



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE IN AMENDMENT TO  
THE TAXATION CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Taxation Ordinance of the Town be amended as follows:

**Chapter 34 – TAXATION**

**ARTICLE IV – PARTIAL TAX EXEMPTION FOR EXISTING COMMERCIAL, MANUFACTURING, AND ENVIRONMENTALLY REMEDIATED FACILITIES**

Sec 34-61 – 34-70: shall be added to create a partial tax exemption for expansions and/or intensifications of existing commercial and manufacturing uses or uses of property which underwent environmental remediation. Taxes would remain at the pre-improvement rate for five years following expansion or intensification of any use listed above.

**ARTICLE IV – PARTIAL TAX EXEMPTION FOR EXISTING COMMERCIAL, MANUFACTURING, AND ENVIRONMENTALLY REMEDIATED FACILITIES**

**Sec. 34-59. - Authority.**

The town council has the authority under G.L. 1956, § 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.

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**Sec. 34-60. - Purpose.**

In order for the town to grow economically, it must incentivize expansions and/or intensifications of existing commercial, manufacturing, and environmentally remediated, buildings, uses and properties. The purpose of this article is to provide the town with a tool to promote and encourage improvements to existing commercial uses, manufacturing uses and properties that have undergone environmental remediation. Such promotion and encouragement seeks to serve both short-term and long-term mutual benefits to a business owner and to the town. Through this temporary partial tax exemption, the goals of continuing the town's revitalization and promoting job creation are more achievable. High construction costs have made construction and development prohibitively expensive, causing feasibility to be reduced 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 growth of the properties for environmentally remediated, 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.

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## **Sec. 34-61. - 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 RIGL 42-64.22.

Cost means expenses by a developer incurred after an application for a partial tax exemption agreement for:

(1) 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

(2) 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 or more years that is deemed to be the owner for the purposes of taxation under G.L. 1956, § 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 partial tax exemption agreement is being sought.

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## **Sec. 34-62. - Eligibility/criteria.**

(a) For a property to be eligible for this partial tax exemption program, the project must be:

(1) Eligible for tax relief under RIGL 44-3-9;

(2) Located in the general business or highway commercial 2 zoning district or an environmentally remediated property;

(3) Existing and operating as a commercial use, manufacturing use, or any use on a property which has undergone environmental remediation. Such existing use shall be proposed to be expanded or intensified.

(4) The developer of the property must begin construction of the project within twelve (12) months of the granting of the subject partial exemption agreement, and must complete construction of the project and obtain approval from the building official that such construction has been completed within sixty (60) months of the granting of the partial exemption agreement. Construction

commencement and completion timetables may be extended for a longer period, for cause shown, if requested by the application in writing, and approved by the town council. Developers of the property that fail to meet these deadlines will be required retroactively to pay the difference between their actual exempted tax payments and the full post-improvement assessed rate.

(b) Notwithstanding anything contained herein to the contrary, the following types of projects are ineligible for this partial tax exemption program:

(1) Projects that would have a material adverse impact on the environment, as determined by RIDEM in its sole discretion;

(2) Residential projects which did not undergo environmental remediation;

(3) Projects that, once completed, would render the property exempt from taxation under RIGL 44-3-3; and

(4) Renewable energy systems that are potentially eligible for exemption under RIGL 44-3-21.

(c) As set forth in section 34-65, the tax assessor shall process applications made under this article. To qualify for partial tax exemption under this article, 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-improvement 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 shall be consolidated and treated as one project for the purposes of this article and the requirements hereof. Projects consisting of one or more buildings on multiple lots shall not be consolidated and shall be treated as separate projects for the purposes of this article and the requirements hereof. For the purposes of this article, a project involving multiple buildings on one lot shall be deemed "completed" as of the date of issuance of the final building approval from the building official.

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### **Sec. 34-63. - Conditions.**

Partial tax exemptions for eligible properties shall run with the land and shall 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 partial tax exemption agreement be terminated. In the event that the town council shall terminate a partial tax exemption 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 partial tax exemption agreement granted under this article. The applicant, on its behalf, shall agree in the applicable partial tax exemption 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 partial tax exemption shall cease immediately upon the change of use to a use not eligible under this article; vacating of the property; or if the environmentally remediated, commercial or manufacturing facility ceases operation for thirty (30) consecutive days. If there is a change of use to a use not eligible under this article or the property is vacated or operations cease prior

to the expiration of the partial tax exemption period, the applicant (or then current owner, if the applicant is no longer the fee owner) shall owe the town all of the taxes, and interest thereon which it did not pay as a result of the partial tax exemption granted under this article. The applicant agrees to allow the town to place an annual lien against the property which is benefitting from partial tax exemption to secure any taxes and interest owed if the property is vacant or operations cease prior to the expiration of the partial exemption period. Additionally, 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.

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## **Sec. 34-64. - Procedure.**

Any developer may apply for partial tax exemption at the office of the tax assessor. The tax assessor and finance director shall develop such forms and additional procedures consistent with this article, 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 article shall be as follows:

(1) No person shall be entitled to any exemption herein authorized without first filing an application for partial tax exemption at the office of the tax assessor. No application shall be considered unless:

a. The application is filed prior to the completion of improvements as confirmed by the building official; and

b. A non-refundable application fee in the amount of one-hundredth of a percent of the estimated cost of the project is paid to the town;

(2) Within fifteen (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, the town zoning enforcement officer 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 thirty (30) days of the completed application's submission to the tax assessor.

(3) If the town building official reports a violation of the town or state building or zoning 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 thirty (30) days of the report of the violation to the town council. If the town zoning enforcement officer reports a violation of the town zoning ordinance with respect to the subject property, said violations shall be reported to the town council and notice shall be given to the applicant within thirty (30) days of the report of the violation to the town council. If the town administrative officer reports a violation of the town land development/subdivision ordinance with respect to the subject property, said violations shall be reported to the town council and notice shall be given to the applicant within thirty (30) days of the report of violation to the town council. No partial tax exemption agreement shall be issued unless and until any and all violations have been cured, or unless the plans for such project establish that the violation(s) will be cured in connection with such work (and such exemption agreement shall state that such work shall be a condition of such agreement continuing).

(4) If the town finance director reports that an applicant owes taxes to the town with respect to the subject property which the partial tax exemption agreement would apply, notice of the taxes owed shall be given to the town council. Notice shall be given to the applicant within thirty (30) days of

the date which the notice was given to the town council. The applicant shall have thirty (30) days from receipt of notice 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 (3) and (4) shall be performed concurrently.

(5) The town council shall review each application and, if all eligibility requirements established in this article are satisfied, shall authorize the tax assessor to grant a partial tax exemption 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 a partial exemption of taxes, the town council shall determine that:

(a) Granting of the exemption taxes will inure to the benefit of the town by reason of:

(i) The willingness of the manufacturing or commercial concern to locate in the town, or of individuals to reside in such an area; or

(ii) The willingness of a manufacturing firm 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 town and not substantially reduce its work force in the 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 of taxes will inure to the benefit of the town by reason of the willingness of a manufacturing or commercial or residential firm or property owner to construct new or to replace, reconstruct, convert, expand, retain, or remodel existing buildings, facilities, machinery, or equipment with modern buildings, facilities, fixtures, machinery or equipment resulting in an increase or maintenance in plant, residential housing, or commercial building investment by the firm or property owned in the town.

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### **Sec. 34-65. - Partial tax exemption amounts.**

Following completion of improvements as confirmed by the building official, the amount to be exempted from the post-improvement property tax following completion of improvements as described in Sec. 34-62 (a)(4) shall be as follows:

|               | <u>Percentage of post-improvement property tax exempt from taxation</u> |
|---------------|---|
| <u>Year 1</u> | <u>100%</u>   |
| <u>Year 2</u> | <u>66%</u>  |
| <u>Year 3</u> | <u>33%</u>  |
| <u>Year 4</u> | <u>0%</u>   |

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**Sec. 34-66. - Number of projects.**

The number of partial tax exemption agreements issued under or in connection with this article shall be limited to one agreement per property. 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.

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**Sec. 34-67. - Sunset limitation.**

Owners of qualifying properties shall have sixty (60) months from the effective date contained herein to apply to the town council for tax stabilization under this article 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.

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