

## **TOWN OF BROOKFIELD**

### **BUSINESS INCENTIVE TAX ORDINANCE**

#### **Section 197-38. Purpose and Statutory Authority.**

Pursuant to §12-65b of the Connecticut General Statutes, the Connecticut General Assembly authorized municipalities to fix assessments for construction or improvements to real property. The purpose of offering a deferral of assessment increases, attributable to new construction or improvements, is to encourage economic development within the Town of Brookfield. This program is designed to encourage economic investment by existing and new business entities within the Town of Brookfield.

#### **Section 197-39. Application and Eligibility.**

An application to the Town for a deferral of assessment increases for real property attributable to all improvements thereon or therein, and to be constructed thereon or therein, may be made by any party owning, possessing, or proposing to acquire, an interest in real property. In order to be eligible for the benefits provided by this ordinance, upon receipt of a report from the First Selectman in accordance with Section 197-40B, the Board of Selectmen must find that:

(a) the applicant proposes to use the construction or improvements to real property for office, retail, manufacturing, warehouse, storage or distribution, information technology use, a “mixed-use development” as the term is defined in General Statutes section 8-13m, or a hotel with conference center facilities where the cost of improvements for the hotel with conference center is \$3,000,000 or more;

(b) the applicant is not delinquent with respect to property taxes or other obligations owed to the Town of Brookfield or the Water Pollution Control Authority, such as water and sewer fees and assessments, with respect to the subject property or any other property owned by the applicant;

(c) in its sole and absolute discretion, the Board of Selectmen finds that the proposed construction and/or improvements will be of sufficient benefit to the Town of Brookfield and its citizens to warrant approving the application for tax deferral; and

(d) the subject property does not have frontage on Federal Road south of the junction of Federal Road and Route 133.

#### **Section 197-40. Application.**

A. All applications shall be submitted to the Town of Brookfield First Selectman, or his designee, on forms supplied by him/her. Each such application shall include the applicant’s estimate of the cost of the construction or improvements subject to a potential deferred assessment pursuant to this ordinance.

B. The First Selectman, after consultation with the Tax Assessor, Building Official, Board of Finance Chairperson and Economic Development Commission Chairperson, shall review each application submitted to him/her and shall forward each such application to the Board of Selectmen within 45 days of receipt, together with his/her report concerning whether or not the application meets the eligibility criteria contained in this ordinance. In the event that the application is for an agreement that deviates from the minimum fixed assessment schedule set forth in Section 197-41, then the First Selectman shall forward the application to the Board of Finance and Economic Development Commission for their review and comment to be completed within the 45 day period set forth herein.

C. Upon receipt of an application, report from the First Selectman, and comments, if any, from the Board of Finance and Economic Development Commission, or their Chairpersons, as appropriate, the Board of Selectmen shall approve the application, reject the application, or return the application to the First Selectman or the applicant for further information within two (2) months following the official receipt by the Board of the application and report from the First Selectman. The date of "official receipt" is the date of the first Board of Selectmen meeting at which the proposed Assessment Deferral Agreement is a topic on the meeting agenda.

The Board of Selectmen shall state its findings for approval or its reasons for rejection upon the record.

Section 197-41. Minimum Considerations.

Notwithstanding the authority of the Town of Brookfield to enter into statutorily authorized individual assessment deferral agreements with applicants as set forth more fully in Section 197-43 below, all qualified applicants, upon Board of Selectmen approval in its sole and absolute discretion, will be entitled to receive a minimum fixed assessment, which expressed as a percentage of the full additional assessment that would otherwise apply, shall be as set forth below:

<u>Costs of Improvements</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>
\$3,000,000 or more	25%	40%	60%	80%	X	X	X
\$500,000 to \$2,999,999	30%	50%	X	X	X	X	X
\$100,000 to \$499,999	50%	50%	X	X	X	X	X

Section 197-42. Effective Date of Deferral.

The approved tax deferral shall be effective upon the date of the last of all of the following to occur:

- (a) completion of construction or improvements;

(b) the issuance of a final Certificate of Occupancy for the completed construction and/or improvements; and

(c) certification by the Tax Assessor as set forth in this ordinance. Deferral will be applied on a *pro rata* basis, so that any scheduled, first-year benefit commencing on the date of the final Certificate of Occupancy, will be continued from one assessment year to the next, as required, and for subsequent assessment years until the scheduled benefit expires. The continuance of the approved tax deferral shall be subject to the default provisions set forth in section 197-43 of this ordinance and the contingencies set forth therein.

Section 197-43. Assessment Deferral Agreement.

The Board of Selectmen reserves the right, upon the applicant's request, to enter into an Assessment Deferral Agreement with individual applicants for deferral schedules other than the minimum fixed assessment schedule set forth in Section 197-41, within statutorily authorized limits set forth in General Statutes § 12-65b, as from time to time amended, and for the uses set forth in Section 197-39. Agreements shall be predicated upon a finding by the Board of Selectmen, with advice from other Town officials as required, that the public benefit to the Town that is likely to result from the proposed construction or improvements is sufficient to warrant consideration for a tax deferral exceeding the minimum fixed assessment schedule set forth in Section 197-41.

A. The Assessment Deferral Agreement to be signed by the applicant and the First Selectman on behalf of the Town shall refer to and incorporate the application as approved by the Board of Selectmen, shall reflect the assessment on the property immediately prior to the commencement of construction, and shall specify the period of deferral.

B. The Assessment Deferral Agreement shall provide that, upon completion of construction or improvements made in accordance with the terms of the agreement, and upon certification by the Tax Assessor, as set forth in this ordinance and upon issuance of the final Certificate of Occupancy, the increase in the assessment on the property due to such construction or improvements shall be deferred in accordance with a statutorily authorized schedule, as determined by the Board of Selectmen.

C. The Assessment Deferral Agreement shall provide that such construction or improvements shall be completed by a date fixed in Agreement. In the event that on the date so fixed for completion, the Tax Assessor denies certification that the construction or improvements have been performed in accordance with the eligibility criteria as set forth in this section and/or in accordance with the terms of the Assessment Deferral Agreement, or at any time if the Tax Assessor determines that the owner or lessee of the property is in default under the terms of the Agreement, and has failed to cure said default after notice and an opportunity to do so within the time stated in the notice from the Tax Assessor, the Agreement shall automatically terminate. In the event of termination, the owner and/or lessee of the property, as herein provided, shall be liable for any increase in taxes for which he/she would have been liable in the absence of such Assessment Deferral Agreement. The Agreement shall further provide that a property owner or lessee, as herein provided, may apply, prior to expiration, to the Board of Selectmen for an

extension of time in which to complete the construction or improvements which, for good cause shown, the Board of Selectmen may approve, but in no event shall such extension of time exceed a period of one (1) year.

D. The Assessment Deferral Agreement shall further provide that the Agreement is subject to the following conditions:

1) that, in addition to the certification requirement of Section C above, the property shall be subject to inspection and certification by the Building Official and Health Director, as being in conformance with such provisions of the State Building and Health Codes and local Housing Codes as may apply, and by the Zoning Enforcement Officer to ensure conformance with the Zoning Regulations, and must be in compliance with all other codes or state and local laws applicable to the new construction and/or improvements;

2) that the Assessment Deferral Agreement shall continue only for as long as the use of the property remains the use authorized by Section 197-39 and set forth in the Agreement and shall provide that the property owner or lessee, as the case may be, shall annually certify to the Tax Assessor on a specified date that the property is used for the authorized use set forth in the Assessment Deferral Agreement;

3) that the Assessment Deferral Agreement shall automatically terminate without notice if there is any delinquency in the payment of property taxes or other obligations on the subject property owed to the Town of Brookfield or the Water Pollution Control Authority, such as water and sewer fees and assessments, as of one (1) month following the due date for the payment; and

4) that the Assessment Deferral Agreement shall automatically terminate without notice upon the date of the sale or transfer of the improvements unless the new owner or lessee, as the case may be, of such property shall enter into a new contract with the Town incorporating all the terms of the Agreement with the former owner or lessee, as herein provided.

5) The subject construction and/or work on the improvements must commence within 12 months from the date of the Assessment Deferral Agreement, and the final Certificate of Occupancy must be issued within 24 months from the date of the Agreement, except where these timeframes are expressly modified by the terms of the Agreement. The failure to adhere to any of the required timeframes in this subsection shall result in the automatic termination, without notice, of the Agreement.

Section 197-44. Additional Provisions and Requirements.

A. The Tax Assessor, after consulting with the Building Official, shall have the sole responsibility of determining the cost and value of the construction or improvements that are subject to a deferral of assessment increases pursuant to this ordinance.

B. A copy of any Assessment Deferral Agreement entered into pursuant to the provisions of this ordinance shall be forwarded to the Tax Assessor, who shall adjust his/her records accordingly.

C. The Tax Assessor shall forward a copy of a certification that the construction or improvements have been completed in accordance with the Assessment Deferral Agreement to the First Selectman. In the event that the Tax Assessor denies such certification, the Tax Assessor shall send a copy of the denial, including the reasons for denial, to the First Selectman who shall then inform the Board of Selectmen that the certification was denied and that the Tax Deferral will not commence. Upon such denial of certification by the Tax Assessor or upon a termination of the Agreement, the Tax Assessor shall readjust his/her tax records in accordance with the provisions of this ordinance.

D. Any agreement entered into under the provisions of this ordinance shall be recorded on the land records of the Town.

E. The Board of Selectmen may establish written procedures and technical specifications for the administration of this ordinance.

F. Properties upon which construction or improvements commenced prior to the adoption of this ordinance, but which have not yet received a final Certificate of Occupancy, may be eligible for the benefits set forth in this ordinance provided that they meet the requirements of, and apply in accordance with, the provisions of this ordinance.

#### Section 197-45. Eligible Personal Property

Pursuant to General Statutes Section 12-65h, the Board of Selectmen may approve an agreement to defer the increase in assessment of certain personal property to be located, or that is proposed to be located, in a "manufacturing facility" as defined in General Statutes Section 12-81(72), subject to the requirements of Section 12-65h. The determination and approval of any such agreement shall be based upon the general guidelines, standards and requirements set forth in the Business Incentive Tax Deferral Program Ordinance that could properly be applied to a review of, and the terms of, an Assessment Deferral Agreement for eligible personal property.

The provisions of this Ordinance shall become effective on the twenty-first (21) day following its adoption and publication as required by law.

Adopted by the Board of Selectmen of the Town of Brookfield on July 7, 2014.

William N. Tinsley  
Martin E. Flynn, Jr.  
William R. Davidson  
Brookfield Board of Selectmen