

BRAZEAU COUNTY

BYLAW NO: 1173-24

A BYLAW OF BRAZEAU COUNTY, IN THE PROVINCE OF ALBERTA, TO PROVIDE NON-RESIDENTIAL PROPERTY TAX, OR MACHINERY AND EQUIPMENT TAX INCENTIVES OR BOTH FOR NEW ENERGY VALUE CHAIN DEVELOPMENT, CLEANTECH, GEOTHERMAL, FORESTRY PROCESSING, BIOMASS, MANUFACTURING, CRITICAL MINERALS, HYDROGEN, AND AGRICULTURAL PROCESSING INVESTMENTS

WHEREAS, the *Municipal Government Act*, RSA 2000 c M-26, s. 364.2 permits municipalities to encourage development or revitalization of properties in non-residential properties (class 2) or machinery & equipment (class 4) by providing for full or partial exemptions from taxation;

AND WHEREAS, the Council of Brazeau County is committed to promoting investment in Energy Value Chain, Cleantech, Geothermal, Forestry Processing, Biomass, Manufacturing, Critical Minerals, Hydrogen, and Agricultural Processing Investments and Small Business; and

AND WHEREAS, the Council of Brazeau County has advertised its intention to consider the provisions of this Bylaw pursuant to the requirements of the Act; and

AND WHEREAS the Council of Brazeau County wishes to pass this Bylaw to provide tax incentives in accordance with the terms of this Bylaw.

NOW THEREFORE, the Council of Brazeau County duly assembled, enact as follows:

1. Title

- 1.1. This Bylaw may be referred to as the “Western Economic Corridor Investment Incentive Bylaw”.

2. Purpose

- 2.1. The purpose of this bylaw is to:
 - 2.1.1. encourage the development or revitalization of the specified non-residential properties and machinery and equipment in the County for the general benefit of the municipality;
 - 2.1.2. establish Municipal Property 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;
 - 2.1.3. provide a process for application for a Municipal Property Tax exemption under this Bylaw; and

- 2.1.4. provide a process for review by Council of the refusal or cancellation of a Municipal Property Tax exemption under this Bylaw.

3. Definitions

3.1. In this Bylaw:

- 3.1.1. “Act” means the *Municipal Government Act*, RSA 2000 c M-26 as amended or replaced.
- 3.1.2. “Administration” means the administrative and operational arm of the County comprised of the various departments including all employees and business units who operate under the leadership and supervision of the CAO.
- 3.1.3. “Agricultural Processing” means one or more of the operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plant or plant products into goods that are used for intermediate or final consumption including goods for nonfood use. Also referred to as Agri-value or Agri-processing.
- 3.1.4. “Applicant” means a person who applies for an Exemption.
- 3.1.5. “Assessed Person” means an assessed person as that term is defined under section 284(1) of the Act.
- 3.1.6. “Base Assessment Year” means the assessment year immediately before the assessment year that has an increase in assessment as a result of the Project and in which the increase is used to qualify for an Exemption under this Bylaw. The Base Assessment Year shall not be before the 2023 assessment year.
- 3.1.7. “Biomass” means the use of biomass or biobased feedstocks to create an end product used by a consumer or for creating energy.
- 3.1.8. “Chief Administrative Officer” or “CAO” means the chief administrative officer as appointed by Council, including the CAO’s delegate.
- 3.1.9. “Cleantech” refers to the construction of class 2 or class 4 properties or both that reduce greenhouse gas emissions or reduce adverse land, water, and air impacts.
- 3.1.10. “Commercial Operation Date” means the date from which the Machinery and Equipment components of the New Construction are operational as determined in accordance with MRAT and the Act. If the New Construction does not include Machinery and Equipment, then the date at which the New Construction is completed as determined in accordance with MRAT and the Act.
- 3.1.11. “Complete Application” means an application submitted pursuant to this Bylaw on the form established by the CAO that includes all applicable

application requirements.

- 3.1.12. "Council" means all the councilors of the County including the chief elected official for the County.
- 3.1.13. "County" means the municipal corporation of Brazeau County.
- 3.1.14. "Critical Minerals" means the list of minerals that Canada has defined in its Critical Minerals Strategy, as listed on Natural Resources Canada Critical Minerals List 2021.
- 3.1.15. "Energy Value Chain" means processes involving 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:
- (a) Manufacturing products;
 - (b) Researching and developing product lines and new technology;
 - (c) Transporting and storage of products; and
 - (d) Services directly relating to manufacturing, researching, or transporting products.
- 3.1.16. "Exemption" means an exemption from taxation for Small Business, Non-residential Property or Machinery and Equipment as provided for in Part 10, Division 2 of the Act. For purposes of clarity, the exemption from taxation applies only to taxes imposed by the County under Part 10, Division 2 of the Act and not any Provincial requisitions including provincial education levies or requisitions, local improvement taxes or any other form of taxation.
- 3.1.17. "Forestry Processing" means that part of the forestry industry involved in transforming logs into new products.
- 3.1.18. "Geothermal" refers to any type of technology capable of extracting heat from within the earth for commercial or industrial purposes.
- 3.1.19. "Hydrogen" means any investment in the production or use of hydrogen.
- 3.1.20. "Linear Property" has the meaning given to it in the Act.
- 3.1.21. "Machinery and Equipment" means machinery and equipment as defined by MRAT.
- 3.1.22. "Manufacturing" means the processing of raw materials or parts into finished goods through the use of one or more of tools, human labor, machinery, or chemical processing.
- 3.1.23. "MRAT" means *the Matters Relating to Assessment and Taxation Regulation*, 2018 AR 203/2017 as amended or replaced.

- 3.1.24. "Municipal Property Tax" means the municipal portion of property taxes as calculated under Division 2 of Part 10 of the Act and does not include provincial education levies or requisitions, local improvement taxes or any other form of taxation.
- 3.1.25. "New Construction" means the construction of a new Structure for a Small Business or Western Economic Corridor Sectors.
- 3.1.26. "Non-Residential Property" means non-residential as defined in s. 297(4)(b) of the Act. This Bylaw specifically excludes the land assessment and Linear Property.
- 3.1.27. "Project" means New Construction of Property, which may include the development or revitalization of multiple facilities (including maintenance turnarounds or direct replacements of the components of an existing project).
- 3.1.28. "Property" means property as defined by the Act.
- 3.1.29. "Qualifying Property" means a Structure or Property that is the subject of the Project.
- 3.1.30. "Small Business" means small business property as defined in Brazeau County's Non-residential sub-Classes Bylaw 1148-23, as amended or replaced.
- 3.1.31. "Structure" means a structure as defined by the Act that is Non-Residential Property or Machinery and Equipment.
- 3.1.32. "Tax Incentive Agreement" means a written agreement setting out the terms and conditions for an Exemption for the Qualifying Property.
- 3.1.33. "Western Economic Corridor Sectors" includes Energy Value Chain Development, Cleantech, Geothermal, Forestry Processing, Biomass, Manufacturing, Critical Minerals, Hydrogen, and Agricultural Processing.

4. CRITERIA FOR EXEMPTION

4.1. To be eligible for an Exemption, the following eligibility criteria must be met:

4.1.1. Requirements for a Project

A Project must:

- (a) be
 - (i) a Small Business; or
 - (ii) within the Western Economic Corridor Sectors;
- (b) be New Construction;

- (c) increase the assessed value of the Property from the Base Assessment Year by at least \$1 million; and
- (d) either:
 - (i) be commenced after the passing of this Bylaw; or
 - (ii) be commenced but not operational at the time of the passing of this Bylaw.

4.1.2. Requirements for a Qualifying Property

A Qualifying Property must:

- (a) be physically located within the boundaries of Brazeau County;
- (b) obtain all necessary development approvals from the County;
- (c) not be in arrears or have amounts owing with regards to Municipal Property Tax, utilities, or other fees owed to the County;
- (d) not be going through foreclosure; and
- (e) not be in violation at any time during the term of the Tax Incentive Agreement of a development agreement or the *Safety Codes Act*, RSA 2000, c S-01 as amended or replaced.

4.1.3. Requirements for Applicant

An Applicant must:

- (a) be the Assessed Person or authorized agent for the Assessed Person;
- (b) if the Applicant is the Assessed Person, not be in arrears or have amounts owing with regard to property tax, utilities, or other fees owed to the County;
- (c) if the Applicant is the Assessed Person, not be in bankruptcy or receivership;
- (d) if the Applicant is the Assessed Person, be in compliance with terms and conditions of any grant or other financial assistance received from the County, irrespective of the Project or Qualifying Property;
- (e) not furnish false information within an application, or furnish false information or misrepresent any fact or circumstance to the County or permit their agent to do so; and
- (f) meet all requirements under this Bylaw and the Act and require their agent to do so.

5. APPLICATION

5.1. Application Process

5.1.1. Applicants must submit a Complete Application to the County. The County

has the discretion to reject applications that are incomplete, ineligible, or provided after the deadline provided in this Bylaw.

- 5.1.2. Applicants whose applications are returned as incomplete or ineligible may resubmit an application.
- 5.1.3. The County must receive the Complete Application before the Commercial Operation Date.
- 5.1.4. Despite the Complete Application requirements, the County may require any additional information that, in the discretion of the County, is necessary to complete the application.
- 5.1.5. The County will advise Applicants in writing if their application is accepted for consideration. Applications accepted for consideration shall become the property of the County.
- 5.1.6. The CAO will consider Complete Applications in accordance with this Bylaw. The CAO may consider Complete Applications before construction on the Qualifying Property is complete; however, the CAO shall not enact the Exemption until the Commercial Operation Date takes place.

5.2. Consideration Process

- 5.2.1. The CAO
 - (a) shall consider Complete Applications in accordance with the provisions of this Bylaw; and
 - (b) may consult with, obtain information from, and verify information with other employees or agents of the County, other governments, government agencies, or persons.
- 5.2.2. The CAO may, at any time, require the Applicant to provide any documents the CAO deems necessary to verify any information contained in the application or to confirm ongoing compliance with the eligibility criteria of the Exemption.
- 5.2.3. The CAO shall consider each application, including any recommendations made by Administration, and:
 - (a) grant the Exemption and enter into a Tax Incentive Agreement with the Applicant; or
 - (b) refuse the application and advise the Applicant with written reasons for the refusal.
- 5.2.4. The County shall enter into a Tax Incentive Agreement with a successful Applicant. The CAO may sign the Tax Incentive Agreement on behalf of the County.

6. CALCULATION OF EXEMPTION

6.1. The Exemption shall be calculated and applied in accordance with this Section.

6.1.1. The maximum duration of an Exemption will be 3 years, subject to the Application being approved.

6.1.2. The amount of the Exemption shall be the annual difference between the Municipal Property Tax derived from applying the County's applicable tax rate to the assessment in the Base Assessment Year and the Municipal Property Tax derived from applying the County's applicable tax rate to the assessment in the specific year under exemption. For greater clarity, the Exemption applies only to the taxes payable on the increase in assessed value over the assessed value in the Base Assessment Year. Taxes remain payable on the assessed value determined in the Base Assessment Year.

6.1.3. Following the 3 year Exemption, the County will apply its standard tax rate for the appropriate class or subclass to the Property.

6.1.4. Despite anything in this Bylaw:

- (a) no Applicant is entitled to an Exemption in a tax year that is more than 3 years after an Exemption is approved in accordance with this Bylaw; and
- (b) the CAO shall not approve an Exemption which applies in a tax year that is more than 3 years after an Exemption is approved in accordance with this Bylaw.

6.1.5. No Exemption will be granted respecting any Provincial requisitions.

7. TAX INCENTIVE AGREEMENT

7.1. Where the CAO approves an Exemption, the Applicant shall enter a Tax Incentive Agreement with the County. The Tax Incentive Agreement must include the following:

- (a) the taxation years to which the Exemption applies, which taxation years must not include any taxation year earlier than the taxation year in which the Exemption is granted;
- (b) conditions, and the taxation year or years to which the conditions apply; and provisions which specify that breach of the conditions will result in cancellation of the Tax Incentive Agreement;
- (c) the date on which Exemptions shall begin in effect, which will be the Commercial Operation Date;
- (d) the amount of the Exemption, to be calculated and applied in accordance with section 6; and

(e) any other information or conditions required by the County.

7.2. At any time during the term of the Tax Incentive Agreement, the County may require the Applicant to provide any documents the County deems necessary to verify compliance with the conditions of a Tax Incentive Agreement.

8. CANCELLATION OF EXEMPTION

8.1. If at any time after an Exemption is granted, the CAO determines that:

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

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

8.2. If the CAO decides to cancel an Exemption, the CAO shall:

- 8.2.1. provide to the Applicant written notification of the CAO's decision, which notification must include reasons for the cancellation;
- 8.2.2. identify the taxation year or years to which the cancellation applies; and
- 8.2.3. identify the date by which the Applicant may submit an appeal to Council.

9. APPEAL TO COUNCIL

9.1. An Applicant may appeal to Council in the following situations:

- (a) the Applicant's Application for Exemption is refused or rejected;
- (b) the Applicant's Tax Incentive Agreement is cancelled; or
- (c) the contents of the Applicant's Tax Incentive Agreement are inconsistent with the Bylaw or the Act.

9.2. An Applicant entitled to appeal under Section 9.1 has 30 days to submit a written request for an appeal after:

- (a) the date of the CAO's written notice to the Applicant that an application has been refused or rejected;
- (b) the date of the CAO's written notice to the Applicant that a Tax Incentive Agreement is cancelled; or
- (c) the date of execution of a Tax Incentive Agreement;

as the case may be.

9.3. Council shall consider an appeal at:

- (a) a regularly scheduled meeting of Council; or
- (b) a special meeting of Council.

9.4. Remedies available to Council upon conclusion of an appeal are:

- (a) Council may uphold or revoke a decision of Administration with respect to the outcome of an application or cancelation of an Exemption; or
 - (b) Council can direct Administration to revise a Tax Incentive Agreement.
- 9.5. As provided for in s. 460(7) of the Act, there is no right to make a complaint to the assessment review board about Council's decision in respect of an exemption or deferral.

10. SEVERABILITY

- 10.1. Should any provision of this Bylaw be invalid, then the invalid provision shall be severed, and the remainder of this Bylaw shall remain in effect.

11. INTERPRETATION

- 11.1. In this Bylaw, the words "shall" and "must" indicate a mandatory intention.

12. EFFECTIVE DATE

- 12.1. This Bylaw shall come into force and take effect upon being passed.

READ a first time this 20th day of February, 2024

READ a second time this 20th day of February, 2024

READ and signed a third time this 3rd day of March, 2024.

Reeve

Chief Administrative Officer

...of the ...
...
...
...
...

...
...

...

...

...

...

...

...

...

