

INTL: 2-19-14
2nd: 4-7-14
eff: 4-27-14

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE # 2014-02

TITLE: ORDINANCE ESTABLISHING FIVE YEAR TAX EXEMPTION FOR IMPROVEMENTS TO AND CONSTRUCTION OF COMMERCIAL AND INDUSTRIAL STRUCTURES IN THE CAPE MAY COUNTY AIRPORT INDUSTRIAL PARK

WHEREAS, the Township Council of the Township of Lower desires to grant tax exemptions for improvements to and new construction of commercial and industrial structures in the Cape May County Airport Industrial Park in accordance with N.J.S.A. 40A:21-1 et seq. the Five Year Exemption and Abatement Law to promote the improvement, expansion, renovation or construction of new commercial and industrial structures in the Cape May County Airport Industrial Park; and

WHEREAS, the Township Council of the Township of Lower, finds that the various statutes authorized by Article VIII, Section I, paragraph 6 of the New Jersey Constitution, the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq., permitting municipalities to grant for periods of five years exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of commercial and industrial structures in areas threatened with economic and social decline; and

WHEREAS, the Township Council has declared the Cape May County Airport Industrial Park an area in need of rehabilitation for the purpose of enacting an ordinance providing for five-year tax exemptions and abatements in accordance with N.J.S.A. 40A:12A-14 of the Local Redevelopment and Housing Law by Resolution # 2014-48 which resolution was approved by the Lower Township Planning Board at a meeting held on January 16, 2014 in accordance with N.J.S.A. 40A:12A-14.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Lower, County of Cape May, State of New Jersey hereby determines and declares as follows:

1. A new chapter, Chapter 592 entitled Taxation, and a new article, Article I, of Chapter 592, entitled Cape May County Airport Industrial Park Five Year Exemption, is hereby added to the Code of the Township of Lower, which shall read as follows:

§ 592-1. Findings; purpose; determination.

- A. The Township Council of the Township of Lower, finds that the various statutes authorized by Article VIII, Section I, paragraph 6 of the New Jersey Constitution, the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq., permitting municipalities to grant for periods of five years exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of commercial and industrial structures.
- B. The Township Council hereby determines that the Cape May County Airport Industrial Park, as delineated on the Zoning Map of the Township of Lower Township, prepared by Remington, Vernick & Walberg Engineers, dated January 2004, last revised January 2007, is in need of rehabilitation as defined in N.J.S.A. 40A:21-1 et seq. and requires an undertaking by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures to eliminate substandard conditions and arrest the deterioration of the Airport Industrial Park.

§ 592-2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings:

ABATEMENT means that portion of the assessed value of a property as it existed prior to construction or improvement of a building or structure thereon, which is exempted from taxation pursuant to this article.

ANNUAL PERIOD means a duration of time comprising 365 days, or 366 days when the included month of February has 29 days, that commences on the date that an exemption or abatement for a project becomes effective pursuant to section 16 of P.L.1991, c. 441 (C.40A:21-16).

AREA IN NEED OF REHABILITATION means a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c. 79 (C.40A:12A-1 et al.).

COMMERCIAL OR INDUSTRIAL STRUCTURE means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality.

COMPLETION means substantially ready for the intended use for which a building or structure is constructed, improved or converted as evidenced by issuance of a certificate of occupancy or as deemed complete by the tax assessor or construction official.

CONDOMINIUM means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.).

EXEMPTION means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this article.

IMPROVEMENT means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of commercial or industrial structures, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this article.

NEW CONSTRUCTION means the provision of a new commercial or industrial structure, or the enlargement of the volume of an existing commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

PROJECT means the construction, improvement or conversion of a structure in an area in need of rehabilitation that would qualify for an exemption, or an exemption and abatement, pursuant to P.L.1991, c. 441 (C.40A:21-1 et seq.).

TAX AGREEMENT means an agreement between the project owner and the Township which has been authorized by ordinance for payments in lieu of full property tax.

TAX ASSESSOR means the officer of the Township of Lower taxing district charged with the duty of assessing real property for the purpose of general taxation.

TOWNSHIP means the Township of Lower, Cape May County, State of New Jersey.

TOWNSHIP COUNCIL means the Township Council of the Township of Lower.

§ 592-3. Eligibility for exemptions; amendments, duration.

- A. All improvements to, and new construction of commercial and industrial structures are eligible for exemptions from taxation in areas in need of rehabilitation.
- B. This article may be amended from time to time. An amendment to this article shall not affect any exemption, or tax agreement previously granted and in force prior to the amendment.
- C. Tax exemptions shall take initial effect in the tax year in which this article is adopted, and for tax years thereafter as set forth in P.L.1991, c. 441 (C. 40A:21-1 et seq.) and further subject to the provisions of this article, but no application for exemptions shall be filed for exemptions to take initial effect in the eleventh tax year or any tax year occurring thereafter, unless this article is readopted by the Township pursuant to this section.

§ 592-4. Application required for all projects for improvements and new construction; approval; retroactivity; recording as part of tax record; application Fee.

- A. No exemption shall be granted pursuant to this article except upon written application on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury. All tax exemptions shall be applied for and granted on a project basis. In addition to the application prescribed by the Director of the Division of Taxation in the Department of the Treasury, applicants shall also provide the tax assessor with the following supplemental information:
 - (1) A general description of a project for which exemption is sought;
 - (2) A legal description of all real estate necessary for the project;
 - (3) Plans, drawings and other documents as may be required by the tax assessor, construction official, or Township Council to demonstrate the improvement or structure and design of the project;
 - (4) A description of the number, classes and type of employees to be employed at the project site within two years of completion of the project;

- (5) A statement of the reasons for seeking tax exemption on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted;
 - (6) Estimates of the cost of completing such project;
 - (7) A statement showing (1) the real property taxes currently being assessed at the project site; (2) estimated tax payments that would be made annually by the applicant on the project during the period of the agreement, and (3) estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;
 - (8) A description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses; and
 - (9) Such other pertinent information as the Township may require.
- B. Every application shall be filed with the tax assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement or construction.
- C. Every application for exemption filed within the time specified, and which is deemed complete by the tax assessor, shall be approved and allowed by the tax assessor to the degree that the application, and the improvement, or new construction for which the application is made qualifies as an improvement, or new construction pursuant to the provisions of this article and the tax agreement. The tax assessor shall forward the application and tax agreement to the Township Council for approval by ordinance.
- D. The granting of an exemption shall relate back to, and take effect as of, the date of completion of the project, or portion or stage of the project for which the exemption is granted, and shall continue for five annual periods from that date.
- E. The grant of the exemption shall be recorded and made a permanent part of the official tax records of the Township, which record shall contain a notice of the termination date thereof.
- F. All applications shall be accompanied by a nonrefundable fee in the amount \$500.00.

§ 592-5. Tax agreements for payments in lieu of full property tax; computation.

The applicant shall enter into a written tax agreement with the Township for payment to the Township, on a tax phase-in basis in lieu of full property tax payments, an amount equal to a percentage of taxes otherwise due according to the following schedule. The tax agreement shall be subject to approval by ordinance.

- A. In the first full year after completion, no payment in lieu of taxes otherwise due;

- B. In the second full year after completion, an amount not less than 20% of taxes otherwise due;
- C. In the third full year after completion, an amount not less than 40% of taxes otherwise due;
- D. In the fourth full year after completion, an amount not less than 60% of taxes otherwise due;
- E. In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

§ 592-6. Duration of tax agreements; application of other laws to projects; valuation of tax-abated property for county tax apportionment; copy of agreement forwarded to director of division of local government services.

- A. All tax agreements entered into by the Township shall be in effect for no more than the five (5) full years next following the date of completion of the project.
- B. All projects subject to tax agreement as provided herein shall be subject to all applicable federal, State and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.
- C. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption 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 Township for determining equalization for county tax apportionment and school aid during the term of the tax agreements covering the properties, and at the termination of an agreement for a property the reduced valuation procedure required under this section shall no longer apply.
- D. Within thirty (30) days after the execution of a tax agreement, the tax assessor shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

§ 592-7. Tax payments due upon disqualification of property; termination of tax agreement.

- A. If during any tax year prior to the termination of the tax agreement, the property owner ceases to operate or disposes of the property, or fails to meet the conditions for qualifying, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no exemption had been granted. The Township shall notify the property owner and tax collector forthwith and the tax collector shall within fifteen (15) days thereof notify the owner of the property of the amount of taxes due. If 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 tax agreement shall remain in effect.
- B. At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by State law and regulation and local ordinance; but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

§ 592-8. Exemption for improvements to commercial or industrial structures, determination and duration of exemption.

In determining the value of real property the Township shall regard up to the tax assessor's full and true value of the improvements as not increasing the value of the property for a period of five (5) 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 structure through action of the elements sufficient to warrant a reduction.

§ 592-9. Additional improvement, or construction; eligibility for exemption.

An additional improvement or new construction, completed on a property granted a previous exemption pursuant to this article 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 new construction shall be considered as separate for the purposes of calculating exemptions pursuant to this article.

§ 592-10. Annual report; total amounts of tax exempted and abated.

The tax assessor shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury the total amount of real property taxes exempted and the total amount abated within the municipality in the current tax year for all improvements of commercial or industrial structures.

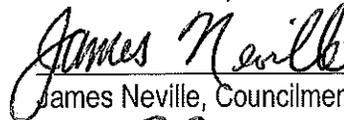
§ 592-11. Ineligibility of property.

No exemption shall be granted pursuant to this article with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.



Thomas Conrad, Councilmember



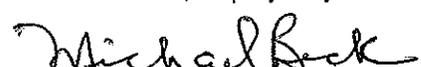
James Neville, Councilmember



Erik Simonsen, Councilmember



Norris Clark, Deputy Mayor



Michael Beck, Mayor

Adopted: 4-7-14

Attest:


Julie A Picard, Township Clerk