

TOWN OF LADYSMITH



“Revitalization Tax Exemption Bylaw 2007, No. 1625”

*Consolidated Version as on October 13, 2015
(This consolidation is authorized by “Bylaw Revision Bylaw 2022, No. 2090”)*

October 15, 2007

Includes Amendment Bylaw Nos.: 1664, 1838, 1892

TOWN OF LADYSMITH

BYLAW NO. 1625

A Bylaw to establish a revitalization tax exemption program.

WHEREAS the Council of the Town of Ladysmith may, for the purposes of maintaining our heritage theme and encouraging investment within the Downtown Core without triggering increased taxation, adopt a Bylaw pursuant to Section 226 of the *Community Charter* partially exempting eligible revitalized properties from taxation;

AND WHEREAS Council wishes to support the revitalization of the commercial and primarily commercial buildings in the Downtown Core and Downtown Mixed Use areas as defined in the Official Community Plan, as outlined in Schedule “A”,

AND WHEREAS Council wishes to support the revitalization of the properties listed in the attached Schedule “B” by exempting such land and buildings from municipal property taxes calculated on the increase in assessed value, from the base year, due to the revitalization,

AND WHEREAS the properties indicated in the attached Schedule “B” are subject to a Covenant under Section 219 of the *Land Title Act* that relates to the conservation of heritage property;

AND WHEREAS pursuant to Section 226(5)(a)(iii) of the *Community Charter*, the Bylaw under Section 226 may provide that in certain circumstances the owner of the land must repay the taxes exempted under the Bylaw and the owner of the eligible property to which this Bylaw applies has consented to the inclusion of such a provision in the exemption agreement;

AND WHEREAS Section 227 of the *Community Charter* requires that notice be provided of the creation of such a revitalization tax exemption, and such notice has been provided;

NOW THEREFORE, in open meeting assembled, Council of the Town of Ladysmith **ENACTS AS FOLLOWS:**

1. This bylaw may be cited for all purposes as “*Town of Ladysmith Revitalization Tax Exemption Bylaw 2007, No. 1625*”.

2. In this bylaw:

“Agreement” means a revitalization tax exemption agreement between the owner of a Parcel and the Town, in a format similar to the attached Schedule “C”;

“Commercial” means commercial use as defined in the Town of Ladysmith Zoning Bylaw 1995, No. 1160 as amended, consolidated or replaced from time to time;

“Council” means the council of the Town of Ladysmith;

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

“Primarily Commercial” means a commercial activity occupies main floor, alternate use of remainder of building may be considered at Council’s discretion;

“Project” means a revitalization project on a Parcel involving the construction of an alteration of an existing improvement;

“Revitalization Area” means the properties included in the Downtown Core and Downtown Mixed Use as defined in the Official Community Plan, as amended, consolidated or replaced from time to time, as shown on Schedule “A”, which is attached to and forms part of this Bylaw;

“Tax Exemption” means a municipal revitalization tax exemption pursuant to a Tax Exemption Certificate;

“Tax Exemption Certificate” means a revitalization tax exemption certificate issued by the Town pursuant to this Bylaw and pursuant to the provisions of Section 226 of the *Community Charter*, in the form attached as Schedule “D”, which is attached to and forms part of this Bylaw.

3. There is hereby established a revitalization tax exemption program under section 226 of the *Community Charter* for the issuance of Tax Exemption Certificates for the Parcels.
4. The terms and conditions upon which a Tax Exemption Certificate may be issued are as set out in this Bylaw, in the Agreement and in the Tax Exemption Certificate.
5. The amount of the annual Tax Exemption shall be equal to the municipal taxes payable on the increase in the assessed value of improvements on the Property, due to the revitalization between:
 - (a) the year before the commencement of construction of the Project, and
 - (b) the year following the year in which the tax exemption certificate is issued,
 subject to the maximum aggregate exemption prescribed by the formula in section 226 (5) (b) of the *Community Charter*.
6. In order for a Project to be considered by Council for an Agreement the Project must, at a minimum, have a construction value of at least \$15,000 and the land use into which the Project is intended to fit must be one of the uses permitted in the Town of Ladysmith Zoning Bylaw 1995, No. 1160 as amended, consolidated or replaced from time to time.

7. Subject to early cancellation of the Certificate as per section 9:
 - (a) If the Certificate is issued before October 30th of the current year, then the Tax Exemption will be available for the following calendar year;
 - (b) The maximum term of the exemption shall be 10 years and shall be calculated as follows:

$$\text{Term of exemption (\# of years)} = \frac{\text{Cost of seismic/building code/sprinkler/façade upgrade}}{\text{Estimated increase in municipal taxes due to revitalization}}$$

8. If an owner wishes Council to consider entering into an Agreement with the owner, the owner must apply to the Director of Financial Services in writing and must submit the following with the application:
 - (a) a certificate that all taxes assessed 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 Town and available in the office of the Director of Financial Services or Manager of Development Services;
 - (c) a description of the Project;
 - (d) a certificate from the owner’s design professional in a form satisfactory to the Town’s Director of Financial Services certifying that the construction value of the Project will exceed \$15,000.00; and
 - (e) a fee in the amount prescribed by the Town of Ladysmith “Fees and Charges Bylaw 2007, #1626”, payable upon approval in principle of the Project.

9. If, pursuant to the terms and conditions specified in the Agreement or the Certificate, the Certificate is cancelled, the owner of the property for which the certificate was issued will remit to the Town an amount equal to the value of the exemption received after the date of the cancellation of the certificate.

10. The Director of Financial Services for the Town or her designate is the designated municipal officer for the purpose of Section 226 (12) in the *Community Charter*.

READ A FIRST TIME on the 17th day of September, 2007

READ A SECOND TIME on the 17th day of September, 2007

READ A THIRD TIME on the 17th day of September, 2007

ADOPTED on the 15th day of October, 2007

Mayor (R. Hutchins)

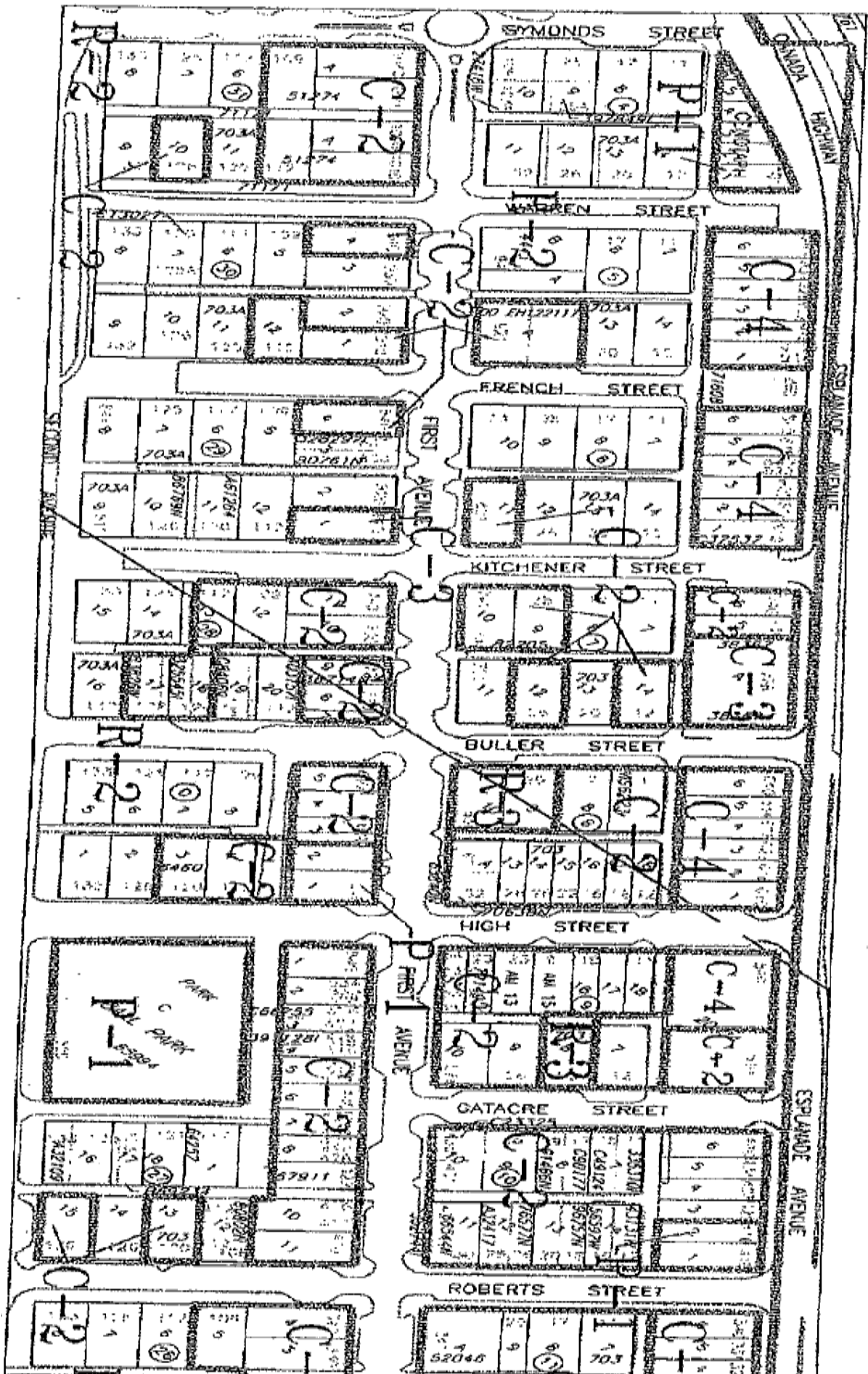
Acting Manager of Corporate Services (T. Kaul)

I hereby certify this to be a true and correct copy of "Town of Ladysmith Revitalization Tax Exemption Bylaw 2007, No. 1625".

Acting Manager of Corporate Services

Schedule "A"

REVITALIZATION AREA



Schedule “B”

REVITALIZATION TAX EXEMPTION PROGRAM

SCHEDULE OF ELIGIBLE PROPERTIES

Town of Ladysmith Bylaw No. 1625

Schedule “B”

Bylaw 1892

Bylaw 1838

Bylaw 1664

PROPERTY DESCRIPTION	
Beantime Restaurant Owner of Property: Nordic Holdings Ltd	18 High St Lot 16, Blk 8, Plan VIP703 Folio 74.000
Futureworks Consulting Inc	411 1st Ave & 30 Roberts St Lot 11, Blk 10, Plan VIP703 Folio 107.000
Antique Addict Owner of Property: Paul Joy/Catherine Goldie	12 Roberts St Lot 14, Blk 27, Plan VIP703 Folio 113.000
1639555 Alberta Ltd	341 1st Ave Lot A, Plan VIP52046 Folio 126.000

Schedule "C"

REVITALIZATION TAX EXEMPTION AGREEMENT

REVITALIZATION TAX EXEMPTION AGREEMENT

THIS AGREEMENT dated for reference the ___ day of _____, 2007 is

BETWEEN:

(the "Property Owner")

AND:

TOWN OF LADYSMITH

410 Esplanade, PO Box
220 Ladysmith, BC
V9G 1A2

(the "Town")

GIVEN THAT:

- A. The Property Owner is the registered owner in fee simple of lands in the Town of Ladysmith at *[civic address]* legally described as *[legal description]* (the "Property");

- B. Council has established a revitalization tax exemption program in the downtown area as defined as the properties within the boundary of the downtown core. The boundary of the revitalization area is described as the area between Esplanade Avenue and Second Avenue from Symonds Street to Baden- Powell Street;

- C. Council's objective in providing the commercial properties within the boundary of the downtown core as a revitalization area is to maintain our heritage theme and encourage investment within the Downtown Core without triggering increased taxation; and

D. The Property Owner proposes to alter an existing improvement on the Property as described in Schedule "A" to this Agreement (the "Project") and has applied to the Town to partake in the revitalization tax exemption program in respect of this Project and the Town has agreed to accept the Project under the program;

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

E. **The Project** – The Property 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 revitalization tax exemption program, and, without limiting the generality of the foregoing, the Property Owner covenants to use its best efforts to ensure that the Project will:

(a)

(b)

(c)

F. **Operation and Maintenance of Project** – Throughout the term of the Tax Exemption the Property Owner must operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.

G. **Revitalization Tax Exemption** – Subject to fulfillment of the conditions set out in this Agreement and in the Bylaw, the Town will issue a revitalization tax exemption certificate (the “Certificate”) to the Property Owner entitling the Property Owner to a property tax exemption in respect of the Property (the “Tax Exemption”) in an amount and for the calendar years set out in this Agreement. The Certificate will be in the form attached to this Agreement as Schedule “B”.

H. **Conditions** – The following conditions must be fulfilled before the Town will issue a Certificate to the Property Owner:

- The Property Owner must provide the Town with a certificate from the Property Owner’s design professional (if applicable), in form and content satisfactory to the Town’s Director of Financial Services, certifying the actual cost to construct the completed Project.
- All property taxes, business licenses, and user fees must be paid in full before approval in principle is given and throughout the term of the agreement.
- The Property Owner must obtain a building permit from the Town for the Project and begin construction within one year of approval in principle;
- The Property Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict accordance with the building permit and the plans and specifications attached hereto as Schedule “A” and the Project must be inspected by the Town building inspector and certified complete, by no later than two years following approval in principle;

- The building alteration must be substantially underway within one year of the tax exemption approval in principle and completed within two years;

- I. The completed Project must substantially satisfy the performance criteria set out in Schedule “C” hereto, as determined by the Town’s Manager of Development Services and Building Inspector;
- J. Variations from the original construction plan, bylaw infractions or poor quality work may result in rescinding of the tax exemption approval;
- K. In order to protect the interests of the community, a Heritage Conservation Covenant will be requested to be placed on the property to ensure the building’s long term protection and use. (Include if applicable) Although not required, Heritage designation will also be encouraged. An example of a Heritage Conservation Covenant is attached as Schedule “D”;
- L. Any changes or upgrades made to the structure of the building due to the improvements must comply with the BC Building Code and the Town’s Sign and Canopy Bylaw. A complete guide to construction requirements for downtown development is available upon request;
- M. Upon completion of the work, final inspection and confirmation of adherence to all bylaws and receipt of all final invoices, *registration of a heritage conservation covenant* (include if applicable) and completion of an exemption agreement, the tax exemption bylaw shall be adopted by Council. An exemption certificate will then be issued and forwarded to the BC Assessment Authority.

5. **Calculation of Revitalization Tax Exemption** – The amount of the tax exemption shall be equal to the Municipal taxes payable on the amount of any increase in the assessed value of improvements on the Property, due to the revitalization, between:

- (a) the year before commencement of construction of the Project, and
- (b) the year following the year in which the tax exemption certificate is issued.

6. **Maximum Revitalization Tax Exemption** - The maximum municipal tax exemption shall not exceed the total cost of the improvements or the increase in municipal taxes payable due to the revitalization.

7. **Term of Revitalization Tax Exemption** – Subject to early cancellation of the Certificate under section 10:

- (a) If the Certificate is issued before October 30th of the current year, then the Tax Exemption will be available for the following calendar year;

(b) The maximum term of the exemption shall be 10 years and shall be calculated as follows:

$$\text{Term of exemption} = \frac{\text{Cost of seismic/building code/sprinkler/façade upgrade (\# of years)}}{\text{Estimated Increase in Municipal Taxes Due to Revitalization}}$$

N. **Compliance with Laws** – The Property Owner will construct the Project and, at all times during the term of the Tax Exemption, use and occupy the Property 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.

O. **Effect of Stratafication** – If the Property Owner stratafies the Property under the *Strata Property Act* the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:

- The current and each subsequent tax year during the currency of this Agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
- 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 Title Office after May 1.

P. **Cancellation** – The Town may in its discretion cancel the Certificate at any time:

- On the written request of the Property Owner; or
- Effective immediately upon delivery of a notice of cancellation to the Property Owner if at any time any of the conditions in the Exemption Certificate or the Exemption Agreement are not met.

Q. **Repayment of Exempt Taxes** - During the term of the tax exemption bylaw, the tax exemption amount received by the owner must be repaid to the Town if the building is destroyed or altered without proper authorization from the Town (other than by a natural disaster), *or if the Heritage Conservation Covenant is rescinded by Council at the request of the owner*(include if applicable). In either of these circumstances, the exemption certificate will be cancelled. If such cancellation occurs, the owner of the property for which the certificate was issued will remit to the Town an amount equal to the total value of the exemption received.

R. **No Refund** – For greater certainty, under no circumstances will the Property Owner be entitled under or pursuant to this Agreement or under or pursuant to the revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

S. **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 Property, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:

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T. in the case of a notice to the Town,

at: THE TOWN OF LADYSMITH
410 Esplanade, PO
Box 220 Ladysmith,
BC V9G 1A2

Attention:

Facsimile:

U. in the case of a notice to the Property Owner, at:

Attention:

Facsimile:

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

Any notice or other writing sent in compliance with this section shall be deemed to have been given and received on the day it is given unless that day is not a Business Day, in which case the notice shall be deemed to have been given and received on the next day that is a Business Day. In this section, "Business Day" means any day other than Saturday, Sunday, any statutory holiday in the Province of British Columbia or any day on which banks generally are not open for business in Ladysmith, British Columbia.

8. **No Assignment** – The Property Owner may not assign its interest in this Agreement except to a subsequent owner in fee simple of the Property.

9. **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.

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

11. **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.

12. **Waiver** - Waiver by the Town of a default by the Property Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.

13. **Powers Preserved** - This Agreement does not

(a) affect or limit the discretion, rights or powers of the Town under any enactment (as defined in the *Interpretation Act*, R.S.B.C. 1979, c.206, on the reference date of this Agreement) or at common law, including in relation to the use or subdivision of the Land;

(b) affect or limit any enactment relating to the use or subdivision of the Property, or

(c) relieve the Property Owner from complying with any enactment, including in relation to the use or subdivision of the Property, and without limitation shall 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 and charges payable under any bylaw of the Town.

V. **References** - 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.

W. **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.

Signed, Sealed and Delivered
by the TOWN OF
LADYSMITH by its
authorized signatories:

Mayor:

Manager of Corporate
Services: Signed, Sealed
and Delivered by by its
authorized signatories:

Name:

Name:

Schedule "D"**REVITALIZATION TAX EXEMPTION CERTIFICATE****REVITALIZATION TAX EXEMPTION CERTIFICATE****Section 226 of the *Community Charter*, SBC 2003, c.****26**

In accordance with the Town of Ladysmith Revitalization Tax Exemption Bylaw No. 1625 and in accordance with the Revitalization Tax Exemption Agreement dated for reference the _ day of_, 20 (the "Agreement") entered into between the Town of Ladysmith (the "Town") and (the "Owner"), the registered owner(s) of the property described below, this certificate certifies that the Property (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 improvements on the Property, due to the revitalization, (as hereinafter defined) between [*the calendar year before the commencement of construction of the project*] and [*the calendar year following the calendar year in which this Certificate is issued*] (the "Tax Exemption"), subject to the maximum aggregate exemption prescribed by the formula in Section 226 (5) (b) of the *Community Charter*.

The Property to which the Tax Exemption applies is in the Town of Ladysmith and is legally described as: PID_, Lot_, Block_, District Lot_, Plan (the "Property").

The Tax Exemption is for the _ calendar years commencing with the year and ending with the year_.

The Tax Exemption is provided on the following conditions:

- A. the Owner does not breach any covenant or condition in the Agreement and performs all obligations to be performed by the Owner set out in the Agreement;
- B. the Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Property without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- C. the Owner, or a successor in title to the Owner, has not allowed the property taxes for the Property to go into arrears or to become delinquent;

- D. the Owner, or a successor in title to the Owner, does not apply to amend the Ladysmith Zoning Bylaw 1160, as amended, consolidated or replaced from time to time, to rezone the Property from its zoning to any other zone;
- E. the Property is not put to any use that is not permitted in the Downtown Core.

If any of these conditions are not met then the Council of the Town of Ladysmith may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the owner of the property for which the certificate was issued will remit to the Town an amount equal to the value of the exemption received after the date of the cancellation of the certificate.