

**THE TOWN OF WEST GREENWICH
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

ORDINANCE NO.95

AN ORDINANCE RELATED TO TAX STABILIZATION

IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEST GREENWICH, RHODE ISLAND, AS FOLLOWS:

Sec. _____. Tax stabilization incentive for industrial, commercial and manufacturing facilities.

(a) *Authorization.* The town council has the authority under RIGL 44-3-9.8 to exempt from tax payment, in whole or in part, real and personal property which 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.

(b) *Purpose.* In order for the town to grow economically, it must support the rehabilitation, reuse and expansion 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 section 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 the willingness of a manufacturing or commercial concern to locate in the town; the willingness of a manufacturing firm to expand 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 reduce its workforce in the town; an improvement of the physical plant of the town that will result in long-term economic growth and benefits to the town and the state; or 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, machines, or equipment with modern buildings, facilities, fixtures, machines, or equipment, resulting in an increase in plant or commercial building investments by the firm or concern in the town.

(c) *Eligibility/criteria.*

(i) For a property to be eligible for this tax stabilization program the subject property must either:

A. Be in need of "substantial rehabilitation and/or new construction and/or vacant for a period of 12 months." For the purposes of this section, "substantial rehabilitation and/or new construction

and/or vacant for a period of 12 months" shall mean rehabilitation and/or new construction and/or purchase price of vacant property that adheres to the applicable building and fire codes the cost of which is greater than or equal to \$250,000.00, and equal to at least 25 percent of the then current assessed value (as assessed by the town). Owners of existing industrial, commercial or manufacturing buildings, as well as owners of vacant property upon which new construction of industrial, commercial or manufacturing buildings is to be conducted are eligible to apply for relief under this section. Owners of eligible properties must begin construction or rehabilitation within 12 months of the execution of the subject stabilization agreement and to obtain a certificate of occupancy for such construction or rehabilitation within 36 months of commencement. For the purposes of the foregoing sentence, a temporary certificate of occupancy shall suffice. Owners of properties 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); or

B. Is a property upon which new construction or rehabilitation of or has been vacant for 12 months or more, a nonresidential industrial, commercial or manufacturing facility has been completed or occupied after January 1, 2011, but prior to the passage of this section, that would otherwise be eligible to apply for tax stabilization under the provisions of this section, provided however, in order to qualify for tax stabilization under this subpart (c)(i)B, the costs for substantial rehabilitation and/or new construction and/or purchase price of vacant property shall have been at least \$500,000.00. Applicants under this subsection must present a temporary or permanent certificate of occupancy along with the application for tax stabilization. The date of issuance of the temporary (if issued) or permanent certificate of occupancy shall serve as the completion date for the purpose of determining eligibility under this subsection. Any tax stabilization applied for under this section shall be effective commencing with the year in which the application is accepted and approved by the town council.

(ii) As set forth in subpart (e) below, the tax assessor shall process applications made under this section. To qualify for tax stabilization under this section, whether applying pursuant to subpart (c)(i)A or (c)(i)B above, the tax collector 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 the building at the time of application (based on the applicable assessment at the time). To qualify for tax stabilization under subpart (c)(i)B of this section, the building official for the town must confirm that there are no outstanding notices of violation with respect to the subject property.

(iii) Projects consisting of multiple buildings on one lot, or multiple buildings on adjacent lots can be consolidated and treated as one project for the purposes of this section and the requirements hereof. For the purposes of this section, 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. Projects involving residential buildings are not eligible to apply for tax stabilization under this section.

(iv) Costs that qualify for the thresholds set forth above shall be limited to hard construction costs and materials, architectural fees, engineering fees, and legal fees, and shall exclude

developer fees or other similar fees paid to applicants or their affiliates. The foregoing shall be confirmed by the building official in connection with its processing of each application.

(d) *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 section. 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 nonresidential industrial, commercial or manufacturing facility ceases operation; and if the property is vacated or operations cease within five (5) years after the stabilization was granted, 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 section. 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 during the first five (5) years after tax stabilization is in effect on the property.

(e) *Procedure.* Any owner of an industrial, commercial and manufacturing facility or vacant parcel may apply for tax stabilization at the office of the tax assessor. The Town Administrator, together with the town tax assessor, shall develop forms and additional procedures consistent with this section, as deemed necessary and proper to effectuate their respective obligations under terms and provisions contained herein. The procedure for eligible properties under this section shall be as follows:

(i) 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:

A. The application is filed prior to the issuance of a certificate of occupancy (or temporary certificate of occupancy), unless the applicant is applying under subpart (c)(i)B of this section, in which case a certificate of occupancy (or temporary certificate of occupancy) should be filed with the application;

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

C. A non-refundable application fee in the amount of one-tenth of one percent (.1%) of the estimated cost of the project is paid to the town;

(ii) 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 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 45 days of the application's submission to the tax assessor.

(iii) If the town building official reports a violation of the town building code with respect to 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). With respect to projects applying under subpart (c)(i)B of this section, the applicant shall have 60 days from the date of said notice to cure any outstanding violations or other matters which serve as a valid basis for the building inspector not approving the application. Failure to cure shall result in a 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.

(iv) If the tax collector 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.

(v) Any tax stabilization authorization may require an increase in quality employment proportionate to the increase in facility size or such increase in employment as determined by the town council.

The town council shall review each application and, if all eligibility requirements established in this section are satisfied, may enter into a tax stabilization agreement with the applicant.

(f) *Guidelines for the use of vacant space, expansions of an existing facility, or new facility construction, or renovation of existing facilities.* Tax stabilization guidelines for expansions of existing facility or new facility construction or renovation work greater than or equal to 25 percent of the existing building value up to \$500,000.00 or the use of at least 25 percent of existing vacant space are as follows:

	Percent Exempt from Taxation
Year 1	100
Year 2	80
Year 3	60

Year 4	40
Year 5	20
Year 6	0

Such relief is provided on the use of vacant space or the expansion of an existing facility, a new facility or renovation, reconstruction, remodeling, or conversion work greater than or equal to 25 percent of the existing building value only and does not change or effect any preexisting valuation.

(g) Guidelines for tax stabilizations issued for substantial rehabilitation and/or new construction concerning qualifying properties of facilities investing over \$500,000.00 in the use of vacant space or the expansion of existing facilities, or new construction, or renovation of existing facilities. If the cost of expansion of an existing facility or construction of a new facility or renovation work is over \$500,000.00, 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 substantial rehabilitation and/or new construction. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this section:

	Percent of Increase in Value Exempt from Taxation
Year 1	100
Year 2	85
Year 3	70
Year 4	55
Year 5	40
Year 6	29
Year 7	10
Year 8	0

Such relief is provided on the substantial rehabilitation and/or new construction of vacant land or the expansion of an existing facility, construction of a new facility or renovation, or rehabilitation of an existing facility, in all of the foregoing instances where the costs associated with the work completed were greater than or equal to \$250,000.00 for applicants eligible pursuant to subpart (c)(i)A of this section or greater than or equal to \$500,000.00 for applicants eligible pursuant to subpart (c)(i)B of this section only, all as more specifically set forth above, and does not change or effect any preexisting valuation.

(h) *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.

(i) *Number of projects.* The number of tax stabilization agreements issued under in connection with this section shall be limited to five (5). 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. The foregoing number may be increased by the town council.

(j) *Sunset limitation.* Owners of qualifying properties shall have twelve (12) months from the effective date contained herein to apply to the town council for tax stabilization under this section 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.

(k) *Other requirements.* Any applications and agreements under this ordinance must comply with the limitations of RIGL 44-3-9.8 and any permits and/or approvals required by the Town Planning Board and/or any other town board or commission with applicable jurisdiction.

This ordinance shall take effect upon its passage.

Received by Town Clerk: October 9, 2013
First Reading: October 16, 2013
Date of Initial Posting: October 11, 2013
Date of Publication: October 22, 2013
Second Reading: November 6, 2013
Council Action: X Adopted _____ Rejected
Date of Final Posting, if adopted: November 7, 2013