

It is ordained by the Town Council of the Town of Foster, pursuant to Rhode Island General Laws Section 44-3-9, and subject to acceptance by the qualified electors of the Town of Foster at the Financial Town Meeting held on \_\_\_\_\_, 2016, as follows

Tax stabilization incentive for industrial, commercial and manufacturing facilities.

**I. Authorization.**

The Town Council has the authority under RIGL 44-3-9 to exempt from tax payment, in whole or in part, real and personal property which has undergone environmental remediation, or is used for manufacturing or commercial purposes, or to determine a stabilized amount of taxes to be paid on account of the property, notwithstanding the valuation of the property or the tax rate.

**II. Purpose.**

In order for the Town to grow economically, it must support the rehabilitation and reuse of existing commercial and industrial buildings, as well as incentivize new construction on vacant/unused space, in order to return them to productive use. The purpose of this Ordinance is to provide the Town with a tool to promote and encourage the use of vacant space through new construction and development and the expansion, relocation, or renovation of industrial, commercial and manufacturing facilities in the Town through tax stabilization with the goal of continuing the Town's revitalization and promoting job creation. The high cost of rehabilitating, developing and/or remediating these buildings or parcels for productive use is prohibitively expensive and cannot be achieved without both private and public investment. It is therefore in the public interest to provide property tax incentives for owners of qualifying properties in order that there may be substantial redevelopment of the properties for industrial, manufacturing and commercial uses, and the commercial portion of mixed use developments. This will result in an improved physical plant for the Town and long term economic growth and benefits, including job creation.

**III. Definitions.**

Any capitalized terms used herein but not separately defined herein shall have the definition set forth in the Rules and Regulations for the Tax Stabilization Incentive Program promulgated by the Rhode Island Commerce Corporation pursuant to Chapter 64.22 of Title 42 of the General Laws (the "Commerce Corporation Rules and Regulations").

"Cost" means expenses by a Developer incurred after an application for a tax stabilization agreement for:

(i) site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; and/or

(ii) obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods for the operation of a business on real property or in a building, structure, facility, or improvement to real property.

The term “Cost” includes any Capital Investment, as such term is defined in the Commerce Corporation Rules and Regulations.

- “Developer” means the owner, prospective owner, or tenant for life or for a term of ten (10) or more years that is deemed to be the owner for the purposes of taxation under R.I.G.L. § 44-4-6, proposing to construct a Project on a Property.
- “Project” means the expansion of an existing facility, or construction of a new facility, or renovation work, to be performed on a Property.
- “Property” means the following types of real Property: an industrial, commercial or manufacturing facility, or vacant parcel, located in the Town of Foster where a tax stabilization agreement is being sought.

**IV. Eligibility/criteria.**

A. For a Property to be eligible for this tax stabilization program, the Project must be:

- (i) Eligible for tax relief under R.I.G.L. § 44-3-9;
- (ii) Located in the General Business Mixed Use, Manufacturing Industrial or Neighborhood Commercial zoning district;
- (iii) In need of substantial rehabilitation or construction, and/or vacant for a period of 12 months. Rehabilitation and construction shall be considered “substantial” if the Cost of such rehabilitation or construction is greater than or equal to the lesser of (a) twenty five percent (25%) of the then current assessed value of the Property (as assessed by the Town), or (b) one hundred thousand dollars (\$100,000.00); and
- (iv) The Developer of the Property must begin construction of the Project within 12 months of the granting of the subject stabilization agreement, and must complete construction of the Project and obtain a certificate of occupancy for such construction within 36 months of the granting of the stabilization agreement. Developers of the Property that fail to meet these deadlines will be required retroactively to pay the difference between their actual stabilized tax payments and what they would have paid if ineligible for the specified tax considerations (unless granted an extension of such applicable deadline due to events of force majeure, as determined by the Town Council).

B. Notwithstanding anything contained herein to the contrary, the following types of Projects are ineligible for this tax stabilization program:

- (i) Projects that would have a material adverse impact on the environment, as determined by the Town Council in its sole discretion;
- (ii) Residential projects;
- (iii) New retail construction, including without limitation so-called “big box” stores, as well as new restaurants, but excluding the expansion or rehabilitation of existing retail stores or restaurants, the construction of a restaurant as part of a

larger, mixed-use development under Section VII(C) below, the construction of one or more grocery stores or food markets, or stores selling second-hand or artisan produced goods;

- (iv) Projects that, once completed, would be render the Property exempt from taxation under R.I.G.L. § 44-3-3; and
  - (v) Renewable energy systems that are potentially eligible for exemption under R.I.G.L. § 44-3-21.
- C. As set forth in Section V below, the tax assessor shall process applications made under this Ordinance. To qualify for tax stabilization under this Ordinance, the finance director must certify that the applicant and its affiliates owning Property in the Town are current with regard to all taxes and assessments due and payable to the Town. The tax assessor will concurrently confirm the then current pre-construction assessed value of land and building at the time of application (based on the applicable assessment at the time).
- D. Projects consisting of multiple buildings on one lot, or multiple buildings on multiple lots, where such Projects are being performed by the same Developer, can be consolidated and treated as one Project for the purposes of this Ordinance and the requirements hereof. For the purposes of this Ordinance, a Project involving multiple buildings on one lot shall be deemed "completed" as of the date of issuance of the final building certificate of occupancy.

**V. Conditions.**

Tax stabilizations for eligible properties shall run with the land and be transferable to new owners or tenants, but the duration of the tax consideration period shall not be extended (unless otherwise approved by the Town Council). If the applicant (or the successor fee owner of a Property subject to a stabilization agreement granted hereunder) defaults on any quarterly tax or other payment due and payable to the Town (i.e., real estate, motor vehicle, or personal property) that is not the subject of a lawful and unresolved appeal process, the Town Council may, after a 30-day notice and cure period, order the subject stabilization agreement be terminated. In the event that the Town Council shall terminate a stabilization agreement for such failure to pay taxes (after applicable notice and cure periods), the applicant (or then current owner, if the applicant is no longer the fee owner) shall thereafter be required to repay all of the taxes which it did not pay as a result of the stabilization agreement granted under this Ordinance. The applicant, on its behalf and the behalf of its successors and assigns, shall agree in the applicable stabilization agreement to permit the Town to place a lien against the subject Property immediately following any such termination by the Town Council for all such unpaid amounts. Furthermore, the tax stabilization shall cease immediately upon the vacating of the Property or if the industrial, commercial or manufacturing facility ceases operation; and if the Property is vacated or operations cease prior to the expiration of the stabilization period, the applicant shall owe the Town all of the taxes, and interest thereon which it did not pay as a result of the tax stabilization granted under this Ordinance. The applicant, its successors and assigns agree to allow the Town to place an annual lien against the Property which is benefitting from tax stabilization to secure any taxes and interest owed if the Property is vacant or operations cease prior to the expiration of the stabilization period.

VI. Procedure.

Any Developer may apply for tax stabilization at the office of the tax assessor. The tax assessor and finance director shall develop such forms and additional procedures consistent with this Ordinance, as the tax assessor deems necessary and proper to effectuate their respective obligations under the terms and provisions contained herein. The procedure for eligible Properties under this Ordinance shall be as follows:

- A. No person shall be entitled to any exemption herein authorized without first filing an application for tax stabilization at the office of the tax assessor. No application shall be considered unless:
  - (i) The application is filed prior to the issuance of a certificate of occupancy (or temporary certificate of occupancy);
  - (ii) The applicant certifies that the Project will involve "substantial construction or rehabilitation" (as defined in this Ordinance) of an eligible Property; and
  - (iii) A non-refundable application fee in the amount of one-hundredth of a percent (.01%) of the estimated Cost of the Project is paid to the Town;
- B. Within 15 days of receipt of a completed application (together with the application fee), the tax assessor shall forward a copy of such application to the finance director, the Town building official, and the Town Council. The Town Council shall review the application and direct the appropriate Town departments to conduct required due diligence. All due diligence must be completed within 30 days of the completed application's submission to the tax assessor.
- C. If the Town building official reports a violation of the Town building code with respect to the subject Property, said violations shall be reported to the Town Council and notice shall be given to the applicant within 30 days. No tax stabilization agreement shall be issued unless and until any and all such violations have been cured, or unless the plans for such Project establish that such violation will be cured in connection with such work (and such stabilization agreement shall state that such work shall be a condition of such agreement continuing).
- D. If the Town finance director reports that an applicant owes taxes to the Town with respect to the Property which the tax stabilization agreement would apply, notice shall be given to the Town Council and the applicant within 30 days. The applicant shall have 30 days to make the required tax payment(s). Failure by the applicant to cure any tax deficiencies associated with the subject Property shall result in cancellation of the application as an incomplete application (unless an extension is granted by the Town Council) without a prejudicial effect as to the ability of the applicant to reapply.

NOTE: Steps (C) and (D) shall be performed concurrently.

- E. The Town Council shall review each application and, if all eligibility requirements established in this Ordinance are satisfied, shall authorize the tax assessor to grant a tax stabilization for the subject Property in accordance with the guidelines set forth below. Without limiting the foregoing, and notwithstanding anything contained herein to the contrary, prior to granting an exemption or a stabilization of taxes, the Town Council shall determine that: (A) Granting of the exemption or stabilization of taxes will inure to the benefit of the Town by reason of: (i) the willingness of the manufacturing or commercial firm concern to locate in the Town; or (ii) the willingness of a manufacturing

or commercial firm or concern to expand facilities with an increase in employment, or the willingness of a commercial or manufacturing concern to retain or expand its facility in the city or Town and not substantially reduce its work force in the city or Town; or (iii) an improvement of the physical plant of the Town which will result in a long-term economic benefit to the Town and state; or (iv) an improvement which converts or makes available land or facility that would otherwise be not developable or difficult to develop without substantial environmental remediation; or (B) Granting of the exemption or stabilization of taxes will inure to the benefit of the Town by reason of the willingness of a manufacturing or commercial firm or concern to replace, reconstruct, expand, or remodel existing buildings, facilities, fixtures, machinery, or equipment with modern buildings, facilities, fixtures, machinery or equipment resulting in an increase in plant or commercial building investment by the firm or concern in the Town.

**VII. Stabilization Amounts.**

**A. *Projects between \$100,000 - \$1,000,000.***

If the Cost of a Project is over \$100,000.00, but less than \$1,000,000, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the Property prior to the commencement of the Project. The number of tax stabilization agreements issued in connection with this subsection shall be limited to twenty. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:

	Percent of Increase in Value Exempt from Taxation
Year 1	100
Year 2	75
Year 3	50
Year 4	25
Year 5	0

**B. *Projects between \$1,000,000 - \$10,000,000.***

If the Cost of the Project is over \$1,000,000.00, but less than \$10,000,000, or if the Cost of the Project is over \$10,000,000, but the Project does not result in the creation of at least fifty (50) new Full-Time Jobs or is otherwise ineligible for the tax stabilization incentives set forth in the Commerce Corporation Rules and Regulations, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the Property prior to the commencement of the Project. The number of tax stabilization agreements issued under in connection with this subsection shall be limited to ten. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:

	Percent of Increase in Value Exempt from Taxation
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Year 1	100
Year 2	87.5
Year 3	75
Year 4	62.5
Year 5	50
Year 6	37.5
Year 7	25
Year 8	12.5
Year 9	0

C. *Projects above \$10,000,000.*

If the Project results in the creation of at least fifty (50) new Full-Time Jobs, and the Developer has committed a Capital Investment of not less than Ten Million Dollars (\$10,000,000.00) towards the Project Cost, and the Project otherwise meets the eligibility criteria set forth in the Commerce Corporation Rules and Regulations, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the Property prior to the commencement of construction of the Project. The number of tax stabilization agreements issued under in connection with this subsection shall be limited to five. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:

	Percent of Increase in Value Exempt from Taxation
Year 1	100
Year 2	100
Year 3	100
Year 4	90
Year 5	80
Year 6	70
Year 7	60
Year 8	50
Year 9	40
Year 10	30
Year 11	20
Year 12	10
Year 13	0

**VIII. Revocation.**

The Town Council shall terminate an exemption granted hereunder prior to the expiration thereof in the event of fraud or misrepresentation by an applicant regarding any statements or representations contained in the application or the materials provided therewith.

**IX. Number of Projects.**

The number of tax stabilization agreements issued under or in connection with this Ordinance shall be limited as set forth in each subsection above. Applications shall be considered on a first come, first serve basis (considering only those applications that are deemed complete by the Town Council). The tax assessor shall keep a list of all applications filed, and shall remove applications that are deemed incomplete by the Town Council. Upon removal of an incomplete application, the tax assessor shall provide the applicant with notice of such action. The applicant shall not be prejudiced from reapplying for tax consideration.

**X. Sunset limitation.**

Owners of qualifying Properties shall have 48 months from the effective date contained herein to apply to the Town Council for tax stabilization under this Ordinance by submitting an application to the tax assessor. The application must be certified as complete by the tax assessor on or before the aforementioned date in order to be considered by the Town Council.