



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 III – TAX STABILIZATION INCENTIVE FOR INDUSTRIAL, COMMERCIAL, AND MANUFACTURING FACILITIES**

Sec 34-51 – 34-60: shall be amended because the sections have expired. Sec. 34-51 – 34-60 shall be amended to create a partial tax exemption increasing at a rate of 25% of the post-improvement property value annually, following issuance of certificate of occupancy after a new structure for commercial use, manufacturing use, or use which underwent environmental remediation is built or an existing use listed above is expanded:

**ARTICLE III. – PARTIAL TAX STABILIZATION INCENTIVE EXEMPTION FOR NEW INDUSTRIAL ENVIRONMENTALLY REMEDIATED, COMMERCIAL AND MANUFACTURING FACILITIES**

**Sec. 34-51. – Authorization 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. 34-52. - Purpose.**

In order for the town to grow economically, it must incentivize new commercial and manufacturing development on vacant/underutilized properties. The town must also support the rehabilitation and reuse of real property which has undergone environmental remediation existing commercial and industrial buildings, as well as incentivize new construction on vacant/unused space, in order to return them such buildings and properties to productive use. The purpose of this article is to provide the town with a tool to promote and encourage the use of vacant and/or underutilized space buildings and properties through new construction and development and the expansion, relocation, or renovation of industrial, commercial and manufacturing facilities located in/on vacant structures and any use of environmentally remediated properties in the town through partial tax stabilization exemption 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 properties 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~~ to facilitate substantial redevelopment of the properties for industrial 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. Substantial redevelopment is defined in Sec. 34-54(3).

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## **Sec. 34-53. - 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 RIG-L. 1956, tit. 42, ch. 64.22 ~~(the "Commerce Corporation Rules and Regulations")~~.

*Cost* means expenses by a developer incurred after an application for a tax stabilization 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-stabilization exemption agreement is being sought.

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## **Sec. 34-54. - Eligibility/criteria.**

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

- (1) Eligible for tax relief under RIG-L. 1956, § 44-3-9;
- (2) A use that has not existed for at least one (1) year at the property at which the partial tax exemption is applied for. Abandonment by the same property owner who is applying for partial tax exemption, followed by rehabilitation shall not constitute an eligible project.

~~(3)~~ Located in the general business ~~mixed-use, manufacturing industrial or neighborhood highway~~ commercial 2 zoning district or an environmentally remediated property in any zoning district;

~~(34)~~ Unimproved or 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) 25 percent of the ~~then~~ current pre-improvement assessed value of the property (as assessed by the town), or (b) \$100,000.00; and

~~(45)~~ The developer of the property must begin construction of the project within twelve (12) months of the granting of the subject ~~stabilization partial exemption~~ agreement, and must complete construction of the project and obtain a certificate of occupancy for such construction within ~~36~~ sixty (60) months of the granting of the ~~stabilization 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 stabilized partially exempted tax payments and ~~what they would have~~ the full post-improvement assessed rate 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 partial tax-stabilization exemption program:

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

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

~~(3)~~ 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 34-57(c) below, the construction of one or more grocery stores or food markets, or stores selling second-hand or artisan produced goods;

~~(43)~~ Projects that, once completed, would render the property exempt from taxation under RIG-L. 1956, § 44-3-3; and

~~(54)~~ Renewable energy systems that are potentially eligible for exemption under RIG-L. 1956, § 44-3-21.

(c) As set forth in section 34-56 ~~below~~, the tax assessor shall process applications made under this article. To qualify for partial tax-stabilization 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-construction 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, ~~or multiple buildings on multiple lots, where such projects are being performed by the same developer, can~~ 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 certificate of occupancy.

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## Sec. 34-55. - Conditions.

Partial ~~Tax-stabilization~~ 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 ~~stabilization~~ partial tax exemption agreement be terminated. In the event that the town council shall terminate a ~~stabilization~~ 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 ~~stabilization~~ partial tax exemption agreement granted under this article. The applicant, on its behalf ~~and the behalf of its successors and assigns~~, shall agree in the applicable ~~stabilization~~ 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 ~~stabilization~~ exemption shall cease immediately upon the change of use to a use not eligible under this article; vacating of the property; or if the ~~industrial~~environmentally remediated, commercial or manufacturing facility ceases operation for thirty (30) consecutive days; ~~and if~~ 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 ~~stabilization~~ 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 ~~stabilization~~ exemption granted under this article. The applicant, ~~its successors and assigns~~ agrees to allow the town to place an annual lien against the property which is benefitting from partial tax ~~stabilization~~ exemption to secure any taxes and interest owed if the property is vacant or operations cease prior to the expiration of the partial~~stabilization~~ 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. 34-56. - Procedure.

Any developer may apply for partial tax ~~stabilization~~ 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 ~~stabilization~~ exemption at the office of the tax assessor. No application shall be considered unless:

- a. The application is filed prior to the issuance of a certificate of occupancy (or temporary certificate of occupancy);

b. The applicant certifies that the project will involve "substantial construction or rehabilitation" (as defined in this article) of an eligible property; and

c. 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-~~stabilization~~ exemption 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 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-~~stabilization~~ exemption agreement would apply, notice of the taxes owed shall be given to the town council. Notice shall be given to and 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-~~stabilization~~ 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~~ partial exemption ~~or a stabilization~~ of taxes, the town council shall determine that:

(Aa) ~~g~~Granting of the exemption ~~or stabilization of~~ taxes will inure to the benefit of the town by reason of:

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

(ii) ~~t~~The willingness of a manufacturing firm to expand facilities with an increase in employment or the willingness of a commercial or manufacturing ~~firm or~~ concern to retain

~~or expand its facilities in the town and not substantially reduce its work force in the town 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) ~~a~~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) ~~a~~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) ~~g~~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 ~~or residential~~ firm or property owner to construct new or concern to replace, reconstruct, convert, expand, retain, or remodel existing buildings, facilities, ~~fixtures~~, 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 ~~concern~~ property owned in the town.

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### Sec. 34-57. - ~~Stabilization~~ Partial tax exemption amounts.

~~(a) Projects between \$100,000.00 — \$1,000,000.00. If the cost of a project is over \$100,000.00, but less than \$1,000,000.00, 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 20. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:~~

Partial tax exemptions shall not take effect until a certificate of occupancy is issued by the building official. The amount to be exempted from the post-improvement property tax following completion of construction and obtaining a certificate of occupancy as described in Sec. 34-54 (a)(5) shall be as follows:

	<u>Percentage of increase in value post-improvement property tax exempt from taxation</u>
Year 1	100%
Year 2	<del>75</del> 66%
Year 3	<del>50</del> 33%
Year 4	<del>25</del> 0%
<del>Year 5</del>	0

~~(b) Projects between \$1,000,000.00 — \$10,000,000.00. If the cost of the project is over \$1,000,000.00, but less than \$10,000,000.00, or if the cost of the project is over \$10,000,000.00, but the project does not result in the creation of at least 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
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 \$10,000,000.00. If the project results in the creation of at least 50 new full-time jobs, and the developer has committed a capital investment of not less than \$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 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

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**Sec. 34-58. -- 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.

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**Sec. 34-59~~8~~. - Number of projects.**

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

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**Sec. 34-~~60~~59. - Sunset limitation.**

Owners of qualifying properties shall have ~~48~~ 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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