

TOWN COUNCIL
Town of Trumbull
CONNECTICUT
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TOWN HALL
Trumbull

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LEGISLATION & ADMINISTRATION COMMITTEE
AGENDA
October 29, 2012

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Trumbull, CT 06611

Chadwick Ciocci, Vice Chairman
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NOTICE is hereby given that the LEGISLATION & ADMINISTRATION COMMITTEE of the Trumbull Town Council will hold a regular meeting on Monday, October 29, 2012 at 7:00 p.m. at the Trumbull Town Hall, for the following purpose:

1. RESOLUTION TC24-83: To consider and act upon a resolution which would approve the funding for a labor contract between the Town of Trumbull and AFSCME, LOCAL 818 – COUNCIL 4 (Trumbull DPW Supervisors) beginning July 1, 2012 and ending June 30, 2017 is hereby approved.
2. RESOLUTION TC24-82: To consider and act upon a resolution which would amend Chapter 18 Taxation of the Trumbull Municipal Code to create Article IV a Business Tax Incentive Program. (Public Hearing)

RESOLUTIONS

1. RESOLUTION TC24-83: BE IT RESOLVED. That funding for a labor contract between the Town of Trumbull and AFSCME, LOCAL 818 – COUNCIL 4 (Trumbull DPW Supervisors) beginning July 1, 2012 and ending June 30, 2017 is hereby approved.
2. RESOLUTION TC24-82: WHEREAS, the Town of Trumbull adopted Resolution TC19-211, an ordinance to create the Town of Trumbull Assessment Fixing Program; and

WHEREAS, the Trumbull Economic and Community Development Commission endorses and recommends the Town of Trumbull Business Tax Incentive Program Ordinance to replace the Town of Trumbull Assessment Fixing Program;

NOW THEREFORE BE IT RESOLVED AND ORDAINED, that Chapter 18 – Taxation, of the Trumbull Municipal Code is hereby amended to include Article IV, a Business Tax Incentive Program (see attached).

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Business Tax Incentive Program Ordinance

Section 1 –DEFINITIONS

“Agreement” or “Agreements” shall refer to a written tax incentive agreement or written tax incentive agreements between the Town and those Applicants granted a business tax incentive under this Ordinance.

“Applicant” shall mean any business property owner and/or lessee applying for the business tax incentive as established by this Ordinance.

“Application” shall mean such forms as may be created or amended thereafter pursuant to Section 3 hereof to allow a business property owner and/or Lessee to apply for a tax incentive hereunder.

“Committee” shall mean the Tax Partnership Screening Committee as established by this Ordinance, consisting of . of the following voting members: The Chairman of the Town Council; Two other members of the Town Council appointed on an annual basis by the Chairman; and Two members of the Economic & Community Development Commission, appointed on an annual basis by the First Selectman. The Town’s First Selectman, Finance Director, Tax Assessor, and Economic & Community Development Director shall be ex-officio, non-voting members.

“Council” shall mean the Town Council of the Town of Trumbull.

“Construction Cost of Improvement” or “Construction Costs of Improvements” shall mean the cost to create new or substantially rehabilitated space for private business activities, the purposes of which are more fully set out in Section 4(A.) of this Ordinance.

“Director” shall mean the Economic & Community Development Director of the Town.

“Program” shall mean the Business Tax Incentive Program as established by this Ordinance.

“Project” or “Projects” shall mean real estate development projects.

“Property” shall mean any or all of the real estate parcel, the location, the existing improvements, or the improvements constructed as part of the Project.

“Ordinance” shall refer to this Business Tax Incentive Program Ordinance unless otherwise specified.

“Town” shall mean the Town of Trumbull, Connecticut.

Section 2 - PURPOSE

In an effort to promote private investment in business facilities, as well as attract, retain and expand businesses, the Town of Trumbull has adopted this Business Tax Incentive Program Ordinance, hereinafter referred to as the “Ordinance”. Pursuant to Section 12-65b of the Connecticut General Statutes, this Ordinance establishes the requirements and procedure for the Town to grant real estate tax incentives for certain types of real estate development Projects, hereinafter referred to as the Project or Projects, and to enter into written tax incentive

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agreements, hereinafter referred to as Agreement or Agreements, with qualifying property owners and/or lessees who undertake the Projects.

Section 3 - ADMINISTRATION

The Program will be administered by the Economic & Community Development Director of the Town, hereinafter referred to as the Director. The Director shall be responsible for the following: 1) The creation of an Application form, which may be amended from time to time as requested by the Council or the Committee; 2) The maintenance of files including all Applications to the Town, whether ultimately approved or not approved, with attendant documentation, filed pursuant to this Ordinance; 3) The preparation of any analysis or supporting documentation that may be requested by the Committee, or Council in their consideration of Applications; 4) The creation of Agreements, as contemplated by this Ordinance, working in conjunction with the Town Attorney; and 5) All other related tasks as determined by the First Selectman to be necessary for the consideration of Applications received by the Town pursuant to this Ordinance.

In the event that the Director's position is vacant, or the Director is otherwise unavailable to administer the Program, the First Selectman may elect to administer the Program or may designate another Town employee to administer the Program.

Section 4 - MINIMUM REQUIREMENTS AND ELIGIBILITY

An Applicant shall submit an Application to the Director. The Applicant shall: 1) Disclose the names and addresses of all its principals; 2) Provide evidence of the Applicant's qualifications and current capacity to undertake and complete the proposed Project; and 3) Provide a detailed description of the proposed Project that demonstrates it meets the following minimum eligibility requirements, to wit:

- A. The Project will create new or substantially rehabilitated space for private business activities, which for the purposes of this Ordinance will include: office space, retail space, manufacturing space, warehousing space, distribution space, space for information technology equipment, space for telecommunications equipment, parking structures intended to serve any of the above types of space, or any combination of the above uses that may be allowed to co-exist pursuant to the Town's Zoning Regulations. Home Occupations (as defined by the Trumbull Zoning Regulations), and all other land uses are not eligible tax incentives pursuant to this Ordinance.
- B. The Project will constitute an investment in new building or buildings, or building rehabilitation, for which the construction costs shall be documented at completion to be Five hundred Thousand (\$500,000) or greater, which costs shall not include the purchase or of real property or the acquisition of real property by any other means.
- C. The Project will create new, permanent full-time jobs.
- D. The Project, notwithstanding the tax incentive, will result in an increase in property tax revenues due from the Property relative to the tax year immediately preceding the approval of the tax incentive. The Council may waive this requirement by resolution if the Project involves demolition of a structure that 1) the Applicant represents and 2) the Committee determines is functionally obsolete; or the Project remedies conditions of significant blight or other symptoms of abandonment on the Property that the Committee determines were caused by the neglect of a previous owner of the Property.
- E. The Project will be compatible with the Town's Plan of Conservation and Development at the time Application is made.

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- F. The Applicant is the current owner of the Property, or the current lessee, or can offer definitive evidence that it has entered into an agreement to purchase or lease the real property to be developed for the Project.
- G. The Project's construction will commence within twelve (12) months of the Council's approval, and shall be completed within twenty-four (24) months of the Council's approval, unless the time frame for completed construction of the Project is stated to be more than 24 months at the time the Application is approved. In the event that the Project's construction is not commenced and/or completed within a the time frame specified in the Council's approval, then any approval granted by the Council shall immediately terminate and the full amount of the tax (including accrued interest) that would otherwise be due shall immediately become due and payable, unless otherwise authorized by an action of the Council.
- H. The Project will shall remain in good standing with the Town, shall not be delinquent on real estate taxes, and shall not be in or violation of the Town's Zoning Regulations, Building Code, or any other ordinance, statute or code, that may be applicable to the Project or the Property. If payment of annual real estate taxes is not made within thirty (30) days of the real estate taxes becoming due and payable, the Town may elect to revoke any tax incentive for the current year and the Project and Property will be subject to the normal assessment and levy practices of the Town for that year. If payment of annual real estate taxes is not made within 60 days of the real estate taxes becoming due and payable the the Town may elect to terminate the Tax Incentive Agreement. and the Project and Property will be subject to the normal assessment and levy practices of the Town on a going-forward basis. If a Project or Property is found to be in violation of a zoning regulation, building code or any other ordinance, statute or code, and the Applicant or Owner fails to remedy to the violation within 60 days notice from the Town, the Town acting through the First Selectman, may elect to terminate the Agreement. The First Selectman may, at his sole discretion and subject to notice to the Council, elect to provide the Applicant or Owner with as much as an additional 60 days to remedy a violation if he determines that the Applicant or Owner is making a good faith effort to remedy a violation.
- I. Council approval under this ordinance must be obtained prior to the application for a Building Permit for the Project.
- J. Council approval of a tax incentive pursuant to this Ordinance shall be made at its sole and absolute discretion.
- K. The Project will attain Leadership in Energy and Environmental Design (LEED) Certification. A Project not planned to achieve LEED Certification shall not receive consideration pursuant to this Ordinance unless: a) the Application includes an explanation of the Project's inability to achieve the Certification; b) such explanation is deemed to be acceptable by the Committee in its report to the Council; and c) an exemption of the LEED Certification requirement is noted in the Council's resolution to approve a tax incentive. All Agreements entered into pursuant to this Ordinance will specifically require or exempt the Project from obtaining LEED Certification, as provided for in the Council's approval.
- L. Any Applicant, which for purposes in this subsection shall include any owner, member, principal, partner or officer of the Applicant, who is delinquent in any taxes, interest or liens that are due to the Town, shall be ineligible to enter into any such Agreement or receive any benefit pursuant to this Ordinance until such delinquencies or liens are remedied.

Section 5 – TAX INCENTIVE SCHEDULE

- A. Subject to the approval of the Council and the execution of an Agreement, for a proposed Project with a construction cost of improvements of Five Hundred Thousand Dollars (\$500,000) or more, but less than Three Million Dollars (\$3,000,000), the taxable assessment of the Project's real property improvements will be fixed at 70% of the normal assessment for the Property for a two year period subsequent to the

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completion of the Project. The Agreement will specify the Grand List years for which the fixing of the taxable assessment will occur.

- B. Subject to the approval of the Council and the execution of an Agreement, for a proposed Project with a construction cost of improvements of Three Million Dollars (\$3,000,000) or more, the taxable assessment of the Project's real property improvements will be fixed at the following percentages of the normal assessment for the years subsequent to the completion of the Project: In year 1, 70%; in year 2, 70%; in year 3, 70%; in year 4, 70%; in year 5, 70%. The Agreement will specify the Grand List years for which the fixing of the taxable assessment will occur.
- C. For a Project with a construction cost of improvements of Three Million Dollars (\$3,000,000) or more, an Applicant may request a Tax Incentive Schedule that is different than provided for in Paragraph B of this Section. Such a request must be accompanied by a full disclosure of the finances of the proposed Project, including but not especially limited to, as applicable: real property acquisition costs, pre-development cost estimates, construction cost estimates, financing assumptions, rental or other income assumptions, and post-construction property operating cost estimates. Pursuant to this paragraph, any of the Director, the First Selectman, the Committee or the Council may retain outside expertise to evaluate and analyze the financial information provided, and may request that the Applicant pay the reasonable costs of the outside expertise as a requirement of the Application review process.

Section 6 - APPLICATION PROCEDURE

- A. An Applicant shall apply for a tax incentive pursuant to this Ordinance in writing to the Economic & Community Development Director on such Application forms provided by the Economic & Community Development Office. The Applicant shall provide all required information in sufficient detail to allow the Council to determine costs and benefits associated with the implementation of the requested tax incentive.
- B. Upon receipt of the completed Application the Economic & Community Development Director shall refer the Application to the Committee, which shall convene at the request of the First Selectman. The Committee will review an Application for eligibility, completeness and appropriateness, including the criteria provided in Section 4 Minimum Requirements and Eligibility. Applicants will be notified within 14 calendar days of any deficiencies in the Application submission, or the Committee's need for additional information from the Applicant related to the Project. Within thirty (30) days of its receipt of the Application, the Committee will submit a recommendation and written analysis to the Council for its consideration.
- C. The Committee may, if it deems necessary, may request a determination from the Planning & Development Director as to whether the proposed Project is compatible with the Town's Plan of Conservation and Development.
- D. The Council, in its sole discretion and after having held at least one public hearing (not required by 12-65b; may not want to do this, as it would set up special notice requirements), shall: 1) approve the tax incentive with those terms requested in the Application; or 2) approve the tax incentive with modifications or conditions to those terms requested in the Application; or 3) deny the Application; acting within 60 days from the date of the first regularly scheduled meeting at which the referral from the Committee appears on the Council's agenda. Granting of the tax incentive shall require a majority vote of the Council among those present and voting. The Council's decision shall conform with applicable provisions of the Connecticut General Statutes, while considering both the information and request provided in the Application package, and the recommendation provided by the Committee.
- E. The Council may elect to require, as a condition of its Approval, that any Agreement entered into pursuant to this Ordinance contain a provision that the Applicant provide full documentation of the construction costs of the Project upon the Project's completion. In the event that an Agreement requires such documentation to occur within a specified timeframe, and it does not occur, the Agreement will provide for the First Selectman to take any and all necessary actions to terminate the Agreement.

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Section 7 – AGREEMENT

- A. Pursuant to the Council's resolution to approve a tax incentive, the First Selectman will be authorized to enter into a Tax Incentive Agreement with the Applicant.
- B. The Agreement shall only apply to real estate property taxes, and shall not apply to personal property taxes, or motor vehicle taxes.
- C. Fees associated with obtaining local permits or licenses of any type are not shall not be abated, waived, reduced, forgiven or deferred pursuant to this Ordinance.
- D. Any and all terms of the Tax Incentive Agreement entered into between the Applicant and Town pursuant to this Program shall be drafted, amended and/or otherwise prepared at the sole and absolute discretion of the Town.

Section 8 – TRANSFERABILITY

Tax Incentive Agreement entered into pursuant to this Ordinance shall not be subject to assignment unless a) the assignee is identified and the transaction is specifically provided for in the Council's original approval of the tax incentive; or b) the assignment is approved by a subsequent action of the Council. In the event it is determined that an assignment, transfer and/or sale not specifically provided for by the Council has occurred the Agreement shall terminate effective on the date of the assignment, transfer and/or sale, and the full amount of the real estate taxes that would otherwise be due to the Town shall immediately become due and payable, and shall be a Municipal Tax Lien as provided for in Chapter 205 of the Connecticut General Statutes. In this event, nothing herein or contained in any Agreement entered into pursuant to this Ordinance shall be interpreted as preventing the Town from applying the normal assessment and levy practices of the Town in regard to current or future property taxes due from the Project or Property, or outstanding interest and/or lien fees applicable thereto.

Section 9 - TOWN COUNCIL AUTHORITY

Nothing in this Ordinance shall require the Council to approve any tax incentive Agreement. This Ordinance may be amended or repealed by action of the Council. The Ordinance will expire on the date three (3) years after its initial passage by the Council, unless specifically renewed or re-adopted by Council action.

Section 10 – NO RETROACTIVITY

This Ordinance shall not be retroactive.

Section 11 – SEVERABILITY

The provisions of this Ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

