

## BERLIN TAX STABILIZATION

DATED: January 3, 2011

Approved by Town of Berlin Voters on March 1, 2011

PURPOSE: To encourage and provide incentives to businesses and developers considering locating, relocating, developing or expanding within the Town of Berlin.

The Berlin Selectboard may enter into a tax stabilization agreement ("agreement") with existing or new owners, lessees or developers of agricultural, multi-unit residential developments, industrial or commercial real property.

The agreement may apply to new construction, renovations to existing property or additions to agricultural, multi-unit residential developments, industrial or commercial real property.

All agreements entered under the Berlin tax stabilization program shall comply with the provisions of Title 24, Section 2701 of the Vermont statutes annotated.

The agreement shall be based solely on the increase in assessed valuation due to the project construction or total assessed value of the new construction, and shall apply only to the municipal tax applicable to the property. The agreement shall be awarded at the sole discretion of the Berlin Selectboard after thorough review of the merits of the project and determination of whether the project meets the required criteria set forth in this program.

Applications must be received and approved prior to the commencement of any construction on the project. No retroactive contracts will be considered.

Applications shall be delivered to the Berlin Town Administrator. The Town Administrator and the Berlin Economic Development Council (the "Council") shall review the applications with the applicant, consult with the Town's appraiser and make an initial determination as to the applicant's compliance with the criteria set forth herein, the impact of the proposal on the valuation of the property and the tax impact of any agreement. The Town Administrator shall place the application on the agenda for a meeting of the Selectboard, at which time the applicant will have the opportunity to make a formal presentation to the Selectboard. The Selectboard will consider the application, any additional information provided by the applicant, and the recommendations of the Town Administrator and the Council and shall take action to approve or deny the application or to request additional information.

Agreements for new construction or improvement projects may be structured as follows:

- 3 year tax stabilization agreement for projects under \$1M based solely on the increase in assessed valuation due to the project: Year 1: 25%, Year 2: 50%, Year 3: 75%, Year 4: 100%
- 5 year tax stabilization agreement for projects at or above \$1M based solely on the increase in assessed valuation due to the project: Year 1: 10%, Year 2: 20%, Year 3: 40%, Year 4: 60%, Year 5: 80%, Year 6: 100%.

Proposed agreements that do not meet the above criteria or which would result in a term of more than 5 years shall require approval by Berlin voters at a duly warned regular or special town meeting.

- TO QUALIFY: The proposed project must meet all of the following criteria:
  - The amount invested in the proposed project shall be at least a 25% of the greater of (i) the tax-assessed value of the property or (ii) the fair market value of the property at the time of the application;
  - The amount invested in the property shall be at least \$200,000;
  - The proposed project shall include all improvements and repairs necessary such that, upon completion of the project, the property is fully compliant with all zoning, building, plumbing, electrical, life safety statutes, codes or ordinances, the Americans with Disability Act (ADA) and all other federal, state or local statutes, codes, ordinances and rules, as applicable;
  - The applicant shall demonstrate current access to capital necessary to complete the project as presented;
  - The project is consistent with the Berlin Town Plan and Economic Development Plan;
  - The applicant is in good standing with Vermont Tax Department, the Internal Revenue Service, local municipalities and the Town of Berlin with respect to all taxes.

All projects shall be further reviewed and reported using the following criteria:

Does the project:

- Create new jobs or retain existing jobs;
- Eliminate blight, improve aesthetics, or preserve historic or existing structures integral to the project;
- Remove environmental hazards such as hazardous waste, noise, dust, odor, materials or other contaminations;
- Impact municipal, public safety, educational services or infrastructure in a significant way?

The Council shall write a summary report on its review of the application which shall be made available on the Town website and in hard copy, upon request. The application shall be posted as part of the Selectboard's agenda at least two weeks before the Selectboard plans to consider taking a vote.

The following documents and information shall be submitted by applicant and reviewed by the town Administrator and the Selectboard (Council) for final approval by the Berlin Selectboard:

- Written application, duly signed;
- The full legal names and addresses of all persons and entities with a legal interest in the property;
- Current tax assessed value of the property;

- Site plan showing existing property lines, buildings and improvements;
- Scale drawing of all proposed construction detailing but not limited to the square footage and the proposed use of all space;
- Written estimate of construction costs;
- Employment data, current and projected;
- Any additional information requested by the Council necessary to evaluate the proposal under the relevant criteria;
- A letter from the Central Vermont Economic Development Corporation relative to the economic impact of the project and from the Central Vermont Regional Planning Commission indicating whether the project is compatible with the Central Vermont Regional Plan;
- Optional letters of support from other regional stakeholders.

The applicant should be aware that this is a public process, and as such all meetings shall be open to the public and all information requested in the application shall be considered public information, except for information and documents exempt from public inspection or copying pursuant to Title I, Sec. 317 ( c) of the Vermont Statutes Annotated.

Following execution of the Agreement, the applicant shall submit an annual report to the Town Administrator and the Council on or before January 15 of each year during the term of the agreement, demonstrating continuing compliance with the criteria of the Agreement. The Town Administrator shall report the following to the council:

- Any material change in the use of the property or in the nature of the business;
- Any sale or transfer of the property or the business conducted on the property;
- Any information relating to noncompliance with the terms of the tax stabilization agreement or to the failure to complete the project as presented during the application process;
- Information relating to the non-payment or delinquency of any taxes assessed against the property;
- Information relating to non-compliance with any zoning, building, plumbing, electrical, life safety codes, statutes or ordinances, the Americans with Disabilities Act or other relevant federal, state, or local statutes, rules, ordinances or codes.

The Council and the Town Administrator shall notify the Berlin Selectboard of any circumstances, as noted herein, during the term of the tax stabilization agreement which might impact compliance with the agreement. After such notification, or on their own volition, the Selectboard may direct the Town Administrator to send a written notice of non-compliance to the applicant providing a 90 day period of redress. Failure of the applicant to come into compliance with any provision of the tax stabilization agreement may result in the termination of the tax stabilization agreement, provided that written notice of such termination is forwarded by certified mail to the Applicant. Termination of the agreement shall be effective upon applicant's receipt of such written notice.

A rollback clause shall be included in all tax stabilization agreements providing for repayment of all taxes that would have been due and payable in the absence of the agreement, authorizing payment in full of such taxes, an 8% penalty and interest at a rate of 12% per annum, from the effective date of the agreement through the date of breach of the agreement. The rollback provision shall be invoked at the discretion of the Selectboard, and shall be limited to breaches occasioned by an applicant's fraud, intentional misrepresentation or similar circumstances demonstrating that the nature of the applicant's breach is egregious in nature.

All agreements shall contain a provision prohibiting assignment of the rights and obligations of the agreement without the prior written consent of the Selectboard. In the event of a sale or transfer of ownership of the property subject to the agreement, the agreement shall terminate upon such sale or transfer of ownership, unless the Selectboard consents to assignment of rights and obligations imposed by the agreement to the transferee of the property. Such consent shall be requested in writing by the current or proposed owner of the property and received by the Town Administrator at least thirty (30) days prior to the date of the sale or transfer of the property. The Selectboard shall act to approve or deny consent for assignment of the agreement within 30 days, and shall consult with the council regarding the request for assignment.

In the event an applicant seeks to terminate an existing agreement with the Town, the applicant shall submit a written request to the Town Administrator and the Council, setting forth the grounds in support of the termination request. The Selectboard shall act to approve or deny the request for termination, subject to the advice and recommendations of the Town Administrator and the Council.

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