

**City of Chilliwack**

**Bylaw No. 3012**

**A bylaw to provide for a revitalization tax exemption**

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WHEREAS the Council may, by bylaw, provide for a revitalization tax exemption program;

AND WHEREAS Council wishes to establish a revitalization tax exemption program in the downtown area and in medium and high density areas of “Chilliwack Proper”;

AND WHEREAS the *Community Charter* provides that a revitalization tax exemption program bylaw may only be adopted after notice of the proposed bylaw has been given in accordance with Section 227 of the *Community Charter* and Council has given this notice;

NOW THEREFORE the Council of the City of Chilliwack in open meeting assembled enacts as follows:

1. This bylaw may be cited as **“Revitalization Tax Exemption Bylaw 2004, No. 3012”**.

**INTERPRETATION**

2. In this bylaw:

*“Approving Officer” means the person appointed by Council as the Approving Officer or their designate” (AB #3598)*

*“Base Amount” means an assessed value of land and improvements used to calculate municipal property tax payable on a parcel located in the Revitalization Area during the Base Amount Year (AB #3065)*

*“Base Amount Year” means the calendar year prior to the first calendar year in respect of which an Agreement set out in Schedule “B” applies to a parcel in the Revitalization Area;*

*“Full Assessment” means the amount of municipal property tax that would be payable in respect of a parcel in the revitalization area after the calendar year during which an Agreement set out in Schedule “B” is made, as if the Agreement had never been made; (AB #3065)*

*“Revitalization Area” means an area designated and shown on Schedule “A”.*

3. There is established a revitalization tax exemption program which includes the following:

*(1) property tax exemptions prescribed by this bylaw in respect of*

- (a) a construction of a new improvement

- (b) *alteration of an existing improvement where the alteration has a value in excess of \$200,000.00.” (AB #3598)*
  - (2) *the maximum exemption under this bylaw must not exceed the increase in the assessed value of land and improvements on the parcel between*
    - (a) *the year before the construction or alteration began, and*
    - (b) *the year in which the tax exemption certificate under this bylaw is issued;*
  - (3) *the maximum term of a revitalization tax exemption is 6 years. (AB #3598)*
  - (4) *The amounts of exemptions provided under this Bylaw are such that the municipality property tax payable, as Shown in Schedule “A”, is as follows:*
    - (a) *Years 1-5: base amount;*
    - (b) *Year 6: base amount plus 50%; and,*
    - (c) *Year 7 full assessment.” (AB #3598)*
- 4. *The kinds of property revitalization that will be eligible for a tax exemption under this bylaw will be limited to one or more of the following:*
  - (1) *residential property with four or more dwelling units at the completion of the construction or improvement;*
  - (2) *Commercial property;*
  - (3) *Institutional property (AB #3065 & AB #3598)*
- 5. *This bylaw does not apply to a parcel unless:*
  - (1) *the parcel is located in one of the areas shown on Schedule “A”, and*
  - (2) *the owner of the parcel has entered into an agreement with the City substantially in the form of and with the content of the Agreement attached as Schedule “B”.*
- 6. *Once the conditions established under Section 3 and the Agreement set out in Schedule “B” have been met, a revitalization tax exemption certificate must be issued for the parcel in accordance with the Agreement;*
- 7. *The revitalization tax exemption certificate must, in accordance with the conditions established in Section 3 and the Agreement set out in Schedule “B”, specify the following:*
  - (1) *the amount of the tax exemption or the formula for determining the exemption;*
  - (2) *the term of the tax exemption;*
  - (3) *the conditions on which the tax exemption is provided;*

(4) *that a recapture amount is payable if the certificate is cancelled and how that amount is to be determined.*

**8.** If an Owner wants a tax exemption under the bylaw, the Owner must apply to the *Approving Officer in writing, prior to October 31 of the preceding year* and must submit the following with the application: (AB #3598)

(1) *a certificate that all taxes assessed and rates, charges, and fees imposed on the Lands have been paid, and where taxes, rates, or assessments are payable by instalments, that all instalments owing at the date of the certificate have been paid,*

(2) *a completed written application in a form prescribed by Council and available in the Office of the Approving Officer, (AB #3598)*

(3) *description of the new improvements or the alteration of the existing improvement that would be eligible under the bylaw for a municipal tax exemption,*

(4) *an examination fee in the amount of \$100.00,*

(5) *a copy of the Agreement duly executed by and on behalf of the Owner.*

**9.** *This Bylaw shall come into effect on January, 2014.*

“Revitalization Tax Exemption Bylaw 2004, No. 3012” adopted on the 21<sup>st</sup> day of June, 2004.

Amendment Bylaw 3065 adopted on the 1<sup>st</sup> day of November, 2004.

Amendment Bylaw 3164 adopted on the 11<sup>th</sup> day of July, 2005.

Amendment Bylaw 3598 adopted on the 26<sup>th</sup> day of January, 2009.

Amendment Bylaw 3846 adopted on the 8<sup>th</sup> day of January, 2013.

Amendment Bylaw 4229 adopted on the 16<sup>th</sup> day of August, 2016.

“Clint Hames”

\_\_\_\_\_  
Mayor

“Robert L. Carnegie”

\_\_\_\_\_  
Clerk

“Revitalization Tax Exemption Bylaw 2004, No. 3012” – Schedule “A”



**SCHEDULE “B”**

***Revitalization Tax Exemption Agreement***

*THIS AGREEMENT dated for reference the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.*

**BETWEEN**

*[INSERT name and address of owner of parcel in respect of which the revitalization exemption will apply]*

*(“Owner”)*

**AND**

*CITY OF CHILLIWACK  
8550 Young Road  
Chilliwack, B.C.  
V2P 8A4*

*(“the City”)*

**GIVEN THAT**

- A. The City has under the Bylaw defined in this Agreement established a revitalization tax exemption program for the purpose of encouraging revitalization of an area of the municipality,*
- B. The Lands that are the subject of this Agreement are located in an area designated by the City’s Council as a revitalization area,*
- C. The Owner is a registered Owner of the Lands defined in this Agreement,*
- D. This Agreement contains the terms and conditions respecting the provision of a municipal property tax exemption under the bylaw defined in this Agreement,*
- E. The Owner and the Municipality wish to enter into this Agreement and register it against the title to the Lands as a covenant under Section 219 of the Land Title Act,*

*THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Agreement and the payment by the Owner to the City of consideration in the amount of \$10.00, the receipt and sufficiency of which are acknowledged by the City, the City and Owner covenant and agree with each other as follows:*

**DEFINITIONS**

1. *In this Agreement the following words have the following meanings:*

*“Agreement” means this Agreement, including the standard charge terms contained in this Agreement, together with the General Instrument defined in this Agreement;*

*“Assessed Value” means the most recent assessed value of the Lands as determined by the assessment authority in the area in which the Lands are located; if such value is not available then the assessed value means the highest price in terms of money that the real property will fetch under all conditions requisite to a fair sale with the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus as estimated by a real estate appraiser accredited in the jurisdiction in which the Lands are located;*

*“Bylaw” means “Revitalization Tax Exemption Bylaw 2004, No. 3012”, in force from time to time;*

*“CPI” means the All Items Consumer Price Index for Vancouver, British Columbia, published from time to time by Statistics Canada, or its successor in function, where the base amount year, defined in this Agreement, equals 100;*

*“Dispose” means to transfer by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release or agree to do any of those things;*

*“General Instrument” means the Form C under the Land Title (Transfer Forms) Regulation as amended, and all schedules and addenda to the Form C charging the Lands and citing the terms and conditions of this Agreement as the “standard charge terms” for the purposes of the Form C;*

*“Lands” means the lands legally described in Item 2 of the General Instrument and any part into which the Lands are subdivided;*

*“LTO” means the New Westminster/Vancouver Land Title Office or its successor;*

*“Owner” means the transferor described in the General Instrument and any subsequent owner of the Lands or any parts into which the Lands are subdivided, and includes any person who is a registered owner in fee simple of the Lands from time to time;*

*“Prime Rate” means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vancouver, British Columbia, for Canadian dollar loans and designated by the Royal Bank of Canada from time to time as its prime rate.*

2. *The Owner hereby covenants and agrees with the City, as a covenant in favour of the City pursuant to Section 219 of the Land Title Act, it being the intention and agreement of the Owner that the provisions hereof be annexed to, and run with and be a charge on title to the Lands, and be binding on successors in title, that the Lands shall be used and built on only in strict compliance with the terms and conditions of this Agreement and that the Lands, and a building on the Lands, may be used for the uses expressly permitted under Zoning Bylaw 2001, No. 2800, as amended from time to time, if and only if the Owner complies with Sections 5, 8, 9, 13, 18, 29, and 30 of this Agreement, as applicable subject to Section 7 of this Agreement.*

**TERM**

3. *The Owner covenants and agrees with the City that the term of this Agreement is:*
  - (1) *6 years commencing on January 1 of the first calendar year after the calendar year referred to in the reference date of this Agreement was made.*

**APPLICABLE IMPROVEMENTS**

4. *The Owner must:*
  - (1) *construct a new improvement on the Lands, or*
  - (2) *alter an existing improvement on the Lands where the value of the new improvement or alteration referred to in the building permit is in excess of \$200,000.00, in order to qualify for a tax exemption under the Bylaw.*

**REVITALIZATION TAX EXEMPTION CERTIFICATE**

5.
  - (1) *Once the Owner has completed the construction of the new improvement or alteration of an existing improvement referred to in Section 4, and the City has issued an occupancy permit under the City’s Building Regulation Bylaw, in force from time to time, in respect of the new improvement or alteration of an existing improvement, the City’s Council must issue a revitalization tax exemption certificate to the Owner for the Lands if the Owner and the Lands are otherwise in compliance with this Agreement.*
  - (2) *An interim certificate may be issued for the year of construction, with a further four year certificate issued for the next assessment year.*
  - (3) *A revitalization tax exemption certificate must, in accordance with the Bylaw and this Agreement, specify the following:*
    - (a) *the amount of the tax exemption or the formula for determining the exemption;*
    - (b) *the term of the tax exemption;*
    - (c) *the conditions on which the tax exemption is provided;*
    - (d) *that a recapture amount is payable if the certificate is cancelled and how that amount is to be determined.*

**TAX EXEMPTION**

6. *So long as a revitalization tax exemption certificate in respect of the Lands has not been cancelled, the Lands are exempt, to the extent, for the period and subject to the conditions provided in the certificate, from municipal property taxation.*
7. *The revitalization tax exemption certificate may be cancelled by the Council of the City:*
  - (1) *on the request of the Owner, or*
  - (2) *if any of the conditions in the certificate are not met.*

**OWNERS OBLIGATIONS**

8. *The Owner must pay to the City the cost of all tie-ins of works and services associated with the new improvements or alteration to improvements, to existing storm and sanitary sewers, water mains, water meters, driveways, and other municipal services.*
9. *The Owner must comply with:*
  - (1) *all enactments, laws, statutes, regulations and Orders of any authority having jurisdiction, including bylaws of the City, and*
  - (2) *all federal, provincial, municipal and environmental licenses, permits and approvals required under applicable enactments.*

**OBLIGATIONS OF CITY**

10. *The City must issue a revitalization tax exemption certificate to the Owner in respect of the Lands once the Owner has applied for and obtained an occupancy permit from the City under the City’s Building Regulation Bylaw, in force from time to time, in relation to the new improvements or alterations to an existing improvement, so long as the Owner and the Lands are otherwise in compliance with the Bylaw and this Agreement.*

**CITY’S RIGHTS AND POWERS**

11. *Nothing contained or implied in this Agreement prejudices or affects the City’s rights and powers in the exercise of its functions or its rights and powers under any public and private statutes, bylaws, orders, or regulations to the extent the same are applicable to the Lands, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner.*

**GENERAL PROVISIONS**

12. *It is mutually understood, agreed, and declared by and between the parties that Chilliwack 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.*



13. *The Owner covenants and agrees to use best efforts to do or cause to be done, at the expense of the Owner, all acts reasonably necessary to grant priority to this Agreement as a covenant over all charges and encumbrances which may have been registered against the title to the Lands in the New Westminster/Vancouver Land Title Office, save and except those specifically approved in writing by the City or in favour of the City.*
14. *The covenants set forth in this Agreement shall charge the Lands pursuant to Section 219 of the Land Title Act and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or parts thereof, and every part to which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise.*
15. *The covenants set forth in this Agreement shall not terminate if and when a purchaser becomes an owner in fee simple of the Lands or any portion thereof, but shall charge the whole of the interest of such purchaser and shall continue to run with the Lands and bind the Lands and all future owners for the time being of the Lands or any portion thereof, except the Owner will be entitled to a partial discharge of this Agreement with respect to any subdivided parcel of the Lands on acceptance of the works and on compliance by the Owner with all requirements under this Agreement with respect to the subdivided portion of the Lands.*
16. *It is further expressly agreed that the benefit of all covenants made by the Owner herein shall accrue solely to the City and this Agreement may only be modified by agreement of the City with the Owner, or discharged by the City 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 shall be borne by the Owner.*
17. *This Agreement shall enure to the benefit of and is binding on the parties and their respective heirs, executors, administrators, successors and assigns.*
18. *The Owner shall, on the request of the City, execute and deliver or cause to be executed and delivered, all such further transfers, agreements, documents, instruments, easements, statutory rights of way, deeds and assurances, and do and perform or cause to be done and performed, all such acts and things as may be, in the opinion of the City necessary to give full effect to the intent of this Agreement.*
19. *Time is of the essence of this Agreement.*
20. *This Agreement constitutes the entire agreement between the Owner and the City with regard to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written of the City with the Owner.*

21. *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 either delivered personally (and if so shall be deemed to be received when delivered) or mailed by prepaid registered mail in any Canada Post Office (and if so, shall be deemed to be 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:*

*[insert name]  
[insert address]*

*Attention: [insert contact]*

*and:*

*to the City at:*

*City of Chilliwack  
8550 Young Road  
Chilliwack, B.C. V2P 8A4*

*Attention: Approving Officer*

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

22. (1) *No amendment or waiver of any portion of this Agreement shall be valid unless in writing and executed by the parties to this Agreement.*
- (2) *Waiver of any default by a party shall not be deemed to be a waiver of any subsequent default by that party.*
23. *This Agreement is not intended to create a partnership, joint venture, or agency between the Owner and the City.*
24. *This Agreement shall be construed according to the laws of the Province of British Columbia.*
25. *A reference in this Agreement to the City or the Owner includes their permitted assigns, heirs, successors, officers, employees, and agents.*
26. *This Agreement is effective from and after the reference date in this Agreement, but only if this Agreement has been executed and delivered by the Developer and executed by the City.*

27. *The parties intend, by their execution and delivery of this Agreement, to create a covenant granted to the City under Section 219 of the Land Title Act, a contract, and a deed executed and delivered to the City under seal.*
28. *Unless otherwise expressly provided in this Agreement, whenever the City is permitted to make or give any decision, direction, determination, or consent, the City may act in its sole discretion, but will act reasonably.*
29. *Unless otherwise expressly provided in this Agreement, 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.*
30. *The Owner agrees to cause the registrable interest in land expressly agreed to be granted pursuant to this Agreement to be registered as a first registered charge against the Lands, save only for any reservations, liens, charges or encumbrances:*
  - (1) *contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;*
  - (2) *registered against title to the Lands at the instance of the City; whether in favour of the City or otherwise; and,*
  - (3) *which the City Solicitor has determined, in their sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.*
31. *The parties agree that neither the Owner, nor any successor in title to the Lands, or portions thereof, will be liable for breaches of or non-observance or non-performance of covenants contained in this Agreement occurring after the date that the Owner or its successor in title, as the case may be, ceases to be the registered or beneficial owner of the Lands; provided however, the Owner or its successors in title, as the case may be, shall remain liable after ceasing to be the registered or beneficial owner of the Lands for all breaches of and non-observance and non-performance of covenants in this Agreement if the breach, non-observance or non-performance occurred prior to the Owner or any successor in title, as the case may be, ceasing to be the registered or beneficial owner of the Lands.*
32. *Nothing contained or implied in this Agreement shall fetter in any way the discretion of the City or the Council of the City. Further, nothing contained or implied in this Agreement shall derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City’s rights, powers, duties or obligations in the exercise of its functions pursuant to the Community Charter or the Local Government Act, as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, bylaws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.*

**33.** *In any action to enforce this Agreement in which any Court determines that the position of the City shall prevail, the City shall be entitled to court costs on a solicitor/client basis.*

**34.** *The following provisions shall apply to this Agreement:*

- (1) the laws of British Columbia are to govern its interpretation and enforcement;*
- (2) each of the City and the Owner accepts the jurisdiction of the courts of British Columbia;*
- (3) if a court finds any provision invalid, illegal, or unenforceable, and severs it from the remainder of this Agreement, the remaining provisions are to remain in force and effect;*
- (4) time shall be of the essence, and if the City or the Owner expressly or impliedly waives that requirement, the City or the Owner may reinstate it by delivering notice to the other;*
- (5) waiver of a default by the City or the Owner or failure or delay by the City or the Owner in exercising a right or remedy does not mean that the City or the Owner waives any other default or that the City or the Owner has waived its right to exercise such right or remedy;*
- (6) no amendment is to have any force or effect unless the City and the Owner have signed it;*
- (7) this Agreement represents the entire agreement between the City and the Owner regarding the matters set out in this Agreement, and supersedes all prior agreements, letters of intent, or understandings about those matters;*
- (8) any reference to a statute is to the statute and its regulations in force on the date the Owner signs the Form C, and to subsequent amendments to or replacements of the statute or regulations;*
- (9) the exercise of any particular remedy by the City or the Owner under this Agreement or at law or at equity shall not prejudice or preclude that party from invoking or exercising any other remedy, and no remedy shall be exclusive, and each of the City or the Owner may exercise all of its remedies independently or in combination and, in particular, the Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise), or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement;*

- (10) *the Owner shall execute and deliver to the City, on request by the City from time to time, such further assurances and instruments as the City may require to give full force and effect to the Owner’s grants and agreements under this Agreement; and,*
- (11) *if the Owner consists of more than one person, firm, or corporation, the Owner’s obligations under this Agreement shall be joint and several.*

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the General Instrument – Part I, which is a part hereof.

**CITY OF CHILLIWACK,** )  
 By its authorized signatories: )  
 )  
 )  
 \_\_\_\_\_ )  
 Authorized Signatory )  
 )  
 \_\_\_\_\_ )  
 Authorized Signatory )

The corporate seal of \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 was affixed in the presence of its )  
 Authorized signatories: )  
 )  
 \_\_\_\_\_ ) c/s  
 Authorized Signatory )  
 )  
 \_\_\_\_\_ )  
 Authorized Signatory )

(AB#4229)