

CHAPTER 2015-28

No. 400 AN ORDINANCE AMENDING CHAPTER 21, "REVENUE AND FINANCE," TO ADD ARTICLE XVI, "TAX STABILIZATION FOR COMMERCIAL AND RESIDENTIAL PROPERTY" FOR PROPERTY WITHIN THE I-195 REDEVELOPMENT DISTRICT COMMISSION AND THE CAPITAL CENTER REDEVELOPMENT DISTRICT

Approved July 23, 2015

Be it ordained by the City of Providence:

SECTION 1. Chapter 21, "Revenue and Finance," is hereby amended to add Article XVI, "Tax Predictability for Commercial and Multi-Family Residential Property" as follows:

Sec. 21-260. Authorization and Purpose.

- (a) *Authorization.* The city council has the authority, under Section 44-3-9 of the General Laws of the State of Rhode Island, as amended, to exempt from tax payment, in whole or in part, real and personal property which has undergone environmental remediation, is historically preserved, or is used for affordable housing, manufacturing, commercial, or residential 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 rate of tax.
- (b) *Purpose.* In order to increase the pace of economic development, and thereby increase the city's tax base, it is vital that city provide property developers, entrepreneurs and investors with a predictable tax phase-in plan that will encourage investment in Providence. It is therefore in the public interest to develop a set of clear criteria for eligibility for tax stabilization, as well as a defined long-term plan to bring a project to full taxation.

Sec. 21-261. Eligible Properties.

Eligible properties shall:

- (a) Be located on land as defined in RIGL 37-5-8 and 42-64.14-4 ("I-195 redevelopment district") and may include properties that directly abut and are contiguous with I-195 redevelopment land, as defined in RIGL 42-64.14-15; or
- (b) Be located on undeveloped land within the Capital Center Special Development District, as defined in Chapter 2, Article XXIII, Sec. 2-362 of the Code of Ordinances of the City of Providence; and
- (c) Include new construction (excluding land acquisition costs) with a construction valuation of at least \$10,000,000; or the rehabilitation of commercial or multi-family residential property with a cost of construction of at least \$10,000,000.

Sec. 21-262. Criteria

The director of department of inspections and standards shall make the determination whether the subject property or project meets the minimum requirements in accordance with Section 21-261. Owners of eligible properties and projects are required to begin construction within twelve (12) months and complete construction within three (3) years of the effective date of the subject stabilization. For the purposes of the foregoing sentence, a temporary certificate of occupancy shall be sufficient. Owners of properties and projects that fail to meet any of 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. The owner may, twelve (12) months prior to the applicable deadline, submit a request to the city council for approval of an extension to such applicable deadline.

Sec. 21-263. Tax Considerations and Stabilization Period.

(a) Commercial and Residential Projects-Standard. The tax assessor shall determine the land valuation at project site, prior to commencement of the stabilization period. The tax assessor will then establish the “base land tax” based on the valuation. Should a project or portion of a project site be subject to property taxes prior to the commencement of the stabilization period, that tax amount shall be considered as the “base tax.” Assessed tax payments upon enactment of the base land tax will begin in year 2 of the stabilization period and be frozen for 3 (three) years. The assessor shall issue a bill beginning in the fifth tax year after the commencement date, based upon the property’s valuation at that time. Tax payments will be calculated as a percentage of the total tax at the annual tax rate, with a phased-in schedule, as shown below. Projects described in this subsection shall require a signed agreement, between the applicant and the city. Upon issuance of a certificate of occupancy by the department of inspection and standards, the city assessor shall assess the project, and the project shall be reassessed according to the city’s regular revaluation cycle. In order to allow sufficient time for construction and project stabilization, following approval of an eligible property for tax stabilization in accordance with this ordinance, the stabilization shall last for a period of fifteen (15) years from the date the subject stabilization agreement is executed. Stabilized annual property tax payments on properties defined in Sec. 21-261 (a) that are outside the I-195 redevelopment district shall be calculated by the tax assessor and may not be less than the annual real property taxes paid in any of the three years prior to the commencement of the stabilization period.

Year	Schedule
1	\$0/Base Tax (if applicable)
2	Base Tax and/or Base Land Tax
3	Base Tax and/or Base Land Tax
4	Base Tax and/or Base Land Tax
5	Base Tax and/or Base Land Tax + 5% of increase to assessed valuation
6	Base Tax and/or Base Land Tax + 10% of increase to assessed valuation
7	Base Tax and/or Base Land Tax + 20% of increase to assessed valuation
8	Base Tax and/or Base Land Tax+ 30% of increase to assessed valuation
9	Base Tax and/or Base Land Tax + 40% of increase to assessed valuation
10	Base Tax and/or Base Land Tax + 50% of increase to assessed valuation
11	Base Tax and/or Base Land Tax + 60% of increase to assessed valuation
12	Base Tax and/or Base Land Tax + 70% of increase to assessed valuation
13	Base Tax and/or Base Land Tax + 80% of increase to assessed valuation
14	Base Tax and/or Base Land Tax + 90% of increase to assessed valuation
15	Full Taxation

(b) Commercial Projects-Job Creation. New construction of commercial property on land in the I-195 redevelopment district with a cost of construction of at least \$50,000,000, may be eligible for a tax stabilization period of twenty (20) years under the following criteria:

- (1) The first five projects authorized by the I-195 Redevelopment District Commission with a construction cost of \$50,000,000 or greater shall be eligible for a tax stabilization period of twenty (20) years through an application process that requires no approvals by the city council or mayor.
- (2) Subsequent projects after the initial five may be eligible for up to twenty (20) years, the terms of which shall be subject to approval by ordinance by the city council and mayor. Projects with an estimated creation of 150 or more permanent jobs, will be preferred.
- (3) The tax assessor shall determine the land valuation at project site, prior to commencement of the stabilization period, for the purpose of establishing a base tax or base land tax, whichever is greater. Upon issuance of a certificate of occupancy by the department of inspection and standards, the tax assessor shall assess the project, and the project shall be reassessed according to the city's regular revaluation cycle.

Tax payments will be calculated as a percentage of the total tax at the annual tax rate, with a phased-in schedule, as shown below.

Year	Schedule
1	\$0/Base Tax (if applicable)
2	\$0/Base Tax (if applicable)
3	\$0/Base Tax (if applicable)
4	Base and/or Base Land Tax
5	Base and/or Base Land Tax
6	Base and/or Base Land Tax + 6.5%
7	Base and/or Base Land Tax + 13.0%
8	Base and/or Base Land Tax + 19.5%
9	Base and/or Base Land Tax + 26.0%
10	Base and/or Base Land Tax + 32.5%
11	Base and/or Base Land Tax + 39.0%
12	Base and/or Base Land Tax + 45.5%
13	Base and/or Base Land Tax + 52.0%
14	Base and/or Base Land Tax + 58.5%
15	Base and/or Base Land Tax + 65.0%
16	Base and/or Base Land Tax + 71.5%
17	Base and/or Base Land Tax + 78.0%
18	Base and/or Base Land Tax + 84.5%
19	Base and/or Base Land Tax + 91.0%
20	Full Taxation

Sec. 21-264. Transfer of exempt or stabilized property.

Tax benefits for eligible properties 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 city council). In the event that the tax stabilized property becomes exempt from real estate taxes during the term of tax stabilization through conveyance, or otherwise, to a real estate tax exempt entity, the tax stabilization agreement shall be void ab initio with owners of tax stabilized properties being liable for full taxes retroactively to the execution date of the tax stabilization agreement.

In the event that a project owner transfers a project site to a tax exempt entity within the five-year period immediately following the expiration of the agreement, the project owner agrees to pay a percentage of the sale price to the city as follows: five percent (5%) of the sale price if the project site is sold to a tax exempt entity in the first year following expiration; four percent (4%) of the sale price if sold to a tax exempt entity in the second year; three percent (3%) of the sale price if sold to a tax exempt entity in the third year; two percent of the sale price if sold to a tax exempt entity in the fourth year; one percent (1%) of the sale price if sold to a tax exempt entity in the fifth year.

Sec. 21-265. Forms and procedures.

The city assessor, together with the director of the department of planning and development, shall develop standardized forms and additional procedures consistent with this ordinance, as they deem necessary and proper to effectuate the terms and provisions of this ordinance. The executive director of the I-195 Redevelopment District Commission, or his or her designee, shall participate in the formulation of and periodic review over the implementation of the conditions set forth in Sec. 21-266. Further, on-going compliance and monitoring shall be the responsibility of the city, but any ongoing reporting shall be shared with the I-195 Redevelopment District Commission at regular intervals.

The procedure for eligible properties under this section shall be as follows:

- (a) No person shall be entitled to any exemption herein authorized without first filing an application for tax stabilization with the office of the city assessor. The application shall include the program of building, alterations and/or improvements to be made. The applicant shall include a statement outlining measures to comply with the code of ordinances, and a statement regarding the hiring of minority and women business enterprises (MBE/WBE) pursuant to Section 21-52 of the Code of Ordinances. No application shall be considered unless:
- (1) The application is filed prior to the issuance of the certificate of occupancy;
 - (2) The applicant certifies that the investment of new construction (excluding land acquisition costs) meets the minimum required value of \$10,000,000 or that the rehabilitation of commercial or multi-family residential meets the minimum cost of construction of \$10,000,000;
 - (3) The application includes a compliance plan demonstrating how the applicant will fulfill each of its community benefit responsibilities as outlined in Sec. 21-266.
 - (4) A fiscal note prepared by the department of finance or the internal auditor is attached to the application, comparing the proposed project's "true tax" and the estimated tax to be paid under the terms of the tax stabilization agreement.
 - (5) A nonrefundable application fee in the amount of 0.1 percent of the estimated cost of the project is to be paid to the city; and
 - (6) For projects applying for a stabilization under 21-263 (b), a detailed business plan, including revenue projections and estimated number of permanent employees at project site.
- (b) Within fifteen (15) days of receipt of a completed application (together with the application fee), the city assessor shall forward a copy of such application to the director of department of inspections and standards, city collector, and director of the department of planning and development for their respective review, as follows:

(1) The director of department of inspection and standards shall review the application to determine whether any violations of the provisions of the building code of the city exist with respect to the subject property of the applicant and any other property in the city owned by the applicant. If no violations exist, he or she shall certify the fact to the city assessor within fifteen (15) days. If violations do exist, within said fifteen (15) days, he or she shall forward a statement to the city assessor and the applicant specifying the nature and extent of the violations. No exemptions granted hereunder shall be effective unless and until any and all such violations have been cured. Within the same fifteen (15)-day period, the director of department of inspections and standards shall issue a letter to the city assessor (with a copy to the applicant) stating whether the project will involve the substantial rehabilitation of an eligible property.

The applicant shall have thirty (30) days from its receipt of written notice (or copy of notice to the city assessor) to cure any outstanding violations or other matters which serve as a valid basis (in accordance with this subsection (b) for the building official not approving the subject application. Failure by the applicant to effectuate such cure(s) within said thirty (30) day period shall result in the city assessor removing the subject application from the assessor's list as an incomplete application. Nothing shall prohibit the subject property owner from re-applying for tax consideration.

(2) The city collector shall review the city tax records to determine whether all taxes (together with interest and penalties) which are due and owed to the city with respect to the property to which the exemption may apply, and all other property in the city owned by the applicant, have been paid. If no deficiency exists, the city collector shall certify that fact to the city assessor within fifteen (15) days. If deficiencies do exist, within said fifteen (15) days, he or she shall forward a statement of the amounts due and the properties involved to the city assessor and the applicant. No exemption granted hereunder shall be effective unless and until any and all taxes together with interest and penalties remaining unpaid and due and owed to the city assessed on such property have been paid in full to the city, or the applicant enters into a written payment agreement with the city.

The applicant shall have thirty (30) days from its receipt of written notice (of copy of notice to the city assessor) of a deficiency or deficiencies to pay any and all amounts due to the city. Failure by the applicant to make such payment(s) within said thirty (30) day period shall result in the city assessor removing the subject application from the assessor's list as an incomplete application. Nothing shall prohibit the subject property owner from re-applying for tax consideration.

Should, during the duration of the tax consideration period, tax payments established by the terms of this agreement become delinquent, the city collector shall--if the property owner is eligible--to secure a tax payment plan with the property owner that will bring all taxes and interest current within twelve (12) months in duration. Should the property owner not agree to said payment plan or adhere to the schedule and requirements of the payment plan, the tax stabilization agreement will be suspended and the property will revert to full taxation for the period in which the taxes are delinquent.

The applicant shall be current with all taxes and fees due to the state of Rhode Island. No exemption granted hereunder shall be effective unless and until any and all taxes and fees together with interest and penalties remaining unpaid and due and owed to the state have been paid in full or the applicant enters into a written payment agreement with the state.

(3) The director of the department of planning and development shall review the application to determine whether:

- i. it satisfactorily addresses the requirements in Section 21-266; and
- ii. the applicant is the recipient of other forms of financial assistance from the city, and if so, whether the applicant is current with loan payments and/or other financial obligations to the city as a result of such assistance.

If no material deficiency exists, the director of the department of planning and development shall certify that fact to the city assessor within fifteen (15) days. If a material deficiency exists, the director of the department of planning and development, within said fifteen (15) days, shall forward a statement to the city assessor and the applicant specifying the nature and extent of the material deficiency. The director of the department of planning and development shall confirm that the applicant is not the recipient of other forms of financial assistance from the city.

The applicant shall have thirty (30) days from its receipt of written notice (or copy of notice to the city assessor) to cure any material deficiency noted by the director of the department of planning and development. Failure by the applicant to resolve such material deficiency within said thirty (30) day period shall result in the city assessor removing the subject application from the assessor's list as an incomplete application. Nothing shall prohibit the subject property owner from re-applying for tax consideration.

NOTE: Steps (1), (2) and (3) may be performed concurrently.

- (c) Within fifteen (15) days following the receipt of the statements from the director of department of inspections and standards, city collector, and director of department of planning and development, the assessor will review the application and, if the foregoing requirements set forth in Section 21-265 (a-b) have been met (as evidenced by the required certifications and determinations of the assessor, director of department of inspections and standards, city collector, and director of department of planning and development, as more particularly set forth above), the assessor shall forward documentation to the city solicitor.
- (d) The city solicitor shall prepare a tax stabilization agreement with the applicant pursuant to, and upon the terms set forth in this ordinance. Within fifteen (15) days following the receipt of documentation from the assessor, the city solicitor shall submit the stabilization agreement and application, along with all documents, forms, and statements required in (a), (b), and (c) of this subsection, to the city council, for review as to form only. Review and official receipt by the city council shall be completed within thirty (30) days of city solicitor's transmittal to the city council, unless the city council finds a material deficiency in the application or associated documents.

In the case of a project applying for a tax stabilization under Sec. 21-263 (b) (2), the city solicitor shall prepare an ordinance outlining the provisions of the tax stabilization agreement with the applicant pursuant to, and upon the terms set forth in this ordinance. Said tax stabilization agreement ordinance shall be subject to approval of the city council.

- (e) All tax stabilization agreements shall contain a provision providing that the receipt of the tax stabilization benefits shall be contingent upon the project receiving the necessary approvals from the Historic District Commission, the Downtown Design Review Committee, the Capital Center Commission, the City Plan Commission, the Zoning Board of Review, or the I-195 Redevelopment Commission acting as any or all of these boards or commissions (as applicable). The director of the department of planning and development shall provide to the city solicitor confirmation of approval, and any and all benefits shall be withheld under such approvals are granted.

- (f) All tax stabilization agreements shall include a monitoring/compliance fee in the amount of 0.01 percent of the cost of the project is to be paid annually for the term of the agreement to the city.

Sec. 21-266. Employment and Contracts.

(a) Construction.

(1) MBE/WBE. The project site owner shall make a good faith effort to award to minority business enterprises as defined in Rhode Island General Laws, Section 31- 14.1 ("MBE Act") no less than 10% of the dollar value of the construction costs for the Project (as determined in accordance with the rules and regulations promulgated pursuant to MBE Act). The project site owner shall make a good faith effort to award to women business enterprises (WBEs) no less than 10% of the dollar value of the construction costs for the Project (as determined in accordance with Section 21-52 of the Code of Ordinances of the City of Providence). The project site owner will request the city's MBE/WBE office to establish a list of qualified MBE/WBE companies in order to satisfy its MBE/WBE construction goals. In this manner, the city will assist the project site owner in meeting said goals. The process of participating with the MBE/WBE office shall begin upon passage in order to develop a designated MBE/WBE subcontractor list which will encourage MBE/WBE participation and joint ventures with other members with the construction industry.

(2) Apprenticeship. The developer or project owner shall ensure that one-hundred percent (100%) of the hours worked on the project shall be performed by trade construction subcontractors who have or are affiliated with an apprenticeship program as defined in 29 C.F.R. § 29 et seq. Up to twenty percent (20%) of the hourly requirement may be waived if replaced with hours worked by qualified MBE/WBE companies registered in the State of Rhode Island. Certification of this waiver shall be reviewed and signed by the designated MBE/WBE coordinator within the department of purchasing.

The developer or project owner shall make a requirement in the contracts between its construction manager and general contractor and their subcontractors who have apprenticeship programs as defined in 29 C.F.R. § 29 that not less than ten percent (10%) of the total hours worked by the subcontractors' employees on the project are completed by apprentices registered in the aforementioned apprenticeship programs.

The developer or project owner shall as part of its contracts between its construction manager and general contractor and their subcontractors require that the subcontractors submit to the department of planning and development quarterly verification reports to ensure compliance with this section.

The developer or project owner, its construction manager or general contractor or other authorized person/entity may petition the city department of planning and development to adjust the apprenticeship work hour requirements to a lower percentage upon a showing that:

- a. compliance is not feasible because a trade or field does not have an apprenticeship program or cannot produce members from its program capable of performing the scope of work within the contract; or
- b. compliance is not feasible because it would involve a risk or danger to human health and safety or the public at large; or

- c. compliance is not feasible because it would create a significant economic hardship; or
- d. compliance is not feasible for any other reason which is justifiable and demonstrates good cause.

(3) Internal Revenue Service reporting. Except as provided under Rhode Island General Laws § 28-42-8, any person performing services at the project site shall annually receive either a W-2 statement or an IRS Form 1099.

(4) First Source List. Pursuant to Chapter 21-93 of the code of ordinances of the city, the project site owner shall enter into a First Source agreement covering the hiring of employees necessary to complete the proposed project and throughout the term of the tax stabilization agreement. The project site owner shall work in conjunction with the First Source director to develop the First Source agreement. The owner shall also make a good faith effort to employ Rhode Island and Providence residents for any and all positions not included in its First Source obligations, as well as ensure that any general contractor/construction manager and all subcontractors utilized also make good faith efforts to employ Rhode Island and Providence residents for any and all positions not included in their First Source obligations.

(5) "Buy Providence" Initiative. The project site owner will use good faith efforts to ensure that construction materials are purchased from economically competitive and qualified vendors located in the city of Providence. In furtherance of this effort, the project site owner will work with the city to develop a list of Providence vendors and subcontractors in order to create a preferred vendor list of qualified and economically competitive vendors for the construction of the project. Furthermore, once the project site owner constructs the development, the project site owner will use good faith efforts to conduct ongoing business with and provide preference to economically competitive and qualified Providence businesses.

(6) In the event that there shall be a failure to comply with this Section 21-266 (a), the department of planning and development shall have standing to seek enforcement of this provision of the ordinance in the Rhode Island Superior Court. The department shall also have the ability to impose a fine of \$500.00 per day for each day of non-compliance with this section.

- (b) Permanent Employment. In conjunction with its efforts pursuant to this section and its ongoing efforts to provide equal employment opportunity without regard to race, color, religion, natural origin, sex, age or handicap, the project site owner shall liaise with the city and with the director of First Source to assist in the recruitment of qualified minority, women, and handicap applicants as well as those on the First Source List for all of its employment positions.
- (c) Reporting. The project site owner, the director of planning and development, the director of First Source, and the a representative of the third party entity monitoring apprenticeship requirements shall annually report to the city council on progress in complying with the provisions of this ordinance, including but not limited to, Section 21-266.

Sec. 21-267. Revocation.

The city 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.

Sec. 21-268.

The project site owner and the city agree that the project site owner retains the right to appeal the valuation or calculation of the taxes assessed from time to time.

Section 21-269. Severability.

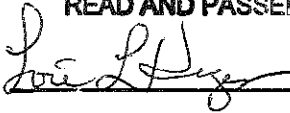
If any one section of this ordinance is found to be unenforceable, then the other provisions herein shall continue to have the same force and effect as if the unenforceable provision were not passed as part of this ordinance.

Section 21-270. Applicable Law.

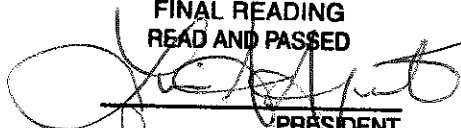

This agreement shall be construed under the laws of the State of Rhode Island.

SECTION 2. This Ordinance shall become effective immediately upon passage.

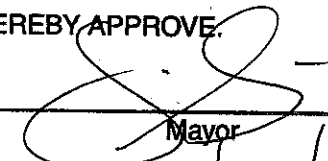
IN CITY COUNCIL
JUL 16 2015
FIRST READING
READ AND PASSED


CLERK

IN CITY
COUNCIL
JUL 22 2015
FINAL READING
READ AND PASSED


PRESIDENT

CLERK

I HEREBY APPROVE.



Mayor
Date: 7/23/15