

ORDINANCE NO. 24-2016

AN ORDINANCE AUTHORIZING THE TOWNSHIP OF ABERDEEN TO IMPLEMENT THE FIVE-YEAR EXEMPTION AND ABATEMENT LAW, GRANTING TAX EXEMPTIONS FOR CERTAIN RESIDENTIAL DWELLINGS, NEW CONSTRUCTION, MULTI-FAMILY HOMES AND APARTMENTS AND COMMERCIAL AND INDUSTRIAL PROJECTS.

WHEREAS, The Five- Year Exemption and Abatement Law, N.J.S.A 40A:21-1, et seq., (the “Act”) enables municipalities to designate areas as in need of rehabilitation to exempt or abate local property taxes imposed upon eligible dwellings, new construction, multi-family homes and apartments and commercial and industrial structures; and

WHEREAS, the Route 35 Corridor and Cliffwood Beach area, has been designated an Area in Need of Rehabilitation as measured by physical deterioration of buildings and the maintenance thereof, the age of building stock and other structures and arrearages in real property taxes due on buildings, structures and land; and

WHEREAS, the Township of Aberdeen has determined that it is in the best interest of the Township to encourage the renovation and rehabilitation and new construction of commercial and industrial structures, residential buildings, and multi-family homes and apartments, and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Aberdeen, that:

1. The Township Council hereby determines to utilize the authority granted under Article VIII, Section I, Paragraph 6 of the New Jersey Constitution and N.J.S.A 40A:21-1, et seq. to establish the eligibility of dwellings, and commercial and industrial structures for exemptions as provided in the within Ordinance and as permitted by the Act in the Route 35 Corridor and Cliffwood Beach Area in Need of Rehabilitation; and
2. This Ordinance authorizes the Township to grant exemptions up to a five-year period to commence and take effect in the 2017 tax year and thereafter.
3. For purposes of this Ordinance, the following definitions are incorporated herein:

a. *Qualifying commercial or industrial structures* shall mean:

1. Structures or parts thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof including tenant fit ups, which will tend to maintain or provide gainful employment within the Township assist in the economic development of the Township maintain or

increase the tax base of the Township and maintain or diversify and expand commerce within the Township.

2. Not included as qualifying commercial or industrial structures are structures or parts thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least ten (10%) percent; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000.00 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L. 1970, c.33 (C.13:10-1, et seq.), the “Water Pollution Control Act,” P.L. 1977, c.74 (C. 58:10A-1, et seq.), the “Solid Waste Management Act,” P.L. 1970, c. 39 (C. 13:1E-1, et seq.), and the “Spill Compensation and Control Act,” P.L. 1976, c.141 (C.58:10-23.11, et seq.)

b. A *renovation housing project* shall mean any work or undertaking to provide a decent, safe, and sanitary single-family dwelling, to exclusively benefit at least half of the number of people occupying a dwelling as their primary residence, by the renovation, reconstruction, or replacement of that dwelling on the same lot by either a charitable entity organized to perform home renovations or by a for-profit builder using seventy-five (75%) percent or more volunteer labor-hours to accomplish the construction for the project. The undertaking may include any buildings; demolition, clearance, or removal of buildings from land, equipment, facilities, or other personal properties or interest therein which are necessary, convenience, or desirable appurtenances of the undertaking.

c. An *exemption* shall mean 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 the Act.

d. All other terms utilized in this section not specifically defined herein shall conform to the meaning identified in the Act.
(Ord. No. 3059 § 4)

4. The Township Council hereby determines to provide for the exemption from taxation of improvements (1) resulting from a renovation housing project and (2) to dwellings more than twenty (20) years old. The term “dwelling,” for purposes of this paragraph, shall include multi-family housing and condominium residential units. The Township shall regard the Assessor’s full and true value of the improvements for each renovation housing project and qualifying residential unit 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. In determining the value of real property for each dwelling unit, the Township shall regard the first \$25,000.00 in the Assessor’s full and true value of improvements for each dwelling unit primarily and directly affected by 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 any property pursuant to this paragraph shall not be less than the assessment thereon existing immediately prior to the improvements, except if there is damage to the dwelling through action of the elements sufficient to warrant a deduction. **The following types of improvements that would qualify for the exemption are as follows:**

1. Additions
2. Interior Renovations
 - (a) To include upgrades to kitchen, bathrooms that would otherwise increase the assessed value but not to include alterations, ordinary painting, repairs, replacement and the replacement of maintenance items.
 - (b) To include garage conversion to livable space
3. Enclosed, glazed, & open porches
4. Decks
5. Shed (100 square feet or more)
6. Patio
7. Pool (Inground)
8. Detached and attached garages
9. Inground hot tubs & inground pools
 - (a) To include saunas & jacuzzi
10. Finished Basement
11. Dormers
 - (a) To include single, small & large dormers
12. Direct vent pre-fabricated fireplaces
 - (a) To include wood burning fire places, free standing & wood stoves
13. Tenant fit ups for commercial & industrial property
 - (a) Not to include alterations, ordinary painting, repairs, replacement and the replacement of maintenance items.
14. Siding
 - (a) To include aluminum, brick, stone & stucco
15. Other Miscellaneous Improvements

- (a) To include greenhouses, bulkheads, docks, pergolas, tennis & basketball courts conversions from forced hot air or other inferior heat source to hot water baseboard, steam, electric radiant, heat pump and gas on gas.
- (b) To include conversion from regular air units to central air conditioning.

5. The Township Council hereby determines to provide for an exemption of thirty percent (30%) of the Assessor's full and true value for each of the first five (5) years of construction of new dwellings or of the conversion of other buildings and structures, including unutilized public buildings, to dwelling use. The term "dwelling," for purposes of this Paragraph, shall include condominium residential units. This exemption is to be granted notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby.

6. The exemptions identified in Paragraphs 4 and 5 require the following application procedure:

a. An application must be submitted to and filed with the Township's Tax Assessor no later than thirty (30) days, including Saturdays and Sundays, following completion of the improvement, conversion, alteration or construction. An application may be filed with the Tax Assessor any time prior to such deadline. "Completion" means that the subject improvement is substantially ready for the intended use for which it is constructed. Such completion is substantially ready for the intended use for which it is constructed. Such completion may be evidenced by the issuance of a Certificate of Occupancy or like document by the Township's building inspector(s).

b. The application shall be on a form prescribed by the Director of the Division of Taxation and shall be available to claimants at the City's municipal building.

c. Each application for exemption from taxation of improvements resulting from a renovation housing project must demonstrate that the applicant meets the definition of a renovation housing project and the criteria for exemption set forth in the Act.

d. Every application for exemption timely filed with the Tax Assessor shall be approved and allowed by the Assessor if the application is consistent with the statute and this section and the subject property qualifies for the exemption as provided herein.

e. The granting of the exemption shall be recorded and made a permanent part of the official tax records of the Township and its Tax Assessor.

7. In addition to the Tax Assessor's authority to grant exemptions identified in Paragraphs 4 and 5 this section also authorizes the exemption for up to the Assessor's full and true value of the "improvements" to existing commercial, multi-family and industrial structures including tenant fit ups as may be granted only by the governing body on an individual basis after review, evaluation and approval of each application by resolution. The application procedure for seeking such an exemption shall be consistent with the procedures outlined in Paragraph 10. However, the granting of an exemption under Paragraph 8 shall not require the adoption of an ordinance nor a written tax agreement. An "improvement" is defined under N.J.S.A. 40A:21-3n, which definition is fully incorporated herein, and includes the renovation,

rehabilitation, repair, and alteration including tenant fit ups of an existing building that improves the safety and attractiveness of the building, but does not include ordinary painting, repairs, and replacement of maintenance items nor the enlargement of the volume of an existing structure by more than thirty percent (30%).

8. The Township Council hereby further determines to grant exemptions from taxation for the construction of commercial, multi-family and industrial structures pursuant to the procedures set forth in the Act and in this section. The term “construction” is defined under N.J.S.A. 40A:21-3g, which definition is fully incorporated herein, and includes the construction of a new commercial or industrial building or the enlargement of an existing commercial multi-family or industrial building by more than thirty percent (30%), but shall not mean the conversion of an existing building or structure to another use.

9. Applicants for tax exemption under Paragraph 7 above shall provide the Governing Body of the Township with an application setting forth the following information:

- a. A general description of a project for which exemption is sought;
- b. A legal description of all real estate necessary for the project;
- c. Plans, drawings and other documents as may be required by the Township Council to demonstrate the structure and design of the project;
- d. A description of the number, classes and type of employees to be employed at the project site within two (2) years of completion of the project;
- e. 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;
- f. Estimates of the cost of completing such project;
- g. 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;
- h. A description of any lease agreement between the applicant and proposed users of the project, and a history and description of the user’s businesses;
- i. Such other pertinent information as the Township Council may require on a case-by-case basis.
- j. The original and six (6) copies of the application shall be submitted to the Township Clerk no later than thirty (30) days following completion of the project, including Saturdays and Sundays. An application may be filed with the Township Clerk any time prior to such deadline. “Completion” means that the subject improvement is substantially ready for the intended use for which it is constructed. Such completion may be evidenced by the issuance of a Certificate of Occupancy or like document by the Township’s building inspector(s).
- k. The Township Council shall have full discretion to accept, deny or revise the application and shall not be subject to any time limitations to make a determination.

1. Notwithstanding the deadline for filing exemption applications reflected in paragraph j. herein, which deadline is statutorily mandated, this section is adopted with the intent of encouraging applicants to seek approvals of tax exemptions for eligible properties as early as possible, preferably prior to commencement of construction.

10. If the Township Council grants the exemption for the project, the Township Council shall adopt an Ordinance authorizing a tax agreement for a particular project. The Township Council shall enter into a written agreement with an applicant for the exemption of local property taxes. The agreement shall provide for the applicant to pay the municipality in lieu of full property taxes an amount equal to a percentage of taxes otherwise due according to the following schedule:

- 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 twenty percent (20%) of taxes otherwise due;
- c. In the third full year after completion, an amount not less than forty (40%) of taxes otherwise due;
- d. In the fourth full year after completion, an amount not less than sixty percent (60%) of taxes otherwise due; and
- e. In the fifth full year after completion, an amount not less than eighty percent (80%) of taxes otherwise due.

11. The Township Clerk is authorized to forward a copy of all executed agreements entered into pursuant to this section to the Director of the Division of Local Government Services in the Department of Community Affairs within thirty (30) days of the date of execution.

12. In the event a property owner subject to a tax agreement ceases to operate or disposes of the property or fails to meet the conditions for qualifying for the exemption, the local property taxes due for all the prior year's subject to exemption and for the current year shall be payable as if no exemption had been granted. The Townships Tax Collector shall notify the property owner within fifteen (15) days of the date of disqualification of the amount of taxes due. In the event the subject property has been transferred to a new owner and it is determined that the new owner will continue to use the property pursuant to the qualifying conditions, and no tax or payment in lieu of tax shall be delinquent, the exemption shall continue and the agreement shall remain in effect.

13. The Township Council hereby determines that an additional improvement, conversion or construction completed on a property already granted a previous exemption pursuant to this section during the period in which the previous exemption is in effect, shall qualify for an additional exemption under the standards identified in this section. The additional improvement, conversion or construction shall be considered as separate for purposes of calculating the exemption, except that the assessed value of any previous improvement, conversion or construction shall be added to the assessed valuation as it was prior to that

improvement, conversion or construction for the purpose of determining the assessed value of the property for which any additional exemption is to be subtracted.

14. No exemption shall be granted or tax agreement entered into pursuant to this section for any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

15. An applicant for tax exemption under this Ordinance shall agree, as a condition to receiving the exemption, not to file a tax appeal challenging the assessment granted under this section.

16. In the event that the Township implements a revaluation or reassessment during the exemption period for any property, the exemption shall continue to apply but at a valuation level consistent with the revaluation or reassessment.

17. The granting of an exemption for a particular property shall not prejudice the right of the Township to appropriately examine and revise the assessment during the five-year exemption period in the event the base assessment is found to be improperly valued and assessed.

18. At the termination of an agreement for tax exemption authorized pursuant to this section, the project or improvement shall be subject to all applicable real property taxes as provided by State laws and regulations and local ordinances, provided that nothing herein shall be deemed to prohibit the project or improvement at the termination of the agreement for tax exemption from qualifying for and receiving the full benefits of any other tax preference provided by law.

19. This section shall take effect for tax year 2017 on Jan. 1, 2017 upon final passage, approval and publication as provided by law.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to be adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

SUMMARY OF PROPOSED 5- YEAR EXEMPTION ORDINANCE

1. The Ordinance will apply to designated categories of eligible properties in the Route 35 corridor and Cliffwood Beach area “in need of rehabilitation”.
2. Each exemption will have a five-year life.
3. During that period, exemptions shall be granted automatically by the Tax Assessor for certain categories of residential properties and shall be granted by the Township in a discretionary manner for certain categories of industrial and commercial improvements.
4. The exemptions granted by the Tax Assessor will not require Township Council approval, will not generate payments in lieu of taxes and will not require an agreement.
5. The categories of exemptions to be granted by the Tax Assessor are:
 - a. For existing renovation housing projects and residential dwellings more than twenty (20) years old, up to \$25,000.00 of new improvements made will not increase the assessed value of such property.
 - b. Thirty percent (30%) of the assessed value newly-constructed renovation housing projects and residential units, or conversions of other buildings to dwelling use. This exemption does not apply to cooperative type residential units
6. The categories of exemptions to be granted by the Township Council are:
 - a. Improvements to existing commercial and industrial structures. Improvements are defined to include enlargements of no more than thirty percent (30%) of the existing improvement.
 - b. Construction of commercial and industrial structures. Construction is defined to include new construction or enlargement of an existing structure by more than thirty percent (30%)
 - c. Exemptions granted under 6(a) will not require a tax agreement and will not result in a payment in lieu taxes. Such exemptions shall be granted by resolution.
 - d. Exemptions granted under 6(b) will require a tax agreement, will require an Ordinance approving the agreement and will result in payments in lieu of taxes.