

TAX INCENTIVE ORDINANCE

Ordinance No.: _____

Tax and Business Incentive Program

A. Purpose

- i. The purpose of the Tax Incentive Program is to attract, retain and expand businesses and industries in the City of Derby. It is the intent of the city to provide and create jobs for local and area residents; to create long term tax base growth through the replacement, reconstruction, expansion, adaptive reuse and remodeling of existing business and industrial facilities, where appropriate and environmentally sound; to encourage the construction of new facilities, when necessary, and to create the potential for generating new demands for existing local businesses through a "spin-off" effect of major employers' business decisions. It is further the intent of the City of Derby to encourage substantial investment in new equipment and other personal property subject to taxation within the City.

The City of Derby has adopted this tax incentive ordinance in accordance with Connecticut General Statute 12-65b and 12-127a. This ordinance establishes a tax incentive program for the City and allows the City to enter into written agreements with the owners and/or lessees of certain real property located within the City of Derby in order to fix tax assessments of real and/or personal property in the manner set forth by this ordinance.

B. Eligibility

- i. Business Enterprise Tax Incentives
 - a. In accordance with the provisions of Conn. Gen. Stat. §12-65b, the Board of Aldermen / Alderwomen may enter into written tax agreements with owners and/or lessees of real property if the improvements are for one of the following:
 - i. Manufacturing use;
 - ii. Office Use;
 - iii. Retail Use;
 - iv. Storage, warehouse or distribution use;

- v. Structured multilevel parking use necessary with a mass transit system;
- vi. Information Technology;
- vii. Recreation Facilities;
- viii. Transportation Facilities;
- ix. Permanent Residential Use; or,
- x. Transient Residential Uses.

ii. Adaptive Reuse

- a. In accordance with the provisions of Conn. Gen. Stat. §12-127a, the Board of Aldermen / Alderwomen may enter into written tax agreements with the owners and/or lessees of real property on which a structure of historical or architectural merit is located, provided that it is shown to the satisfaction of the Board of Aldermen / Alderwomen that the level of taxation is a material factor which threatens the continued existence of the structure, necessitating either its demolition or remodeling in a manner which destroys the historical or architectural value.

iii. Only legally existing uses, businesses relocating to the City, new business development and business expansion listed in section B.(i.) or businesses seeking to renovate a qualifying structure for its business purposes in accordance with section B.(ii.) will be considered under the following circumstances:

- a. The proposed project is located within a district zoned for such purposes by the Planning and Zoning Commission;
- b. If the applicant is a tenant, the tax benefits must be reflected in the lease between the applicant and the owner of the subject real property where the business is locating and the lease must be for at least the term of the tax abatement period;
- c. There is no delinquency in any taxes or service charges due to the City of Derby from the applicant or the owner of the subject property;
- d. The project should have a clear benefit to the City of Derby; and,
- e. Home occupations (as defined by the Derby Zoning Regulations), and all other land uses are not eligible to participate in the tax incentive program under this ordinance.

C. Application Procedure

- i. All tax abatement requests shall be made in writing on a form prescribed by the Economic Development liaison for the City of Derby. The applicant must indicate that the new investment would not occur within the City of Derby without the tax incentive requested and/or, for properties on which historical or architectural structures are located, that the level of taxation is a material factor which threatens the continued existence of the structure, necessitating either its demolition or remodeling in a manner which destroys the historical or architectural value. The applicant shall provide all required information in sufficient detail to allow the City to determine the costs and benefits associated with the implementation of the requested tax agreement. Two copies of the application must be submitted simultaneously - one to the Mayor and the other to the Economic Development liaison.
- ii. The application for tax abatement shall first be referred to the Economic Development liaison for review. The Economic Development liaison shall review the application to determine if the application conforms to and complies with the City's requirements. Each complete application shall be reviewed on a case-by-case basis. Within 30 days of receipt of the proposed tax incentive package, the Economic Development liaison shall report his or her findings to the Board of Aldermen / Alderwomen.
- iii. All final approvals shall be granted by the Board of Aldermen / Alderwomen, which final approval shall not be subject to appeal. The Board of Aldermen / Alderwomen, in its sole discretion, shall either approve, approve with modifications or conditions, or deny the application within 35 days from the date of the first regularly scheduled meeting at which the Economic Development liaison's report appears on its agenda. Granting of the tax abatement shall be subject to the affirmative vote of five members of the Board of Aldermen / Alderwomen, exclusive of the Mayor. The decision of the Board of Aldermen / Alderwomen shall be based upon the information provided by the applicant, the report of the Economic Development liaison, the criteria stated within this ordinance, and the Connecticut General Statutes.

In the event of unusual or extraordinary circumstances, the Board of Aldermen / Alderwomen may alter or waive any requirements contained herein.

D. Abatement Schedule

i. Business Enterprise Tax Incentive Abatement Schedules

- a. The Board of Aldermen / Alderwomen may, through the affirmative vote of five members of said Board, exclusive of the Mayor, authorize the City to enter into a written tax agreement with any party owning or proposing to acquire an interest in real property in the City of Derby fixing the assessment of the real property which is the subject of the Agreement and all improvement thereon or therein, subject to the cost of the project improvements exceeding the following thresholds:

| <u>Cost of such improvement to be constructed</u> | <u>Abatement Period</u> |
|-------------------------------------------------------|-------------------------|
| \$5,000,000.00 | Seven (7) years |
| \$1,500,000.00 | Five (5) years |
| \$750,000.00 | Three (3) years |

- b. If the increased assessment resulting from the cost of such improvement to be constructed is at least \$5,000,000.00, the City of Derby will consider entering into a seven (7) year written tax abatement agreement with such applicant, such that real estate taxes on the increase in gross taxable assessment from the improvements to real property will be abated by:

- 70% in the first year;
- 60% in the second year;
- 50% in the third year;
- 40% in the fourth year;
- 30% in the fifth year;
- 20% in the sixth year;
- 10% in the seventh year;

There shall be no abatement of taxation on any personal property owned by the applicant. Any tax abatement shall commence with the Grand List of October immediately following the issuance of the final certificate of occupancy for the subject property.

- c. If increase assessment resulting from the cost of such improvement to be constructed is at least \$1,500,000.00, the City of Derby will consider entering into a five (5) year written tax abatement agreement with such applicant, such that real estate taxes on the increase in gross taxable assessment from the improvements to real property will be abated by:

- 50% in the first year;
- 40% in the second year;
- 30% in the third year;
- 20% in the fourth year;
- 10% in the fifth year;

There shall be no abatement of taxation on any personal property owned by the applicant. Any tax abatement shall commence with the Grand List of October immediately following the issuance of the final certificate of occupancy for the subject property.

- d. If the increased assessment resulting from the cost of such improvement to be constructed is at least \$750,000.00, the City of Derby will consider entering into a three (3) year written tax abatement agreement with such applicant, such that real estate taxes on the increase in gross taxable assessment from the improvements to real property will be abated by:

- 30% in the first year;
- 20% in the second year;
- 10% in the third year;

There shall be no abatement of taxation on any personal property owned by the applicant. Any tax abatement shall commence with the Grand List of October immediately following the issuance of the final certificate of occupancy for the subject property.

ii. Adaptive Reuse Abatement Schedule

- a. The Board of Aldermen / Alderwomen may, through the affirmative vote of five members of said Board, exclusive of the Mayor, authorize the City to enter into a written tax agreement with any party owning or proposing to acquire an interest in real property in the City of Derby on which there is located a structure(s) of historical or architectural merit, subject to the cost of the project improvements equal to or exceeding the sum of \$500,000.00.

b. Real estate taxes on real improvements associated with the historic redevelopment and adaptive reuse of any structure deemed to have historic or architectural merit that qualify under this section shall be abated for a period of three (3) years in accordance with the following schedule, commencing with the Grand List of October immediately following the issuance of the first certificate of occupancy for the subject property.

- 30% in the first year;
- 20% in the second year;
- 10% in the third year;

c. If, after taxes on such structure have been abated in accordance with the terms of this ordinance, such structure is demolished or remodeled in a way which destroys its architectural or historical value, the then owner shall pay to the City an amount equal to the total amount of the taxes which had been abated under this ordinance.

E. Agreement

- i. Pursuant to the Aldermen's decision, the City will enter into a written agreement with the owner or lessee of real property for the terms of the agreement.
 - a. After approval of any such tax agreement, construction shall commence within twelve (12) months and shall be completed within twenty-four (24) months said approval. In the event that construction is not commenced and/or completed within the specified time frame, then any agreement entered into pursuant to this policy 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 alternative arrangements are authorized by the Board of Aldermen / Alderwomen.
 - b. If an applicant fails to comply with the payment of taxes upon the due date required, then any agreement entered into pursuant to this program may be terminated by action of the Board of Alderman / Alderwomen and, in such event, the full amount of the tax including accrued interest that would otherwise be due shall immediately become due and payable.

F. Transferability

- i. Any tax agreement entered into pursuant to this ordinance shall not be subject to assignment, transfer or sale without the consent of the Board of Aldermen / Alderwomen. In the event that any such agreement is assigned, transferred or sold without the Board's consent, then the agreement shall terminate, as of the effective date of assignment, transfer or sale and the full amount of the tax that would otherwise be due to the City of Derby, including accrued interest and lien fees, shall immediately become due and payable

G. Authority of Board of Aldermen / Alderwomen

- i. Nothing in this ordinance shall require the Board of Aldermen / Alderwomen to enter into a tax abatement agreement.

H. Retroactivity

This Ordinance is not retroactive.