

Brownfields Tax Abatement Agreement By-law
Adopted May 15, 2006
Article 28

I. Purpose:

It is the intent of the Town of Somerset to adopt this By-law pursuant to Massachusetts General Laws chapter 59, section 59A, in order to encourage the adaptive reuse of abandoned and under-utilized industrial and commercially zoned properties which have been subject to the release of oil or other hazardous materials, by providing the opportunity to execute tax abatement agreements with eligible persons as an incentive to continued environmental cleanup and redevelopment.

II. Definitions

For purposes of this By-law, the following words shall give the following meaning:

A. "Brownfields"-- A property or portion of a property from and at which there has been a release of oil or hazardous material.

B. "Eligible Person"-- An owner of a site or portion thereof from and at which there is or has been a release of oil or hazardous material who did not cause or contribute to the release of oil or hazardous material from and at the site and did not own or operate the site at the time of the release.

C. "Eligible Property"-- A property which meets all of the following conditions:

1. The property must be a site or portion of a site from and at which there has been a release of oil or hazardous materials;

2. The property must be owned by an eligible person, as that term is defined in M.G.L. c. 21E, sec. 2, and hereunder.

3. The property must be located in one of the following zoning districts as defined in the Somerset Zoning By-law: business; limited business; industrial; light industrial; or, any other commercial or industrial district which the Town of Somerset may adopt from time to time by amendment of the Zoning By-law.

D. "Hazardous Material"-- Material including but not limited to, any material, in whatever form, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed.

III. Abatement Agreements

A. The Board of Selectmen is hereby authorized to negotiate and enter into agreements for the abatement of real estate taxes, interest, and/or penalties (hereinafter “Abatement Agreements”) with owners of eligible properties for the purpose of environmental cleanup and redevelopment of said properties. Prior to entering into such an Abatement Agreement, the Selectmen shall forward a copy of the agreement to the Board of Assessors in order to obtain its comments and recommendations, if any, concerning the agreement.

B. Abatement Agreements may allow for reductions of outstanding taxes, interest, and/or penalties. Abatement Agreements shall include, but need not be limited to, the following provisions:

1. The principal amount due for outstanding real estate taxes, interest, and penalties before any abatement thereof;
2. The amount of taxes, interest, and/or penalties to be abated, if any;
3. The net amount of taxes, interest, and penalties due after abatement;
4. The per cent of interest to accrue on the balance due, if determined applicable by the Board of Selectmen;
5. The amount of monthly or other periodic payments;
6. The inception date for payments;
7. The date of the final payment;
8. The late penalties to be imposed and other terms of repayment;
9. A plan for remediation of the oil or hazardous materials which are the subject of the agreement and a timetable for the remediation;
10. A finding by the Board of Selectmen that the reduction in outstanding taxes, interest, and/or penalties provided in the Abatement Agreement is necessary for the successful completion of the remediation plan;
11. Any other contractual terms negotiated between the Board of Selectmen, in its discretion, and the property owner; and,
12. All provisions required by applicable law, by-law, or regulation of the Department of Revenue.

C. All Abatement Agreements shall be authorized by the vote of a majority of the members of the Board of Selectmen and signed by the Chair of the Board of Selectmen and the property owner, whose signatures shall be notarized and attested to by the Town Clerk.

D. Copies of Abatement Agreements shall be provided to the eligible property owner, the Board of Selectmen, the Massachusetts Department of Environmental Protection, the United States Environmental Protection Agency, the Massachusetts Department of Revenue (Property Tax Bureau), the Somerset Town Clerk, and the Somerset Board of Assessors.

A True Copy Attest:

Dolores Berge, Town Clerk