of an existing improvement)* and *(the calendar year following the calendar year in which this Certificate is issued)* (the "Tax Exemption").
2. The Parcel to which the Tax Exemption applies is in the Village of Pemberton at civic address _____ and is legally described as:
Folio _____, PID _____
Lot _____, Block _____, District Lot _____, Plan _____
(the "Parcel").
3. The Tax Exemption is valid for each of the taxation years 20__ to 20__, inclusive according to the terms set out in the Bylaw and the Agreement.
4. The Tax Exemption is provided under the following conditions:
 - a) the Owner does not breach any term, condition or provision of, and performs and satisfies all conditions and obligations set out in the Agreement and the Bylaw;
 - b) the Owner has not sold, assigned, or otherwise transferred all or any portion of his or her equitable or legal interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it; and
 - c) the property taxes in respect of the Parcel have not gone into arrears or become delinquent.
5. Council of the Village of Pemberton may cancel this Revitalization Tax Exemption Certificate in accordance with the Agreement. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, must remit to the Village an amount equal to the value of the Tax Exemption received after the date of the cancellation of the Tax Exemption Certificate.

Manager of Finance
Village of Pemberton
Date