

BYLAW 62-2020
INDUSTRIAL HEARTLAND INCENTIVE TAX EXEMPTION BYLAW
(CONSOLIDATED June 15, 2021)

AS the municipality considers it desirable to encourage the development or revitalization of non-residential properties and machinery and equipment for the general benefit of the municipality and promote investment in the Strathcona County Industrial Heartland; and

Council wishes to pass a tax exemption bylaw to provide tax incentives for the construction of large Energy Value Chain Projects and Associated Infrastructure in the Strathcona County Industrial Heartland pursuant to section 364.2 of the Municipal Government Act;

Council enacts:

PART I – PURPOSE, DEFINITIONS, AND INTERPRETATION

- Purpose 1 The purpose of this bylaw is to:
- (a) Encourage the development or revitalization of non-residential properties and machinery and equipment in the Strathcona County Industrial Heartland for the general benefit of the municipality;
 - (b) establish tax exemptions in accordance with section 364.2 of the Municipal Government Act for Assessed Persons when there is a New Project or an Expansion Project that meets the criteria and requirements set out in this bylaw;
 - (c) provide a process for application for a tax exemption under this bylaw; and
 - (d) provide a process for review by Council of the refusal or cancellation of a tax exemption under this bylaw.
- Definitions 2 In this bylaw:
- (a) "Applicant" means a person who applies for an Exemption;
 - (b) "Application Fee" means the fee established by this bylaw to be paid at the time an application is submitted pursuant to this bylaw;

- (c) "Assessed Person" means an assessed person as defined under section 284(1) of the Municipal Government Act;
- (d) "Associated Infrastructure" means the network of facilities and infrastructure that support hydrocarbon processing from the research and development of new innovative technology, necessary construction facilities, the development of the value-add product itself, its storage, and eventual delivery to an end-user (e.g. modular yards, air separation units, rail transportation facilities; etc.);
- (e) "Chief Commissioner" means the chief administrative officer of the County, or delegate;
- (f) "Commercial Operation Date" means the date from which the machinery and equipment components of the New Project or Expansion Project are operational as determined in accordance with MRAT and the Municipal Government Act, unless the New Project or Expansion Project does not include machinery and equipment, in which event "Commercial Operation Date" means the date at which the New Project or Expansion Project is complete as determined in accordance with MRAT and the Municipal Government Act;
- (g) "Complete Application" means an application submitted pursuant to this bylaw that includes the Application Fee, the application form, any information and documents set out on the application form and any additional application requirements for the tax incentives under this bylaw, including any additional documentation requested by the County to verify the accuracy of the information provided;
- (h) "County" means the municipal corporation of Strathcona County, a specialized municipality established under the authority of the Municipal Government Act and Order in Council 761/95;
- (i) "Council" means the Council of the County;
- (j) "Decision" means the decision to grant an Exemption, to reject the Exemption application, or to

cancel an Exemption;

- (k) "Eligible Capital Costs" means the lower of the actual total capital costs incurred to construct the New Project or Expansion Project, or the estimated cost to the Assessed Person to construct the New Project or Expansion Project at the time of Final Investment Decision as outlined in the Complete Application, and will include any new expenditures on labour, engineering, materials or other costs associated with the construction, but will not include the costs of any improvements or machinery and equipment that existed on the land before construction commenced or the land itself, or other non-capital costs such as legal/regulatory/permitting fees;
- (l) "Energy Value Chain Project" means a project associated with the processing or utilization of hydrocarbons in such a way that produces higher-value products relative to the feedstock and may include, but is not limited to, projects that involve:
 - (i) manufacturing products;
 - (ii) researching and developing product lines and new technology;
 - (iii) transporting and storage of products; and
 - (iv) services directly relating to manufacturing, researching or transporting products; and
 - (v) Associated Infrastructure.
- (m) "Exemption" means the portion of taxes on non-residential property and machinery and equipment that have been determined to be exempt in accordance with this bylaw, and which are computed separately under this bylaw for non-residential property and for machinery and equipment;
- (n) "Expansion Project" means an expansion of an existing Energy Value Chain Project, but does not include replacement and upgrading of the components of an existing project;
- (o) "Final Investment Decision" means the final approval and sanction by the owners of a New Project or

Expansion Project;

- (p) "Full Time Position" means the equivalent of a person working a minimum of 34 hours per week throughout a 52-week period;
- (q) "machinery and equipment" means the type of property falling within the assessment class specified in section 297(1)(d) of the Municipal Government Act;
- (r) "Municipal Government Act" means the *Municipal Government Act*, RSA 2000, c M-26;
- (s) "MRAT" means the *Matters Relating to Assessment and Taxation Regulation*, 2018, AR 203/2017;
- (t) "New Project" means a new construction for an Energy Value Chain Project on a Property;
- (u) "non-residential" means the type of property falling within the assessment class specified in section 297(1)(b) of the Municipal Government Act;
- (v) "Property" means the property or properties on which an Applicant is applying to qualify for an Exemption;
- (w) "Qualifying Property" means a Property which meets the criteria under this bylaw for an Exemption;
- (x) "Skilled Job" means a job that requires a university degree, post-secondary diploma or certificate, or some form of trade credential that is commonly recognized, and the County at its sole discretion will determine whether the job meets such qualifications;
- (y) "Strathcona County Industrial Heartland" means that area of land in the north of Strathcona County found within the boundaries outlined in Schedule A;
- (z) "Supplementary Assessment" means a supplementary assessment as set out in Part 9, Division 4 of the Municipal Government Act;
- (aa) "Tax Incentive Agreement" means a written

agreement setting out the terms and conditions for an Exemption for the Qualifying Property.

- Interpretation 3 The following rules apply to interpretation of this bylaw:
- (a) headings, titles, margin notes, and preambles in this bylaw are for ease of reference only;
 - (b) gender-specific words, phrases, and references are intended to be gender-neutral, and the singular includes the plural as the context requires;
 - (c) every provision of this bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid by a Court, all other provisions of this bylaw remain valid and enforceable; and
 - (d) references to bylaws and enactments in this bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder.

PART II – AUTHORITY AND CRITERIA FOR EXEMPTION

Authority to Grant Exemption 4 The Chief Commissioner has the authority to determine whether an Exemption will be granted in accordance with the terms and conditions of this bylaw.

Criteria for Exemption 5 (1) To be eligible for an Exemption, the following eligibility criteria must be met:

- (a) Requirements for a New Project or an Expansion Project:
 - (i) be a New Project or an Expansion Project with Eligible Capital Costs of more than \$50 million Canadian dollars;
 - (ii) be commenced subsequent to this bylaw coming into force, unless an application for exemption for the New Project or Expansion Project is received by the County on or before April 1, 2021; and
 - (iii) employ over 250 personnel, including contract and subcontract labour, over the course of the construction period; or employ on the Property on an ongoing basis after construction is complete,

the equivalent of more than 15 Full Time Positions that qualify as Skilled Jobs.

(S. 3, Bylaw 29-2021, June 15, 2021)

(b) Requirements for Qualifying Property:

- (i) be physically located within the designated geographic area of the Strathcona County Industrial Heartland;
- (ii) obtain all necessary development approvals from the County;
- (iii) not be going through foreclosure; and
- (iv) not have development compliance issues, be in violation of a development agreement, or in violation of the *Safety Code Act* at any time during the taxation years for which the Exemption applies.

(c) Requirements for Applicant:

- (i) Applicant is the Assessed Person or authorized agent for the Assessed Person;
- (ii) Assessed Person must not be in arrears or have amounts owing with regards to property tax, utilities, or other fees owed to the County;
- (iii) Assessed Person must not be in bankruptcy or receivership;
- (iv) Assessed Person must be in compliance with terms and conditions of any grant or other financial assistance received from the County, irrespective of the New Project, the Expansion Project, or the Qualifying Property;
- (v) Assessed Person and their agent must not furnish false information within an Application, or furnish false information or misrepresent any fact or

circumstance to the County whether as part of the application process or during the term of the Tax Incentive Agreement; and

Ineligible Projects

(vi) Assessed Person and their agent must meet all requirements under this bylaw and the Municipal Government Act.

(2) New Projects or Expansion Projects that transition operations or relocate development from one municipality within the boundaries of the Alberta Industrial Heartland as outlined in Schedule A to another municipality within the boundaries of the Alberta Industrial Heartland will not be eligible for an Exemption.

(3) The Chief Commissioner may exercise discretion to refuse to have the County grant an Exemption when:

(a) an entity related to the Assessed Person is in bankruptcy, or receivership;

(b) the Assessed Person owns any interest in another property that is going through foreclosure;

(c) an entity related to the Assessed Person owns any interest in another property going through foreclosure;

(d) the Property is the subject of some form of litigation;

(e) the Assessed Person is involved in litigation with the County; or

Period of Effect of Exemption

(f) in the sole discretion of the Chief Commissioner, there is any other reason to believe that the Exemption is not in the public interest.

6 (1) An Exemption may have effect for up to:

(a) 11 consecutive taxation years if a Supplementary Assessment is prepared for the Property in the same taxation year as the Commercial Operation Date, but in no case will the Exemption have effect for more than 11 consecutive taxation years; and

(b) 10 consecutive taxation years if no Supplementary

Assessment is prepared for the Property in the same taxation year as the Commercial Operation Date, but in no case will the Exemption have effect for more than 10 consecutive taxation years,

and no subsequent application for exemption or deferral of taxes will be accepted for the New Project or Expansion Project.

(2) Notwithstanding anything in this bylaw, no exemption will be permitted to apply in a taxation year that is more than 15 years after an exemption is approved in accordance with this bylaw.

Change of
Ownership

7 (1) A change in ownership of the Property will not affect the Exemption unless the new owner falls within one or more of the terms for disqualification under section 5 of this bylaw.

(2) To maintain eligibility for the Exemption, the new owner must assume the obligations that arise under the Tax Incentive Agreement.

PART III – APPLICATION AND DECISION PROCESS

Application for
Exemption

8 (1) The application process for an Exemption is as follows:

(i) Applicants must submit a Complete Application to the County, and the County has the discretion to reject applications that are incomplete, ineligible, or provided after the deadline provided in this bylaw;

(ii) Applicants must submit a non-refundable application fee of \$5,000.00 (Canadian dollars);

(iii) a Complete Application must be received before construction of the New Project or Expansion Project has commenced, unless the Complete Application is received prior to April 1, 2021;

(iv) Applicants whose applications are returned as incomplete or ineligible may resubmit an application without payment of a further application fee;

(v) notwithstanding the Complete Application requirements, the County may require any

additional information that, in the discretion of the County, is necessary to complete the application and may require the Applicant's consent to be given for the County to obtain such additional information;

(vi) Complete Applications may be considered and approved in accordance with this bylaw before construction on the qualifying property is complete; however, the Exemption will not apply until all construction on the Qualifying Property is complete, the development is inspected and approved, and the Commercial Operation Date takes place; and

(vii) the County will advise Applicants in writing if their application is accepted for consideration. Applications accepted for consideration will become the property of the County and may not be returned.

9 (1) The Chief Commissioner will receive and consider Complete Applications within the provisions of this bylaw and may consult with, obtain information from, and verify information with other employees or agents of the County, other governments, government agencies, or persons.

Decision on
Exemption

10 The Chief Commissioner will consider each application and:

(a) grant the Exemption and enter into a Tax Incentive Agreement with the Applicant; or

(b) reject the application and advise the Applicant with written reasons as to why.

11 The Chief Commissioner is authorized to enter into a Tax Incentive Agreement with the Applicant if an Exemption is granted.

12 (1) The Chief Commissioner will issue a written Decision to the Applicant outlining the following information:

(a) whether a Property qualifies for the Exemption, and the years to which the Exemption applies, which must not include any taxation year earlier than the taxation year in which the Exemption is granted, if applicable;

- (b) any reason why the Property fails to qualify for the Exemption and provide the date by which an application for an appeal to Council must be made;
- (c) the extent of any exemptions granted on the Property pursuant to the terms of this bylaw; and
- (d) any conditions, the breach of which will result in the loss of the Exemption and the taxation year or years in which the conditions apply.

(2) In issuing a Decision under subsection (1), and in the Tax Incentive Agreement, the Chief Commissioner may set conditions requiring the Applicant to provide information requested by the County to enable the County to monitor whether the Property continues to meet the terms of this bylaw throughout the period for which the Exemption is granted, or to ensure that the calculation of the Exemption is accurate, including the provision by the Applicant of consent for the disclosure of such information to the Chief Commissioner by employees or agents of the County, other governments, government agencies, or other persons.

(3) It will be a deemed condition of all Decisions that section 5 of this bylaw be complied with on an ongoing basis.

(4) At any time, the Chief Commission may require the Applicant to provide any documents as the Chief Commissioner may deem necessary to verify any information contained in the application or to confirm ongoing compliance with the eligibility criteria of the Exemption.

(5) When a condition of the Decision is breached, a Property no longer qualifies for an exemption under this bylaw, or information becomes available that shows that the Property should not qualify for an exemption under this bylaw, the Chief Commissioner will issue a written Decision cancelling the exemption, provide an explanation why the exemption has been cancelled, and what criterion or conditions must be met in order for the exemption to be reinstated, if applicable. The written Decision will also provide the date in which an appeal to Council must be submitted.

PART III – CALCULATION AND APPLICATION OF THE EXEMPTION

Calculation of the Non-Residential Exemption

13 (1) An Exemption granted pursuant to this bylaw will be calculated and applied in accordance with this section.

(2) The amount of exempt taxes that will form the Exemption for the non-residential portion of the Property will be based on the following formula:

1% of the non-residential Eligible Capital Costs.

Calculation of a Machinery and Equipment Exemption

(3) The amount of exempt taxes that will form the Exemption for the machinery and equipment portion of the Property will be based on the following formula:

1% of the machinery and equipment Eligible Capital Costs.

(4) For greater clarity, where Eligible Capital Costs include both expenditures on machinery and equipment and non-residential property, the Eligible Capital Costs will be allocated to each class of property for the purposes of calculating the Exemption under this section.

(4) Despite subsection (1) and subsection (2), in no case will the amount of the Exemption exceed the amount of taxes that would have been imposed on the portion of a Property that qualifies as an Expansion Project or the taxes that would have been imposed on the New Project, for non-residential property or machinery and equipment respectively, if the Exemption had not been applied.

(5) No exemption will be granted to exempt any education requisition, housing requisition or any other requisition including a designated industrial property requisition.

Maximum Exemption

14 (1) The Exemption will be allocated as follows:

(a) for all eligible tax years identified in the Tax Incentive Agreement, the Qualifying Property will receive a maximum 25% exemption on the incremental increase in the annual property taxes levied upon the Qualifying Property based on the increase in the

assessed value of the Qualifying Property attributable to the new construction relating to the New Project or Expansion Project for which the tax incentive has been granted in that taxation year;

(b) notwithstanding anything in this bylaw, if the remaining amount of the Exemption is less than 25% of the incremental increase in the annual property taxes levied upon the Qualifying Property in the assessed value of the Qualifying Property attributable to the new construction relating to the New Project or Expansion Project for which the tax incentive has been granted, the exemption for that taxation year will equal the remaining amount of the Exemption;

(c) notwithstanding anything in this bylaw, if in the final year of the taxation years for which the Exemption may be applied, the remaining amount of the Exemption is more than 25% of the incremental increase in the annual property taxes levied upon the Qualifying Property in the assessed value of the Qualifying Property attributable to the new construction relating to the New Project or Expansion Project for which the tax incentive has been granted, the balance of the Exemption over the 25% will be cancelled and the Applicant will have no further right to Exemption.

(3) For greater clarity, in no case will an exemption on non-residential property be applied to taxes on machinery and equipment and in no case will an exemption on machinery and equipment be applied to taxes on non-residential property.

Commencement of Exemption

15 The Exemption will begin in effect when:

- (a) the Commercial Operation Date is reached; and
- (b) the Applicant has demonstrated that all applicable conditions of the Decision, the Tax Incentive Agreement and requirements under this bylaw have been met.

Tax Incentive Agreement

16 A Tax Incentive Agreement will be required for all granted Exemptions. The Tax Incentive Agreement will include the following:

- (a) the taxation years to which the Exemption applies, which must not include any taxation year earlier than the taxation year in which the Exemption is granted;
- (b) conditions the breach of which will result in cancellation of the Tax Incentive Agreement and the Exemption, and the taxation year or years to which the conditions apply;
- (c) the date which the Exemption will begin in effect, which will be the Commercial Operation Date;
- (d) the amount of the Exemption, to be calculated and allocated in accordance with section 13 and section 14 of this bylaw; and
- (e) any other information or conditions provided by the County.

Cancellation of Exemption

17 (1) If at any time after an Exemption is granted, the County determines that:

- (a) the Applicant or their application did not meet or ceased to meet any of the criteria in which formed the basis of granting the Exemption; or
- (b) there was a breach of any condition of the Tax Incentive Agreement;

the County may cancel the Exemption for the taxation year or years in which the criterion was not met or to which the condition applies.

(2) A written Decision to cancel an Exemption must be provided to the Applicant and must include reasons for the cancellation, identify the taxation year or years to which the cancellation applies, and provide the date by which an application for an appeal to Council must be made.

PART IV – APPEAL TO COUNCIL

- Appeal of Decision
- 18 (1) An Applicant may appeal to Council in the following situations:
- (a) an Application for Exemption is refused or rejected;
 - (b) an Exemption is cancelled for one or more taxation years;
 - (c) a Tax Incentive Agreement is cancelled; or
 - (d) content of the Tax Incentive Agreement is inconsistent with the bylaw or the Municipal Government Act.
- (2) A request for appeal must be submitted in writing to the Chief Commissioner within 30 days of:
- (a) written notice being sent to the Applicant that an application has been refused or rejected;
 - (b) written notice being sent to the Applicant that an Exemption is cancelled for one or more taxation years;
 - (c) written notice being sent to the Applicant that a Tax Incentive Agreement is cancelled; or
 - (d) execution of a Tax Incentive Agreement
- as the case may be.
- (3) Council will consider an appeal at:
- (a) a regularly scheduled meeting of Council; or
 - (b) a special meeting of Council.
- (4) Remedies available to Council upon conclusion of an appeal are:

- (a) Council may uphold or revoke a decision of the Chief Commissioner with respect to the outcome of an application or cancellation of an Exemption or Tax Incentive Agreement; or
 - (b) Council can revise or direct the Chief Commissioner to revise a Tax Incentive Agreement.
- (5) In accordance with section 460(7) of the Municipal Government Act, complaints about a Decision may not be made to the assessment review board.

PART V – COMING INTO EFFECT

Effective Date

19 This bylaw comes into effect January 1, 2021.

(NOTE: Consolidation made under Section 69 of the Municipal Government Act, R.S.A. 2000, c.M-26 and Bylaw 21-2015 Section 8, and printed under the Chief Commissioner's authority)

Bylaw 62-2020, passed by Council December 8, 2020

Amendments

Bylaw 29-2021, June 15, 2021

SCHEDULE A

