

THE CITY OF EDMONTON
BYLAW 21241
INDUSTRIAL CARBON CAPTURE FACILITY TAX INCENTIVE EXEMPTION
BYLAW

WHEREAS:

City Council, pursuant to Section 364.2 of the Act, wishes to pass a tax exemption bylaw to provide tax incentives for the construction of industrial properties that contain Industrial Carbon Capture Facilities anywhere in the City of Edmonton; and

City Council recognizes that industrial projects generate both employment and revenue and that industrial carbon capture technology provides a significant benefit to the environment; and

These tax exemptions shall apply to property classified as machinery and equipment and non-residential, including linear property, that meet the requirements to qualify for the exemption; and

City Council passed Bylaw 12053 to make all machinery and equipment exempt in the City of Edmonton; and

Any exemptions shall only apply to municipal property tax or the Community Revitalization Zone Municipal Equivalent.

THEREFORE, Edmonton City Council enacts:

PART I - PURPOSE, DEFINITIONS, AND INTERPRETATION

PURPOSE	1	The purpose of this Bylaw is to establish tax exemptions in accordance with section 364.2 of the Act for taxpayers when there is an industrial property that contains an Industrial Carbon Capture Facility which is a New Project or Expansion Project and meets all the requirements of this Bylaw.
DEFINITIONS	2	<p>In this Bylaw:</p> <p>(a) “Act” means the <i>Municipal Government Act</i>, RSA 2000, c M-26;</p> <p>(b) “Annual Assessment” means the annual assessment for the Property pursuant to Part 9 of the Act, after all assessment appeals have been resolved;</p>

- (c) “**Annual Tax Rate**” means the municipal property tax rate set by City Council on an annual basis pursuant to section 354 of the Act for non-residential properties;
- (d) “**Baseline Assessment**” means the assessment value of the Property in the year that an Industrial Carbon Capture Exemption is first approved after all assessment appeals are resolved;
- (e) “**CCUS**” means a carbon capture, utilization, and storage system that ensures that carbon emissions are captured and used for other processes, or transported by pipeline and injected into a deep underground geologic formation;
- (f) “**City**” means The City of Edmonton;
- (g) “**City Council**” means the municipal council of the City of Edmonton;
- (h) “**City Manager**” means the City’s chief administrative officer and includes any authorized delegate;
- (i) “**Community Revitalization Zone Municipal Equivalent**” means that portion of the tax rate within a community revitalization area levy that is the equivalent to the municipal property taxes that are charged outside the community revitalization levy area as calculated under Division 2 of Part 10 of the Act;
- (j) “**Decision**” means the decision under Section 10 to exempt, to refuse an exemption, or to remove an exemption;
- (k) “**Eligible Capital Costs**” means the cost to construct a New Project or Expansion Project and shall include any new expenditures on land, labour, engineering, materials, machinery and equipment, or other costs associated with the construction, but shall not include the costs of any improvements, or machinery and equipment that existed on the land at the time the application for an exemption is made;
- (l) “**Expansion Project**” means an expansion of an existing

industrial facility to add an Industrial Carbon Capture Facility on a Property, and includes the expansion of an existing Industrial Carbon Capture Facility;

- (m) **“Final Investment Decision”** means the final approval and sanction by the owners of an Industrial Carbon Capture Facility to construct the facility;
- (n) **“Industrial Carbon Capture Exemption”** means an exemption granted under this Bylaw;
- (o) **“Industrial Carbon Capture Facility”** means a facility that qualifies as a major or minor industrial use under City of Edmonton Zoning Bylaw 20001 and is connected to, or contains on-site, CCUS technology;
- (p) **“Municipal Tax”** means the municipal portion of property taxes as calculated under Division 2 of Part 10 of the Act or the Community Revitalization Zone Municipal Equivalent, and does not include provincial education levies or requisitions, local improvement taxes, or any other form of taxation;
- (q) **“New Project”** means a newly constructed Industrial Carbon Capture Facility on a Property;
- (r) **“Property”** means the property or properties on which a Taxpayer is applying to qualify for an exemption under this Bylaw;
- (s) **“Taxpayer”** means the individual or entity that is liable to pay a tax pursuant to section 331 of the Act.

**RULES FOR
INTERPRETATION**

3

The marginal notes and headings in this Bylaw are for ease of reference only.

PART II - AUTHORITY AND CRITERIA FOR EXEMPTION

**AUTHORITY TO
GRANT EXEMPTION**

4

The City Manager, or a duly authorized delegate of the City Manager, shall have the authority to determine whether a Carbon Capture Industrial Exemption shall be granted in accordance with the terms and conditions of this Bylaw.

**CRITERIA FOR
EXEMPTION**

- 5 In order to qualify for a Carbon Capture Industrial Exemption for a Property classified as non-residential property and machinery and equipment, the Property must:
- (a) be located within the City of Edmonton;
 - (b) be a New Project or an Expansion Project that costs a minimum of \$75,000,000 (seventy five million) Canadian dollars in Eligible Capital Costs to construct;
 - (c) have proof of a Final Investment Decision that was made after the coming into force of this Bylaw;
 - (d) in the case of New Project, be designed to divert or capture at least 300,000 tonnes of carbon dioxide on an annual basis once operational; and
 - (e) in the case of an Expansion Project, be designed to divert or capture at least 300,000 additional tonnes of carbon dioxide over what was diverted or captured before the expansion, on an annual basis once operational.

**INELIGIBLE
TAXPAYERS**

- 6 (1) A Property shall not qualify for a Carbon Capture Industrial Exemption when:
- (a) the Taxpayer who owns the Property is in tax arrears on the Property;
 - (b) the Taxpayer owns another property in the City of Edmonton that is in tax arrears;
 - (c) the Taxpayer who owns the Property is in bankruptcy or receivership;
 - (d) the Property is going through foreclosure;
 - (e) there are development compliance issues or safety code issues associated with the Property;
 - (f) the Taxpayer has received a grant or some other form of financial assistance from the City and there is a dispute about whether the Taxpayer is abiding by the terms of that grant or other financial assistance; or
 - (g) the Taxpayer of the Property does not otherwise meet a

requirement under this Bylaw, or the Act.

- (2) The City Manager may exercise discretion to refuse to have the City grant a Carbon Capture Industrial Exemption when:
 - (a) an entity related to the Taxpayer who owns the Property is in bankruptcy, or receivership;
 - (b) the Taxpayer owns any interest in another property that is going through foreclosure;
 - (c) an entity related to the Taxpayer who owns the Property owns any interest in another property going through foreclosure;
 - (d) the Property is the subject of some form of litigation;
 - (e) the Taxpayer who owns the Property is involved in litigation with the City; or
 - (f) in the sole discretion of the City Manager, there is any other reason to believe that the Carbon Capture Industrial Exemption is not in the public interest.

**TERM OF AN
EXEMPTION**

- 7 (1) A Property may qualify for a Carbon Capture Industrial Exemption for a 10 year term, but in no case shall qualify for more than 10 years.
- (2) The term of a Carbon Capture Industrial Exemption shall commence in the year that the Property is operating to divert or capture carbon dioxide emissions.

**CHANGE OF
OWNERSHIP**

- 8 A change in ownership of the Property shall not affect an approved Carbon Capture Industrial Exemption and the Decision is deemed to apply to a new owner.

PART III - APPLICATION AND DECISION PROCESS

**APPLICATION FOR
INDUSTRIAL
CARBON
CAPTURE
FACILITY TAX
INCENTIVE**

- 9 (1) A Taxpayer can apply for a Carbon Capture Industrial Exemption for a Property that meets the requirements of this Bylaw by submitting any forms required by the City Manager.

EXEMPTION

- (2) Before processing the application, the City Manager may require the Taxpayer to provide any additional information required to make a determination under this Bylaw.
- (3) If a Taxpayer applies for a Carbon Capture Industrial Exemption after June 30th of a taxation year, a Decision under Section 10 may be deferred until the following taxation year.

DECISION ON INDUSTRIAL CARBON CAPTURE FACILITY TAX INCENTIVE EXEMPTION

- 10 (1) After reviewing the application and materials, if the City Manager determines that the Property qualifies for a Carbon Capture Industrial Exemption, the City Manager will issue a Decision to the Taxpayer outlining the following information:
 - (a) that the Property qualifies for the Carbon Capture Industrial Exemption;
 - (b) that the exemption will commence once the Property is operational and will last for 10 years unless cancelled pursuant to this Bylaw;
 - (c) the Baseline Assessment; and
 - (d) any conditions, the breach of which will result in the loss of the exemption.
- (2) In issuing a Decision under subsection (1) the City Manager may set any condition required to ensure that the City is able to monitor whether the Property continues to meet the terms of this Bylaw throughout the taxation year, or to ensure that the calculation of the Carbon Capture Industrial Exemption is accurate.
- (3) If the Industrial Carbon Capture Facility is not operating to divert or capture carbon dioxide emissions within 7 years of the date of the Decision to approve the exemption, the Decision is deemed to be void and no exemption shall be granted under this Bylaw.
- (4) A Taxpayer subject to a Decision that is void under subsection (3) may reapply for an exemption.
- (5) If the City Manager determines that a Property does not qualify for a Carbon Capture Industrial Exemption, the City Manager will issue a Decision providing the reason or reasons why the

Property fails to qualify.

**DEEMED
CONDITIONS**

- 11 (1) It shall be a deemed condition of all Decisions issued under section 10(1) that:
- (a) section 6(1) and 6(2) of this Bylaw be complied with on an ongoing basis;
 - (b) the Taxpayer must, on an annual basis, after operations commence, prove how many tonnes of carbon dioxide were diverted or captured in the prior taxation year; and
 - (c) the Taxpayer must provide any compliance reports required to be filed to comply with Alberta's Technology Innovation and Emissions Reduction (TIER) Regulation, A.R. 133/2019, for the preceding year by June 30th of each year.
- (2) When a condition outlined in the Decision or this section is breached, the Property will no longer qualify for an exemption under this Bylaw, and the City Manager shall issue a Decision removing the exemption and providing an explanation why the exemption has been removed.

PART IV - CALCULATION AND APPLICATION OF THE EXEMPTION

**CALCULATION
OF THE NON-
RESIDENTIAL
EXEMPTION**

- 12 (1) The dollar value of the annual exemption on the non-residential portion of the Property, including any linear assessment, shall be calculated using the following formula:

$$\begin{aligned} & \text{(Annual Assessment minus Baseline Assessment)} \\ & \quad * \text{Annual Tax Rate.} \end{aligned}$$

- (2) Despite subsection (1) the maximum dollar value of an annual exemption may not exceed \$2,400,000 (Two Million Four Hundred Thousand Dollars).
- (3) The dollar value of the annual exemption shall be used to reduce the Municipal Tax charged on the Property.
- (4) In addition to the exemption outlined in subsection (1) any Municipal Tax charged on machinery and equipment shall also be exempt during the term of the Carbon Capture Industrial Exemption.

**MACHINERY AND
EQUIPMENT
EXEMPTION**

**ANNUAL CARBON
CAPTURE
REQUIREMENT**

- (5) No exemption shall be granted to exempt any education requisition, or any other requisition, including the designated industrial property requisition.
- (6) Despite subsections (1) and (4), except in the first or second year of operations, no exemption shall be given under this Bylaw in any year where the Industrial Carbon Capture Facility has failed to prove that it diverted or captured at least 300,000 tonnes of carbon dioxide in the prior taxation year.

PART V - APPEAL TO CITY COUNCIL OR COMMITTEE OF COUNCIL

**REQUEST TO
RECONSIDER**

- 13 (1) If a Taxpayer disagrees with any part of a Decision made by the City Manager, the Taxpayer may request that City Council, or a Committee of Council, reconsider that decision.
- (2) A request for reconsideration shall be made by submitting to the City Manager the following information:
 - (a) a copy of the Decision; and
 - (b) an explanation as to why the Taxpayer feels the Decision is in error.
- (3) A request by a Taxpayer under this Section must be made within 30 days of the date that a Decision is sent to the Taxpayer, and any request that is made late shall not be heard by City Council or a Committee of Council.
- (4) Council or a Committee of Council may reconsider the application of the Taxpayer at:
 - (a) a meeting of Council; or
 - (b) a Committee of Council.

**DE NOVO
CONSIDERATION**

- 14 In deciding whether a Property qualifies for a Carbon Capture Industrial Exemption, Council or Committee of Council may consider any information provided to the City Manager, as well as any new information that has become available since the Decision of the City Manager.
- 15 (1) In accordance with Section 460(7) of the Act, complaints about a Decision may not be made to the Assessment Review Board.

PART VI - COMING INTO FORCE

COMING INTO FORCE

16

This Bylaw shall come into force on the date it is signed and passed.

Read a first time

Read a second time

Read a third time

SIGNED AND PASSED

THE CITY OF EDMONTON

MAYOR

CITY CLERK