

Ordinance

No. 9-2017

AMENDING CHAPTER 350. TAXATION ARTICLE I. FIVE-YEAR HOME IMPROVEMENT EXEMPTION

WHEREAS, the Mayor and Borough Council have determined that it is necessary to amend Borough Code, Chapter 350, Taxation, Article I. Five-Year Home Improvement Exemption.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Westville, County of Gloucester and State of New Jersey that Chapter 350 is hereby repealed and replaced in its entirety to read as follows:

§ 350-1 Short title.

This article shall be known as the "Five-Year Home Improvement Exemption Ordinance."

§ 350-2 Findings; purpose; determination.

The Borough of Westville hereby finds that various statutes authorized by the New Jersey Constitution permitting municipalities to grant for a period 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 residential and commercial structures. It is the purpose of this article to permit the Borough of Westville to encourage rehabilitation and modernization of older dwellings. 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 residential and multiple dwellings, commercial and industrial structures for five-year tax exemptions to the maximum degree permitted by N.J.S.A. 40A:21-1 et seq. throughout the entire Borough.

§ 350-3 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABATEMENT

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

AREA IN NEED OF REHABILITATION

The entirety of the Borough of Westville which has been determined to be an area in need of rehabilitation pursuant to the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.).

ASSESSOR

The Assessor of the Borough of Westville who is charged with the duty of assessing real property for the purpose of general taxation.

COMMERCIAL OR INDUSTRIAL STRUCTURE

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, hotel or motel facilities, 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. It shall not include any structure

Ordinance

No. 9-2017

Page 2

or part 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 10%; and the property that the business relocating to has been the subject of a remedial plan costing in excess of \$250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection Act.

COMPLETION

Substantially ready for the intended use for which a building or structure constructed, improved or converted.

CONDOMINIUM

Property created or recorded as a condominium pursuant to the Condominium Act (N.J.S.A. 46:8B-1 et seq.)

CONSTRUCTION

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

CONVERSION or CONVERSION ALTERATION

The alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

COOPERATIVE

A housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment or other unit of housing owned by the corporation or association or to purchase a unit of housing owned by the corporation or association.

DWELLING

A building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a multiple dwelling pursuant to the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1 et seq.). A "dwelling" shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include general common elements such horizontal property regime or condominium as defined pursuant to the Horizontal Property Act (N.J.S.A. 46:8A-1 et seq.) or the Condominium Act (N.J.S.A. 46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

Ordinance

No. 9-2017

Page 3

EXEMPTION

That portion of the Assessor's full and true value of any improvement not regarded as increasing the taxable value of a property pursuant to this article.

HOME IMPROVEMENT

A modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing dwelling that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation. 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 any application pursuant to this article.

HORIZONTAL PROPERTY REGIME

A property submitted to a horizontal property regime pursuant to the Horizontal Property Act (N.J.S.A. 46:8A-1 et seq.).

MULTIPLE DWELLING

A building or structure meeting the definition of "multiple dwelling" set forth in the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

§ 350-4 Amendments; time period of applications.

A. This article authorizes the Borough of Westville to grant exemptions and abatements to commence and take effect in the 2016 tax year and thereafter.

B. Application for exemption from taxation may be filed pursuant to this article so adopted to take effect for tax year 2016 and for tax years thereafter as set forth in N.J.S.A. 40A:21-1 et seq. No application for exemption shall be filed for exemptions to take initial effect for the 11th full tax year, 2026, or any tax year occurring thereafter, unless this Chapter is readopted by the governing body pursuant to N.J.S.A. 40A:21-4.

§ 350-5 Improvement exemptions.

The Borough of Westville hereby provides for the exemption from taxation of improvements to dwellings in accordance with the provisions of this article. In determining the value of the real property, the municipality 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 the value of the property to which the improvements were made unless there is damage to the dwelling through an action of elements sufficient to warrant a reduction.

§ 350-6 Conversions to single-dwelling from multiple-dwelling use.

Conversion to single-dwelling use from a multiple-dwelling use are eligible for tax exemption for a period of five years. If approved, the Borough, in determining value, shall regard up to the Assessor's full and true value of the improvements or conversion alterations as not increasing the value of the property, notwithstanding that the value of the property to which the improvements or conversion alterations 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 dwellings sufficient to warrant reduction.

Ordinance

No. 9-2017

Page 4

§ 350-7 Construction of New Dwelling or Conversions to Dwelling use.

Abatement for new construction and/or conversions. The Borough may abate some portion of the assessed valuation of construction of new dwellings or of conversions of other buildings and structures, including un-utilized public buildings, to dwelling use, or both. In determining the value of real property, the Municipality shall regard a percentage, not to exceed 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 total of up to five years, notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the specific ordinance which may include a schedule providing for a different percentage of abatement, up to 30%, for each year of the abatement period.

§ 350-8 Applications for tax agreements; requirements.

Applicants for improvement exemptions as contemplated by this article shall provide the Municipal Assessor with an application setting forth:

- A. A general description of a project for which exemption and abatement 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 governing body to demonstrate the structure and design of the project.
- D. A description of the number, classes and type of employees to be employed at this project site within two years of completion of the project.
- E. A statement of the reasons for seeking tax exemption and abatement 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 the real property taxes currently being assessed at the project site, estimated tax payments that be made annually by the applicant on the project during the period of the agreement and 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. If the project is a commercial or industrial structure, a description of any lease agreements between the applicants and proposed users of the project and a history and description of the user's businesses.
- I. If a project is a multiple dwelling, a description of the number and types of dwelling units to be provided, a description of the common elements or general common elements and a statement of the proposed initial rentals or sales prices of the dwelling units according to type and of any rental lease or resale restrictions to apply to the dwellings' units respecting low- or moderate-income housing.
- J. Such other pertinent information as the governing body may require.

Ordinance

No. 9-2017

Page 5

§ 350-9 Formula for payments under tax agreement.

Upon adoption of a resolution authorizing a tax agreement for a particular project under this article, the Mayor may enter into a written tax agreement with the applicant for the exemption and the abatement of local real property taxes. The agreement shall provide for the applicant to pay the municipality in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

A. Cost basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means only the cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities and parking facilities, together with architectural, engineering, legal, surveying, testing and contractor's fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

B. Gross revenue basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project or any operating or maintenance expenses ordinarily paid by the landlord are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

C. Tax phase-in basis. The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

- (1) In the first full tax year after completion, no payment in lieu of taxes otherwise due.
- (2) In the second tax year, an amount not less than 20% of taxes otherwise due.
- (3) In the third tax year, an amount not less than 40% of taxes otherwise due.
- (4) In the fourth tax year, an amount not less than 60% of taxes otherwise due.
- (5) In the fifth tax year, an amount not less than 80% of taxes otherwise due.

§ 350-10 Assessed value of property under exemptions.

The Assessor shall determine, on October 1 of the year following the date of the completion of an improvement, the true taxable value thereof. The amount of tax to be paid for the first full year following completion shall be based on the assessed valuation of the property for the previous year, plus any portion of the assessed valuation of the improvement not allowed an exemption pursuant to this article. Subject to the provisions of this article, the property shall continue to be treated in the appropriate manner for each of the five full tax years subsequent to the original determination by the Assessor.

Ordinance

No. 9-2017

Page 6

§ 350-11 Additional exemptions.

An additional exemption pursuant to this article during the period in which 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 shall be considered as separate for the purposes of calculating exemptions pursuant to this article, except that the assessed value of any previous improvement shall be added to the assessed valuation as it was prior to that improvement for the purpose of determining the assessed valuation of the property from which any additional exemption is to be subtracted.

§ 350-12 Properties with delinquent taxes ineligible.

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. For purposes of this article, the existence of a tax installment agreement shall not be considered; all taxes penalties and interest due and owing must be paid in full upon application.

§ 350-13 Applications, forms and records.

No exemption shall be granted pursuant to this article except upon written application filed with and approved by the Assessor. Every application shall be on a form prescribed by the Director of the Division of Taxation in the State Department of the Treasury and provided for the use of the claimants by the Borough of Westville, and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement. Every application for exemption which is filed within the specified time shall be approved and allowed by the Assessor to the degree that the application is consistent with the provisions of this article, provided that the improvement for which the application is made qualifies as an improvement pursuant to the provisions this article. The granting of an exemption shall be recorded and made a permanent part of the official tax records, which record shall contain a notice of the termination date thereof.

§ 350-14 Rules and regulations.

N.J.S.A. 40A:21-19 provides that the Commissioner of the Department of Community Affairs is authorized to determine standards and guidelines and to promulgate rules and regulations to effectuate the purposes of the Five-Year Exemption and Abatement Law, and this article is subject to those rules and regulations and shall be interpreted and applied consistent herewith.

§ 350-15 Notice to taxpayers.

The appropriate notice of the adoption of this article, as shall be supplied by the Department of Community Affairs, shall be included in the mailing of annual property tax bills to each taxpayer during the first year following the adoption of this article.

§ 350-16 Payment in quarterly installments; failure to make payments.

All tax exemption agreements shall provide that the tax shall be billed and collected in the same manner as any conventional taxes and any arrearages shall accrue at a rate of interest charged for delinquent real estate taxes and shall be subject to foreclosure. Further, if any payments due under a tax exemption agreement shall be delinquent for a period of 30 days, the tax exemption shall terminate as of the date such payments first became delinquent.

§ 350-17 Municipal reports.

The Mayor 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 within the municipality in the current tax year for improvements of dwellings.

Ordinance

No. 9-2017

Page 7

If any section, paragraph, subsection, clause, or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

All ordinances or parts of ordinances of the Borough of Westville heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

This Ordinance shall take effect immediately upon adoption. Notice of adoption shall be published as provided by law.

Introduced: July 10, 2017

Adopted: August 14, 2017

BOROUGH OF WESTVILLE

**Russell W. Welsh, Jr.
MAYOR**

ATTEST:

**Ryan C. Giles
MUNICIPAL CLERK**