

State of South Carolina )  
County of Oconee )  
City of Walhalla )

**ORDINANCE 2017-7**

**AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF  
AN ECONOMIC DEVELOPMENT INCENTIVE PROGRAM**

**WHEREAS**, the Mayor and City Council recognize that it is necessary and in the best interests of the City of Walhalla to encourage the economic development of the City and to provide for the increased benefit and prosperity of its citizens, and

**WHEREAS**, the Mayor and City Council desire to facilitate business growth in the City and/or designated areas within, and

**WHEREAS**, the Mayor and Council may from time to time identify designated areas that correspond with the City's adopted master plans and/or redevelopment plans, with such plans identifying the need for both public and private investment to ensure success, and

**WHEREAS**, it is the desire of the Mayor and Council to create new tools to encourage private capital investment and reinvestment in any of the designated areas that may be specifically identified, and

**WHEREAS**, the establishment of an economic development program that recognizes the benefits and economic impact of new investment will contribute to the health, welfare and stability of the City and in furtherance of the various adopted goals and plans of the City.

**WHEREAS**, while the Incentives may benefit the Incentive Recipients, the primary beneficiary of the Incentives will be the City and its citizens who shall realize the following benefits:

- a) increased property values within the City as a whole;
- b) increased revenue from property taxes, business license fees and permit fees;
- c) increased tourism and commercial activity within the City;
- d) creation of new jobs within the City; and
- e) the improvement of the character of the City by preserving, re-habilitating buildings or promoting construction of new buildings that are compatible with the City's character.

**WHEREAS**, the incentives, as provided for in an incentive agreement (as defined herein), shall be structured in such a way that the value of the benefits to the City will exceed their value to the incentive recipients; and

**WHEREAS**, the financial benefit of the incentives to the incentive recipients will only be realized at such time as certain benchmarks (as defined herein) are met or continue to be met.

Should all the benchmarks be accomplished, the City believes that there is a high probability that the benefits will be realized by the City and that the value of the benefits will exceed the value of public funds expended on the incentives.

**NOW, THEREFORE, BE IT ORDAINED THAT:**

1. The City of Walhalla does hereby establish the Economic Development Incentive Program.
2. The specifics of the Economic Development Incentive Program are as follows:

**SECTION 1. Economic Development Incentive Program**

**2.1. Title**

This Ordinance shall be titled the "Economic Development Incentive Program".

**SECTION 2. Authority**

The Economic Development Incentive Program is enacted pursuant to the powers conferred upon the municipality.

**SECTION 3. Purpose**

The purpose of the Economic Development Incentive Program is to allow public support of economic projects to foster, promote, and enhance local economic development efforts. The purpose of the ordinance is to allow the City of Walhalla to enter into an agreement with a person, firm or corporation who/that undertakes a development project consistent with the City's adopted comprehensive, master plans and/or redevelopment plans and the provisions herein.

**SECTION 4. Definitions**

**4.1. Capital Investment.** Capital Investment is defined as an activity that adds value to the City's tax base by the acquisition and/or improvement of real property.

**4.2. Development.** Development is defined as the activity of improving a real property to the extent of adding value to the tax base through real property improvements, and the creation and/or retention of employment opportunities.

**4.3. Cumulative capital investment.** Cumulative capital investment is defined as meeting the capital investment in the development of multiple real properties during a maximum period of five years.

**4.5. Incentive.** Incentive shall be defined as a grant of any inducement having monetary value by the City of Walhalla that is offered to a person, firm, or corporation to pursue a development that encourages private investment and/or the creation/retention of jobs. The Incentive may also include grants from other entities that the City may be able to obtain.

**4.6. Real Property Value.** Real property value is defined according to the value assigned by the Oconee County Tax Assessor's Office.

**4.7. Incremental Increase.** Incremental increase is the difference in the real property value at the beginning of the incentive period and the real property value upon completion of the first taxable year of occupancy of the new development.

**4.8 Benefits.** Benefits mean the value to the City of providing the Incentives, which generally include: a) increased property values within the city as a whole; b) increased revenues from property taxes, business license fees and permit fees; c) increased tourism and commercial activity within the City; and d) the creation of new jobs within the City; and e) the improvement of the character of the City by preserving buildings as appropriate within the city; and promoting the construction of new buildings that are compatible with the City's character.

**4.9 Infrastructure.** Infrastructure means improvements to undeveloped land consisting of sanitary sewers, streets and storm sewers located in public right-of-way which by nature provide service to the general public. Similar nonpublic improvements which are oriented to a specific structure or structures, such as a sidewalk from the street to a specific structure or structures, a sewer line serving a specific structure or structures, a driveway serving a specific structure or structures, etc., are not classified as infrastructures for purposes of this section.

5.0 Job. Each new (i) full-time position or (ii) each full-time equivalent position that is created as a direct result of ongoing operation of a Development. For the purposes of calculating the number of Jobs created by a Development, only those employed at business directly associated with the Development at positions permanently located within the City shall be considered.

## **SECTION 5. Authorization**

### **Authorization to Grant Incentives**

The City Council may, at its discretion, and on a case by case basis, and according to available funding, enter into an Economic Development Incentive Agreement with a person, firm or corporation for the purpose of providing incentives in order to encourage and support the development of real property within the City or which is annexed into the city.

### **Incentive Agreements**

The provision of incentive/s shall be made only after an agreement has been entered into between the City and such person, firm, or corporation, which agreement shall set forth: the particulars of the Development; the incentives to be provided; and sufficient assurances that the benefits will accrue to the City and the goals will be met by the Development (an "Incentive Agreement"). Pending approval by the Council of any Incentive Agreement and subject to the provisions provided herein; the City Administrator is authorized to discuss the provisions of this Economic Development Incentive Program, aid in the completion of any proposal and, subject to the final approval by Council, negotiate with the potential incentive recipient on behalf of the City. Each incentive agreement shall be approved by Council by ordinance. Council is authorized to provide incentives in any amounts and for any period of time within the thresholds provided herein or within the time periods and thresholds provided for in any applicable statutory authorization.

## **SECTION 6. General eligibility criteria**

Except for those Incentives discussed in Section 7 I below as authorized by the State and which are intended by the terms of this Economic Development Incentive Program to be applied City-wide, in

order for a Development to be eligible to receive Incentives, the Council must determine that the Development meets, or upon completion will meet, each of the following criteria:

- A. The Development must be consistent with the City of Walhalla Comprehensive Plan and the City of Walhalla Master Plan as adopted.
- B. Must be located within the city limits of Walhalla or establishes a location for business within the city even if has previously conducted the same or similar operations at locations outside the city.
- C. Must have a minimum threshold investment which may be comprised of a combination of physical improvements and acquisition costs; such threshold investment may be comprised of a single real property investment or a cumulative investment.
- D. Must be for one or more of the following:
  - (1) Retail uses as identified in the most current Retail Market Power Database provided by Claritas
  - (2) Tourism related business or activity
  - (3) Cultural arts activities and associated businesses
  - (4) District offices or corporate headquarters
  - (5) Research and development
  - (6) High technology growth business
  - (7) Residential projects including three or more single family units, multi-family units or condominiums.
  - (8) Other uses as may be determined the City of Walhalla which meet the intent of the ordinance and as are identified more specifically according to the adopted master plans and/or redevelopment plans.
  - (9) The City reserves the right to exclude from consideration proposed projects that it deems incompatible with the City's Comprehensive Plan, Downtown Master Plan or with the City's overall goal of encouraging development that will strengthen property values and enhance appearance and quality of life within the community. Such proposed projects include but are not limited to the following:
    - a. Service or gas stations
    - b. Tattoo parlors
    - c. Child Care homes
    - d. Mobile Home Parks
    - e. Auto garage facilities
    - f. Commercial laundry
    - g. Other retail and/or service uses determined by the City not to advance the goal of establishing quality investment in the City of Walhalla.
- F. No business and no successor or affiliated business entity having one or more of the same principals and substantially the same business activity may cease business operations in the name of one business and then resume business operations in another name if the effect of such resumption is to circumvent this section or to prolong the incentives provided beyond the incentive agreement.

## **SECTION 7. Incentives of the City**

The Council may, at its discretion and on a case-by-case basis, enter into an incentive agreement to reimburse or refund any person, firm or corporation proposing to invest in development or redevelopment of property within the City of Walhalla the following fees and taxes up to the amounts and percentages provided for herein:

- A. Up to 100% of the applicable tap fees collected by the City;
- B. The following Business License Tax Incentives:
  - 1) Year 1: a grant in the amount of 100% of the business license tax due to the City will be reimbursed after the business license taxes are paid to the City of Walhalla.
  - 2) Year 2: a grant in the amount of 75% of the proposed business license tax rate based on gross income after the taxes are paid to the City will be reimbursed to the applicant.
  - 3) Year 3: a grant in the amount of 50% of the business license tax rate based on gross income after the taxes are paid to the City will be reimbursed to the applicant.
  - 4) Year 4: a grant in the amount of 25% of the business license tax rate based on gross income after taxes are paid to the City will be reimbursed to the applicant.
  - 5) After year 4, business license taxes will be the responsibility of the property owner/business owner and will be the proposed rate based on gross income.
- C. Up to 50% of the local hospitality taxes collected by the City for as many as five (5) years, but funds received through such incentive are to be spent only for purposes that are related to tourism, pursuant to S. C. Code 6-1-730, and which have been approved by Council and included in the incentive agreement;
- D. Up to 50% of local accommodations taxes collected by the City for as many as five (5) years, but funds received through such incentive are to be spent only for purposes related to tourism, pursuant to S. C. Code 6-1-530, and which have been approved by Council and included in the incentive agreement;
- E. Up to 100% of solid waste fees for as many as five (5) years.
- F. Up to 100% of infrastructure costs for commercial development projects for as many as five (5) years.
- G. Up to 100% of infrastructure costs for residential development projects for as many as Five (5) years.
- H. Such other incentives that the Council, at its discretion on a case-by-case basis, determines are appropriate given the amount or type of investment made by the incentive recipient.
- I. State Incentive Programs.


The State programs that may be considered by Council to be included within any package of incentives or as a stand-alone set of incentives for in-City projects:

  - 1) Property tax credits authorized by the provisions of the South Carolina Abandoned Buildings Revitalization Act, codified at S. C. Code Ann. 12-67-100 et. seq. (collectively, the "Abandoned Building Act"). Incentive recipients requesting consideration for the Abandoned Building Act by Council shall submit an Abandoned Building Act Application form.
  - 2) Property tax credits authorized by the provisions of the South Carolina Retail Facilities Revitalization Act, codified as S. C. Code Ann. 6-34-10 et. seq. (collectively, the "Retail Revitalization Act"). Incentive recipients requesting consideration of the Revitalization Act by the Council shall submit a Retail Revitalization Act Application form.
  - 3) The South Carolina real property tax credit for the installation of a fire sprinkler system, codified as S. C. Code Ann. 12-6-3622.
  - 4) Property tax credits authorized by the provisions of the South Carolina Textiles Communities Revitalization Act, codified at S.C. Code Ann. 12-65-40.

## **SECTION 8. Administrative criteria and terms of delivery**

- A. The person, firm, or corporation must submit to the City Administrator a proposal for the Economic Development Incentive Program, to include the following information: 1) identification of the property or properties on which the Development is to be located and any acquisition cost thereof; 2) the estimated start date and completion date for any work to be performed on the property; 3) a list of any physical improvements that are to be made to the property as part of the Development, including good faith estimate costs; 4) the then-current value of property and good-faith estimate of the value of the property upon completion of improvements thereto; 5) a good faith estimate of the number of jobs that the development is projected to create, including an estimate of the date upon the estimated number of jobs will have been created; 6) provide sufficient documentation on the development, and agree to furnish good faith estimates on projected sales tax, assessed valuation, and other information as may be needed to determine the incentives that may be provided and the amount of the incentive.
- B. The grant incentive amount shall be determined based upon the amount of the capital investment and new revenue generated as a result of the capital investment as calculated over a period not to exceed five years. The 5 year or less grant term shall commence with the issuance of the Certificate of Occupancy, issuance of a business license, and/or other criteria corresponding to the eligibility factors. The grant incentive shall require annual monitoring by the City of Walhalla to ensure continued program compliance; monitoring during the grant incentive period shall include benchmarks such as, but not limited to, the completion of the first taxable year of occupancy and first year of operation of the identified business use; benchmarks shall be monitored for each year of the incentive period.
- C. The total incentive amount shall not be greater than the direct value received by the City and derived from the capital investment during the term of the incentive.
- D. The City may provide to an incentive recipient any combination of incentives provided for herein; provided, however, that the total amount of incentives given to a development must be in keeping with the goals and the value of the benefits accruing to the City (and its citizens) and must be greater than the financial value of the incentives to an incentive recipient.
- E. All direct incentives of the City shall be granted in the form of reimbursements and refunds of fees and taxes that have been duly paid to the City. No upfront abatements of fees or taxes shall be permitted.
- F. The City of Walhalla may at its discretion extend the incentive time period if deemed warranted based upon the continuing benefit created by the investment.
- G. The City of Walhalla may increase or decrease the amount of the incentive based upon actual development and real property values as determined through the monitoring process.
- H. If at any time during the incentive period the development's use does not meet the eligibility criteria, then the City shall deem the agreement null and void.
- I. If at any time during the incentive period the development is sold, then the City shall deem the agreement null and void.
- J. If at any time during the incentive period the real property value is appealed, then the incentive amount may be renegotiated or voided.
- K. The administration of this Program shall be the responsibility of the City Administrator.

- L. The City Council, at its discretion, may consider for program participation, any development in progress at the time of passage of this Ordinance which meets the program criteria.
- M. All ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the inconsistency or conflict.
- N. If any section, subsection, sentence, clause or phrase of this program or ordinance is for any reason, held or determined to be invalid, such a decision shall not affect the validity of the remaining portions of the program or this ordinance.
- O. This ordinance shall take effect immediately upon adoption by the Mayor and Council of the City of Walhalla, South Carolina.

  
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Danny Edwards, Mayor

**ATTEST:**

  
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Brent Taylor, City Administrator

Introduced By: Councilman Bailes  
First Reading: 8/1/17  
Second Reading & Adoption: 9/17/17