

**CITY OF ELSMERE, KENTUCKY
ORDINANCE NO. 1800 - 2021**

**AN ORDINANCE AMENDING CHAPTER 119 OF THE CITY OF
ELSMERE CODE OF ORDINANCES, ECONOMIC DEVELOPMENT
INCENTIVES.**

WHEREAS, in 2012 the City of Elsmere (“City”) adopted Ordinance No.1645-2012 to promote economic development within the City through the creation of a payroll tax rebate incentive; and

WHEREAS, the City wishes to amend its existing incentive program in order to redevelop, preserve, and strengthen new development and job growth in the City, thereby enhancing the City’s tax base, and providing an immediate opportunity for the creation of new jobs; and

WHEREAS, these amendments are necessary for the safety and general welfare of Elsmere and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF ELSMERE, KENTON COUNTY, KENTUCKY:**

SECTION I

That Chapter 119, “Economic Development Incentive Programs” of the Elsmere Code of Ordinances is hereby amended as follows:

**CHAPTER 119: PAYROLL INCENTIVE PROGRAM. [ECONOMIC DEVELOPMENT
INCENTIVE PROGRAMS.]**

SECTION II

Sections §119.01 through 119.03 are amended as follows:

§ 119.01 DEFINITIONS.

The following definitions shall apply unless the context clearly indicates or requires a different meaning:

Agreement: ~~[Any mutually agreed contract or commitment made]~~ An agreement entered into between the City and any business receiving an incentive pursuant to the requirements of this ordinance [between the City of Elsmere and any individual, company, or entity with respect to an economic development project involving a vacant, dilapidated, or substantially unoccupied or underutilized building, or an economic development project concerning retention of an existing business located in property that has been annexed into the Elsmere city limits].

~~[Applicant: Any commercial or industrial property owner(s) who rehabilitate, and/or make personal property investments for commercial or industrial use and create jobs in vacant, dilapidated, or substantially unoccupied or underutilized buildings and have an acceptable~~

~~development plan that has been approved by applicable City staff, or a property owner(s) whose commercial or industrial property (either owned or leased) has been annexed into Elsmere within the preceding 12 months.]~~

~~[Eligible Property: Any commercial or industrial property that is vacant, dilapidated, substantially unoccupied or underutilized, or commercial or industrial property (either owned or leased) that has been annexed into Elsmere within the preceding 12 months, and that meets any other applicable requirements or conditions set forth in this ordinance.]~~

Applicant: Any company that will create jobs in the City through the completion of an eligible expansion project or an eligible relocation project.

Eligible Expansion Project: Any project undertaken by an applicant in the City that will result in the creation of at least fifteen (15) new jobs and include a minimum documented investment of at least \$500,000 in building improvements or leasehold improvements.

Eligible Relocation Project: Any of the following (i) the relocation to the City of any business that meets the minimum Payroll Tax thresholds set forth hereunder to any commercial or industrial property that has been vacant, dilapidated, substantially unoccupied or underutilized for a period of at least twenty-four (24) months, (ii) the annexation of any commercial or industrial property into the City within the preceding 12 months that will result in the addition of a business that meets the minimum Payroll Tax thresholds set forth hereunder, or (iii) the relocation to the City of any business that meets the minimum Payroll Tax thresholds set forth hereunder to any commercial or industrial building that was constructed within the preceding twenty (24) months that otherwise meets the minimum Payroll Tax thresholds set forth hereunder.

Payroll Tax: The City's Occupational License Payroll Withholding (commonly referred to as the City payroll tax).

§ 119.02 ELSMERE ~~[ECONOMIC DEVELOPMENT]~~ PAYROLL INCENTIVE PROGRAM.

(A) Any ~~[person or entity relocating a business to the City of Elsmere from outside the city of Elsmere, or whose business is located in a commercial structure that has been annexed into Elsmere,]~~ business undertaking an eligible relocation project that will create new jobs in the City and generate a minimum annual payroll of \$~~[500,000]~~ 6,000,000 may be granted a rebate of up to 60% of the ~~[City of Elsmere's Occupational License Payroll Withholding (commonly referred to as the City payroll tax)]~~ Payroll Tax collected from the new jobs ~~[if that business relocated to an]~~ attributable to the eligible ~~[property]~~ relocation project. The duration and commencement date of any rebate incentive period under this section shall be ~~[determined by]~~ set forth in a written Agreement, but shall not exceed ~~[10]-ten (10) years [in duration]~~ from the effective date of the agreement.

(B) Any ~~[person or entity relocating a business to the City of Elsmere from outside the city of Elsmere, or whose business is located in a commercial structure that has been annexed into Elsmere,]~~ business undertaking an eligible relocation project that will create new jobs in the City and generate a minimum annual payroll of ~~[between \$300,000 to \$499,999]~~ \$2,000,000 may be granted a rebate of up to ~~[40]~~ 50% of the ~~[City of Elsmere's Occupational License Payroll~~

~~Withholding (commonly referred to as the City payroll tax)] Payroll Tax collected from the new jobs [if that business relocated to an] attributable to the eligible [property] relocation project. The duration and commencement date of any rebate incentive period under this section shall be [determined by] set forth in a written Agreement, but shall not exceed [five] ten (10) years [in duration] from the effective date of the agreement.~~

(C) Any business undertaking an eligible relocation project that will create new jobs in the City and generate a minimum annual payroll of between \$1,000,000 and \$1,999,999 may be granted a rebate of up to 40% of the Payroll Tax collected from the new jobs attributable to the eligible relocation project. The duration and commencement date of any rebate incentive period under this section shall be set forth in a written Agreement, but shall not exceed ten (10) years from the effective date of the agreement.

(D) Upon the Commonwealth of Kentucky's approval of an application for the benefits and incentives available to an applicant under the Commonwealth of Kentucky's economic development incentive programs that are provided through statutory authorization and otherwise, and that require the City's participation, the City may offer a rebate to the applicant up to 50% of the Payroll Tax collected from the new jobs attributable to the eligible project for a term not to exceed ten (10) years from the date of activation of an incentive program.

(E) Any existing business within the City of Elsmere that generates a minimum payroll of at least \$500,000 and that will undertake an eligible expansion project may be granted a rebate of up to 60% of the Payroll Tax collected from the new jobs attributable to the eligible expansion project provided that the expansion project (i) creates at least 15 new full-time jobs and (ii) includes a documented investment of at least \$500,000 in leasehold or building improvements. The duration and commencement date of any rebate incentive period under this section shall be determined by a written Agreement, but shall not exceed ten (10) years from the effective date of the agreement.

§ 119.03 PROGRAM TERMS, CONDITIONS, REQUIREMENTS, AND EXCLUSIONS.

~~{(A) Only commercial property that has been vacant and/or deemed underutilized or dilapidated by the City of Elsmere for a period of not less than 12 months shall be eligible for the program created by this ordinance.~~

~~(B) Any commercial property meeting the minimum annual payroll set forth above that has been annexed into Elsmere within the preceding 12 months shall be eligible for the program created by this ordinance.~~

(A) [(C)Any improvements to the applicable commercial property] Improvements to any property in conjunction with any eligible project must be made according to all federal, Kentucky, and local requirements and [with a minimum investment in the rehabilitation equal or greater than 50% of the listed Kenton County Property Valuation Administrator's assessed value immediately prior to the purchase of the property.] laws.

(B) To receive a rebate in accordance with any agreement, the applicable business must submit an Elsmere Economic Development Incentive Rebate Request Form annually to the City Clerk/Treasurer by the date specified on the form. Eligibility for any rebate will be determined by the City on an annual basis based on the City's records of Payroll Taxes actually collected from the applicable business. In the event a business does not satisfy the threshold for a rebate in any given

year, then the City shall retain 100% of the business's Payroll Tax for such year and the incentive term shall proceed.

(C) For each year that a business qualifies to receive an incentive in accordance with a corresponding agreement, the incentive for such year will be disbursed annually by no later than June 30 of the subsequent year based upon the City's Payroll Tax collections from the applicable business for the calendar year based on the City's records.

(D) Applicants must be in good standing with all City of Elsmere taxes, loans, zoning requirements, and any other obligations to the City.

(E) Applicants must comply with all terms [~~listed in its approved~~] and conditions of any development plan approved by the City Council and the Agreement.

(F) [~~(F)An Elsmere Economic Development Incentive Rebate Request Form shall be submitted annually to the City Clerk/Treasurer by the date specified on the form. The applicant shall meet the minimum threshold of taxable income annually to receive the rebate.~~]

(G) The following shall not be eligible for this program or incentives: A business that restricts public access, a sexually oriented business, tavern, liquor store, pawn shop, or business that is determined by the City to adversely impact the economic health and community welfare.

(H) The City Administrator shall have the authority to add or include additional requirements necessary to implement and further the specific purposes of this ordinance.

(I) The City of Elsmere shall have the right, at its sole discretion, to make a case by case determination of eligibility, based on the criteria [~~listed in this program~~] set forth in this ordinance, including under this subsection (H). In determining the level of rebate and duration of term for any incentive granted hereunder, the City shall consider certain factors relating to the project, including but not limited to (i) any increase in real property taxes, tangible property taxes, or insurance premium taxes that the City will receive by virtue of the project; (ii) any other incentives that have been granted to the project and the terms of those incentives, including but not limited to the issuance of industrial revenue bonds; and (iii) the average salary for the new jobs created at the project site.

SECTION III

Any and all Ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.


SECTION IV

The City Clerk is hereby ordered and directed to cause this ordinance to be published.

SECTION V

This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

CITY OF ELSMERE, KENTUCKY


MAYOR D. MARTY LENHOF

1st Reading: January 12, 2021

2nd Reading: February 9, 2021

Ayes:4 Nays: 0

ATTEST:



Misty Ezell, City Clerk