

BOROUGH OF WRIGHTSTOWN

COUNTY OF BURLINGTON, NEW JERSEY

ORDINANCE 2018-01

AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION IN THE BOROUGH OF WRIGHTSTOWN OF THE “FIVE-YEAR TAX EXEMPTION AND ABATEMENT LAW” PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ.

WHEREAS, pursuant to N.J.S.A. 40A:21-1 et seq., (“Statute”) a municipality having within its corporate limits areas in need of rehabilitation or redevelopment may, by ordinance, provide for the exemption and/or abatement of real property taxes, to encourage and provide incentives for the construction, redevelopment and rehabilitation of industrial and commercial structures; and

WHEREAS, the Borough of Wrightstown (“Borough”) designated various properties within the Borough as Areas in Need of Rehabilitation or Areas in Need of Redevelopment under N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, the Borough of Wrightstown desires to provide for real estate tax incentives for the construction of, and improvements to, structures within the boundaries of all Areas in Need of Rehabilitation and within the boundaries of all Areas in Need of Redevelopment; and

WHEREAS, N.J.S.A. 40A:21-1 et seq. permits a municipality to provide for the exemption from taxation for new construction or improvement to structures for five years following completion of a project as defined in the statute.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Wrightstown, in the County of Burlington, State of New Jersey as follows:

Section 1. Definitions.

The definitions contained in N.J.S.A. 40A:21-1 are incorporated herein by reference as if set forth at length. As used in this Chapter, words shall have the meanings as so defined unless a different meaning is expressed.

Section 2. Tax Exemptions Authorized.

The Borough hereby authorizes the utilization of tax exemption in accordance with Article VIII, Section I, Paragraph 6, of the New Jersey Constitution and establishes the eligibility of structures within any area designated an Area in Need of Rehabilitation or designated an Area in Need of Redevelopment for five-years authorized by N.J.S.A. 40A:21-1 et seq., but only to the extent set forth herein.

Section 3. Commercial, Industrial, or Multiple Dwelling Structures.

A. In determining the value of real property in any Area in Need of Rehabilitation or Area in Need of Redevelopment within the Borough on which there is construction of new commercial, industrial or multiple dwelling structures, or improvements to existing commercial, industrial, or multiple dwelling structures, the Borough may regard the full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period approved by Borough Council, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the structure through the action of elements sufficient to warrant a reduction.

B. The applicant shall furnish to the Borough an application on the form approved by the Director of the Division of Taxation in the Department of Treasury setting forth the information required by N.J.S.A. 40A:21-9. Every applicant shall file the application as a condition to approval within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement. No tax exemption may be granted unless the exemption and tax agreement is approved by resolution of the Borough Council on an individual basis after review, evaluation and approval of such exemption and tax agreement.

C. Any such exemption shall be subject to the property owner and Borough entering into a tax agreement as provided by N.J.S.A. 40A:21-10. The tax agreement shall provide for the applicant to pay to the Borough in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the three formulas set forth in N.J.S.A. 40A:21-10, namely, the "Cost", "Gross revenue" or "Tax phase-in" basis as determined by the Borough Council.

D. Within 30 days after the execution of any such tax agreement, the Borough Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

E. The granting of an exemption and tax agreement, if appropriate, shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of termination date thereof.

Section 4. Dwellings

A. In determining the value of real property in any Area in Need of Rehabilitation or any Area in Need of Redevelopment on which there is improvements to a dwelling(s), the Borough shall regard the first \$25,000 in the assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old, as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less

than the assessment thereon existing immediately prior to the improvements, unless there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

B. In determining the value of real property in any Area in Need of Rehabilitation or Area in Need of Redevelopment on which there is construction of new dwellings or of conversions of other buildings and structures, including unutilized public buildings, to dwelling use, or both the Borough shall regard 30% of the assessor's full and true value of the dwelling constructed, or conversion alterations made, as not increasing the value of the property for a period of five years, notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby.

C. The applicant shall furnish to the Borough an application on the form approved by the Director of the division of Taxation in the Department of Treasury setting forth the information required by N.J.S.A. 40A:21-9. As a condition to approval the application shall be filed within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement.

D. Every application for exemption for a dwelling filed within the time specified herein shall be approved and allowed by the Assessor to the degree that the application is consistent with the provisions of this Ordinance, provided that the improvement, conversion alteration or construction for which the application is made qualifies as an improvement, a conversion, alteration or construction pursuant to the provisions of the Statute. The granting of an exemption shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of termination date thereof.

Section 5. Eligibility for Additional Construction or Improvement.

An additional improvement or construction, completed on a property granted a previous exemption during the period in which such previous exemption is in effect, shall be qualified for an exemption just as if such property had not received a previous exemption. In such case, the additional improvement or construction shall be considered as separate for the purposes of calculating exemptions.

Section 6. Applicability of Statutory Regulatory Provisions.

Every application for exemption and every exemption granted shall be subject to all of the provisions of N.J.S.A. 40A:21-1 et seq., and all rules and regulations issued thereunder.

Section 7. Applicability of Federal, State and Local Laws.

All tax exemption agreements shall provide that the applicant is subject to all federal, state and local laws and regulations.

Section 8. Equalization.

The percentage which the payment in lieu of taxes bears to the property taxes which would have been paid had an abatement not been granted for the property under the agreement shall be applied to the valuation of the property to determine the reduced valuation of the property to be included in the valuation of the Borough for determining equalization for county apportionment and school aid during the term of the tax abatement agreement covering the property.

Section 9. Cessation or Disposition of Property.

If, during any tax year prior to the determination of the tax exemption agreement, the applicant ceases to operate or disposes of the property or otherwise fails to meet the conditions of eligibility, the tax otherwise due if there had been no exemption shall become due and payable by the property owner. The Tax Assessor shall, within fifteen (15) days thereof, notify the owner of the property of the amount of taxes due. However, with respect to the sale or other disposal of the property, where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption shall continue, and the agreement shall remain in effect.

Section 10. Default in Tax Payments.

In the event of default by the applicant, including but not limited to the failure to make timely tax or in lieu payments to the Borough, the Borough Tax Assessor shall notify the applicant, in writing, of said default. The applicant shall have thirty (30) days to cure any default. Following the thirty (30) day cure period, the Borough shall have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:4-1 et seq. and/or may cancel the tax agreement upon thirty (30) days' notice to the applicant.

Section 11. Taxes Upon Termination.

At the termination of a tax exemption agreement, a project shall be subject to all applicable real property taxes as provided by state law and local ordinance.

Section 12. Ordinance Sent to Department of Community Affairs.

The Borough Clerk is hereby authorized and directed to forward a certified copy of this Ordinance to the State of New Jersey Department of Community Affairs.

Section 13. Ineligibility.

No exemptions shall be granted for any property for which taxes or any other municipal charges are delinquent or remain unpaid or for which penalties for nonpayment are due for a period of at least one year, or for any property not being used in conformance with local, state or federal ordinance, regulation or statute. In addition, one and two family structures

which contain home-based businesses are ineligible for the tax exemption programs described herein.

Section 14. Appeal.

Appeal of any determination made by the Borough under the terms of this Ordinance shall be made to the Burlington County Board of Taxation, unless a direct appeal to the New Jersey Tax Court is authorized by law.

Section 15. Inconsistent Ordinances Repealed.

Should any provision of this Ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of such prior ordinances are hereby repealed, but only to the extent of any inconsistencies.

Section 16. Invalidity.

In the event that any provision of this Ordinance or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this Ordinance which may be given effect, and, to realize this intent, the provisions and applications of this Ordinance are declared to be severable.

Section 17. Captions.

Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

NOTICE OF PENDING ORDINANCE

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced by the Borough Council of the Borough of Wrightstown at a meeting on March 14, 2018, and the same was then ordered to be published according to law with a public hearing and a vote scheduled for the meeting of April 11, 2018, beginning at 6:30 p.m. at the Borough Hall, 21 Saylor's Pond Road, Wrightstown, New Jersey at which time all interested persons will be heard.

Freda H. Gorman, RMC
Municipal Clerk

Introduction/First Reading March 14, 2018

Motion: Mr. Severns

Second: Mr. Bird

Roll Call:

Ayes: Mr. Bird, Mr. Grove, Mr. Lownds, Mrs. Knapp, Mr. Severns, Mr. Timberman

Nays: None

Absent: None

Abstain: None

Second Reading/Public Hearing April 11, 2018

Motion: Mr. Severns

Second: Mrs. Knapp

Roll Call:

Ayes: Mr. Bird, Mrs. Knapp, Mr. Severns, Mr. Timberman

Nays: None

Absent: Mr. Grove, Mr. Lownds

Abstain: None

ATTEST:

BOROUGH COUNCIL OF THE
BOROUGH OF WRIGHTSTOWN

Freda H. Gorman, RMC
Municipal Clerk

Thomas Harper
Mayor

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Borough Council of the Borough of Wrightstown on March 14, 2018 and adopted after a public hearing at a meeting of the Borough Council of the Borough of Wrightstown held on April 11, 2018.

Freda H. Gorman, RMC
Municipal Clerk

Date: April 11, 2018