

**ORDINANCE \_\_\_\_\_**

**ORDINANCE AMENDING ORDINANCE NO. 45-OH**

**AN ORDINANCE AMENDING LEE OGLE ENTERPRISE ZONE INCENTIVES**

**WHEREAS**, the City of Rochelle has previously adopted Ordinance No. 45-OH with respect to the Lee Ogle Enterprise Zone and the Enterprise Zone Intergovernmental Agreement by and among the City of Dixon, Lee County, the City of Rochelle and Ogle County; and

**WHEREAS**, the parties have made several amendments, adding the City of Amboy, Village of Mount Morris, City of Oregon, Village of Ashton, and Village of Franklin Grove to the Enterprise Zone and the Enterprise Zone Intergovernmental Agreement; and

**WHEREAS**, the Lee Ogle Enterprise Zone Advisory Board desires to expand local incentives to meet the needs of new and expanding industry in the Enterprise Zone; and

**WHEREAS**, the City of Rochelle, along with the other Designating Units of Government, have determined and concur that it is desirable and necessary to amend the qualifying criteria for, and the terms of the property tax abatements available within the Zone to meet these needs and improve the competitiveness of the region; and

**WHEREAS**, all local participating taxing bodies will be requested to make similar amendments to their respective property tax abatement policies; and

**WHEREAS**, the Council of the City of Rochelle, Illinois, hereby makes those findings set forth in said Enterprise Zone Intergovernmental Agreement, including the required statutory findings relating to contiguity, total area and the satisfaction of qualifying criteria for enterprise zone amendments, in accordance with the Illinois Enterprise Zone Act.

**NOW, THEREFORE, be it ordained by the Council of the City of Rochelle, Illinois, as follows:**

**SECTION 1:** Ordinance No. 45-OH, is hereby amended as provided herein.

**SECTION 2:** Section 2 of the Designating Ordinance, titled "Section 2 – PROPERTY TAX ABATEMENT" is hereby deleted in its entirety, and replaced with the following text, and shall read as follows:

Section 2 – PROPERTY TAX ABATEMENT Commencing on or after January 1, 2017, taxes on real property levied by the CITY OF ROCHELLE shall be abated on approved property located within the boundary of the Enterprise Zone, as certified by the Department, and upon which improvements have been constructed as described below. In no event shall any abatement of

taxes on any property exceed the amount attributable to the construction of the improvements or the renovation or rehabilitation of existing improvements on such property.

A) DEFINITIONS

1) "Memorandum of Understanding" or "MOU" as defined herein is the written agreement between the Lee Ogle Enterprise Zone Administrator, on behalf of the Taxing Bodies participating in the Lee Ogle Enterprise Zone property tax abatement program, and the Applicant receiving tax abatement. The MOU defines the terms and conditions by which abatement of real estate property tax is authorized.

2) "Project Application" as defined herein is the written application for Zone benefits for job development and capital investment projects. The Project Application must be executed by the Applicant and submitted to the Zone Administrator (as hereafter defined) prior to the initiation of construction of the project. The Project Application provides information necessary for the Zone Administrator to verify eligibility for Enterprise Zone benefits including, but not limited to, property tax abatement and Sales Tax Exemption for Construction Materials in conjunction with the Illinois Department of Revenue processes and procedures in effect at the time of the Project Application.

3) "Eligible Project Types" as defined herein are those projects for uses conforming to the codified zoning districts and uses of the applicable Designating Unit of Government where the project is located.

4) "Eligible Special Uses, Variations" as defined herein are considered Eligible Project Types when the Special Use or Variation is granted pursuant to local ordinance of the controlling Designating Unit of Government where the project is located.

5) "Commercial Multi-Family Residential Eligible Project Type" as defined herein are newly constructed multi-family residential projects where the buildings consist of six (6) units or more on a common foundation. For purposes of the Zone, these projects shall be considered commercial in nature and an Eligible Project type.

6) Exclusions – Residential projects, other than Commercial Multi-Family Residential Eligible Project Types shall be ineligible for any benefits herein established in the Zone.

7) Abatement Tiers – BASE ABATEMENT is the abatement tier of six (6) years of abatement offered to all eligible projects. Commercial or Industrial projects meeting higher investment and job creation criteria,

resulting in the construction or improvement of building space, manufacturing machinery, and other capital improvements in new or redesigned facilities, may also be eligible for EXTENDED ABATEMENT of four (4) additional years or HIGH IMPACT ABATEMENT of ten (10) additional years, as further defined here and in this ordinance. In total, the maximum term of available abatement is ten (10) years for EXTENDED ABATEMENT and sixteen (16) years for HIGH IMPACT ABATEMENT.

A) EXTENDED ABATEMENT is an expanded abatement tier of four (4) additional years of abatement immediately following the BASE ABATEMENT, for those qualified projects occurring after January 1, 2021, investing at least \$50 million in capital, AND that will employ at least 75 new full-time workers.

B) HIGH IMPACT ABATEMENT is an expanded abatement tier of ten (10) additional years of abatement immediately following the BASE ABATEMENT, for those qualified projects occurring after January 1, 2021, investing at least \$100 million in capital, AND that will employ at least 125 new full-time workers with an average annual non-managerial pay rate of \$50,000, exclusive of benefits.

B) Real Estate Tax Abatement Policy

1) BASE ABATEMENT - Commencing on or after January 1, 2017, taxes on real property levied by the CITY OF ROCHELLE shall be abated on approved property located within the Zone and upon which new improvements have been constructed as follows:

A) For taxes levied in years 1 through 6 of abatement: 50%.

B) Said abatement shall be for six (6) consecutive years beginning with the real estate taxes payable in the year following the first full year of a project's commercial operation after which said improvements have been made and fully assessed. Abatement for a specific project under BASE ABATEMENT will cease after the sixth year or upon expiration, termination or decertification of the Zone, whichever is sooner.

C) The above property tax abatement shall be applicable for Eligible Project Types for improvements to real property upon which new construction, improvements, renovation or rehabilitation, for which a building permit is required and one has

been obtained, has been completed after January 1, 2017, and before the expiration, termination or decertification of the Zone, whichever is sooner. Abatement shall only apply to the incremental increase in taxes assessed as a result of the project and its related improvements.

Questions as to the eligibility of a project and resulting improvements will be decided by the Zone Administrator. The Zone Administrator shall consult with the Enterprise Zone Advisory Board as necessary.

D) Regulatory and Legal Compliance. Recipients of Enterprise Zone property tax abatement shall comply with all federal, state and local environmental laws and regulations. Failure to comply shall be as determined by the applicable Designating Unit of Government where the project is located.

E) Upon the effective date of this ordinance, all incentives, Enterprise Zone property tax abatements and benefits previously offered and in effect within the boundaries of the CITY OF ROCHELLE and the former Enterprise Zone #9 shall continue as originally awarded during the term of the newly designated Zone for the following groups:

- 1) Recipients of Zone property tax abatement benefits or incentives in the CITY OF ROCHELLE on the effective date of this ordinance; or,
- 2) Projects which are proposed or under development on the effective date of this ordinance, if the project owner demonstrates that the proposed project has been committed to locating or expanding in the Zone; or,
- 3) Projects where substantial or binding financial obligations have been made; and such commitments have been made in reasonable reliance on the benefits and programs which would have previously been available as described in 1) and 2) above.

F) Applicants meeting qualification criteria outlined above must enter into a Memorandum of Understanding with the Zone through its Zone Administrator, outlining projected job creation and/or job retention numbers and capital investment for the project and setting forth performance measures and enforcement

provisions. The Zone Administrator is hereby authorized to enter such agreements on behalf of the Zone.

1) Recipients of property tax abatement must agree to maintain a minimum of 75% of the employment levels at the location as described in the Memorandum of Understanding for the term of abatement. Except as set forth in (4) below, failure to maintain a minimum of 75% of the employment levels for the entire term of the abatement shall result in the immediate termination of remaining abatement and/or the pro-rata repayment of previously abated real property taxes to the applicable Designating Units of Government and other affected taxing districts.

2) The Zone Administrator will annually monitor the performance of the recipients of property tax abatement in order to ensure that job and investment projections outlined in the Memorandum of Understanding are being met.

3) The Zone Administrator will also inform the recipient of required State of Illinois reporting requirements. Failure to report Enterprise Zone benefits as required by the Illinois Department of Revenue, and/or other state agencies, as may be dictated by state statute, may result in termination of all locally designated Zone benefits.

4) The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, may elect to waive enforcement of any performance measures outlined in the Memorandum of Understanding based on a finding that the waiver is necessary to avert an imminent, demonstrable, and material hardship to the recipient that may result in such recipient's insolvency or discharge of workers.

2) EXTENDED ABATEMENT– taxes on real property levied by the CITY OF ROCHELLE may be further abated on approved property of EXTENDED ABATEMENT projects, as defined by this ordinance, and located within the Zone according to the following schedule and terms:

A) For taxes levied in years 7 through 10 of abatement: 50%.

B) EXTENDED ABATEMENT shall continue for the four (4) additional consecutive years immediately following the BASE ABATEMENT and will cease after the tenth total year of abatement, or upon expiration, termination or decertification of the Zone, whichever is sooner. Abatement shall only apply to taxes assessed on improvements.

C) Questions as to the eligibility of a project and resulting improvements will be decided by the Zone Administrator. The Zone Administrator shall consult with the Enterprise Zone Advisory Board as necessary.

1) Eligible Capital Investment and Job Creation shall occur within the Lee Ogle Enterprise Zone and within two years of its Memorandum of Understanding executed with the Lee Ogle Enterprise Zone Administrator outlining such investment and job creation.

D) Regulatory and Legal Compliance. Recipients of Enterprise Zone property tax abatement shall comply with all federal, state and local environmental laws and regulations. Failure to comply shall be as determined by the applicable Designating Unit of Government where the project is located.

E) Applicants meeting qualification criteria must enter into a Memorandum of Understanding with the Zone through its Zone Administrator, outlining projected job creation and/or job retention numbers and capital investment for the project and setting forth performance measures and enforcement provisions. The Zone Administrator is hereby authorized to enter such agreements on behalf of the Zone.

1) Recipients of EXTENDED ABATEMENT shall agree to maintain a minimum of 95% of the employment levels at the location as described in the Memorandum of Understanding for the total ten (10) year term of abatement. Except as set forth in (5) below, failure to do so shall result in the immediate termination of remaining abatement and/or the pro-rata repayment of previously abated real property taxes to the applicable Designating Units of Government and other affected taxing districts.

2) During the term of abatement, recipients shall provide an annual third-party affidavit in form and content acceptable to the Administrator delineating the capital investment, number of employees at the subject business, pay rates, whether part or full time, and any other information required in compliance with this MOU or the Enterprise Zone Act.

3) The Zone Administrator will annually monitor the performance of the recipients of property tax abatement in order to ensure that job and investment projections outlined in the Memorandum of Understanding are being met.

4) The Zone Administrator will also inform the recipient of required State of Illinois reporting requirements. Failure to report Enterprise Zone benefits as required by the Illinois Department of Revenue, and/or other state agencies, as may be dictated by state statute, may result in termination of all locally designated Zone benefits.

5) The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, may elect to waive enforcement of any performance measures outlined in the Memorandum of Understanding based on a finding that the waiver is necessary to avert an imminent, demonstrable, and material hardship to the recipient that may result in such recipient's insolvency or discharge of workers.

6) Owners of property currently receiving BASE ABATEMENT where a new project is defined as EXTENDED ABATEMENT by this ordinance, may execute a Memorandum of Understanding (MOU) with the zone administrator outlining EXTENDED ABATEMENT prior to the expiration of BASE ABATEMENT. Where an existing BASE ABATEMENT is in effect, that project qualified for EXTENDED ABATEMENT shall be eligible for continuation of the remaining BASE ABATEMENT when incorporated into an MOU between the owner and the zone administrator.

3) HIGH IMPACT ABATEMENT– taxes on real property levied by the CITY OF ROCHELLE may be further abated on approved property of HIGH IMPACT ABATEMENT projects, as defined by this ordinance, and located within the Zone according to the following schedule and terms:

A) For taxes levied in years 7 through 16 of abatement: 50%.

B) HIGH IMPACT ABATEMENT shall continue for the ten (10) additional consecutive years immediately following the BASE ABATEMENT and will cease after the sixteenth total year of abatement or upon expiration, termination or decertification of the Zone, whichever is sooner. Abatement shall only apply to taxes assessed on improvements.

C) Questions as to the eligibility of a project and resulting improvements will be decided by the Zone Administrator. The Zone Administrator shall consult with the Enterprise Zone Advisory Board as necessary.

1) Eligible Capital Investment and Job Creation shall occur within the Lee Ogle Enterprise Zone and within two years of its Memorandum of Understanding executed with the Lee Ogle Enterprise Zone Administrator outlining such investment and job creation.

D) Regulatory and Legal Compliance. Recipients of Enterprise Zone property tax abatement shall comply with all federal, state and local environmental laws and regulations. Failure to comply shall be as determined by the applicable Designating Unit of Government where the project is located.

E) Applicants meeting qualification criteria must enter into a Memorandum of Understanding with the Zone through its Zone Administrator, outlining projected job creation and/or job retention numbers and capital investment for the project and setting forth performance measures and enforcement provisions. The Zone Administrator is hereby authorized to enter such agreements on behalf of the Zone.

1) Recipients of HIGH IMPACT ABATEMENT shall agree to maintain a minimum of 95% of the employment levels at the location as described in the Memorandum of Understanding for the total sixteen (16) year term of abatement. Except as set forth in (5) below, failure to



maintain a minimum of 95% of the employment levels for the entire term of the abatement shall result in the immediate termination of remaining abatement and/or the pro-rata repayment of previously abated real property taxes to the applicable Designating Units of Government and other affected taxing districts.

2) During the term of abatement, recipients shall provide an annual third-party affidavit in form and content acceptable to the Administrator delineating the capital investment, number of employees at the subject business, pay rates, whether part or full time, and other information required in compliance with this MOU or the Enterprise Zone Act.

3) The Zone Administrator will annually monitor the performance of the recipients of property tax abatement in order to ensure that job and investment projections outlined in the Memorandum of Understanding are being met.

4) The Zone Administrator will also inform the recipient of required State of Illinois reporting requirements. Failure to report Enterprise Zone benefits as required by the Illinois Department of Revenue, and/or other state agencies, as may be dictated by state statute, may result in termination of all locally designated Zone benefits.

5) The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, may elect to waive enforcement of any performance measures outlined in the Memorandum of Understanding based on a finding that the waiver is necessary to avert an imminent, demonstrable, and material hardship to the recipient that may result in such recipient's insolvency or discharge of workers.

6) Owners of property currently receiving BASE ABATEMENT, and where a new project is defined as HIGH IMPACT ABATEMENT by this ordinance, may execute a Memorandum of Understanding (MOU) with the zone administrator outlining HIGH IMPACT ABATEMENT prior to

the expiration of BASE ABATEMENT. Where an existing BASE ABATEMENT is in effect, that project qualified for HIGH IMPACT ABATEMENT shall be eligible for continuation of the remaining BASE ABATEMENT when incorporated into an MOU between the owner and the zone administrator.

**SECTION 3:** In all other respects Ordinance No. 45-OH, as amended, shall remain in full force and effect.

**SECTION 4:** The Mayor is authorized to execute Amendment 12 to Addendum "B", an Enterprise Zone Intergovernmental Agreement heretofore entered into by the City, a copy of which is attached hereto and made a part hereof.

**SECTION 5:** The provisions and Sections of this Ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

**SECTION 6:** All ordinances and parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

**SECTION 7:** This Ordinance shall be in effect from the date of and after its passage, approval and publication, recording and upon certification of the boundary change by the Department of Commerce and Economic Opportunity, according to law. Failure to receive certification of the amendment to the Zone by the Department will render this Ordinance null and void.

**PASSED BY THE ROCHELLE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**BY: \_\_\_\_\_**

**City of Rochelle Mayor**

**ATTEST:**

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**City Clerk  
City of Rochelle  
420 North 6th Street  
Rochelle, Illinois 61068**