

CITY OF WILDWOOD
Cape May County, New Jersey

ORDINANCE NO. 889-11

**AN ORDINANCE CREATING A FIVE-YEAR TAX EXEMPTION AND
ABATEMENT PROGRAM IN THE CITY OF WILDWOOD, CAPE MAY
COUNTY, STATE OF NEW JERSEY, IN ACCORDANCE WITH STATE STATUTES**

BE IT ORDAINED by the Board of Commissioners of the City of Wildwood, Cape May County, State of New Jersey, as follows:

STATEMENT OF INTENTION

The City of Wildwood pursuant to N.J.S. 40A:21-1 et seq. makes known its intention to utilize the tax exemption and abatement provision authorized by the State legislature to provide five (5) year exemptions and abatements for residential structures, and commercial projects as defined herein.

SECTION 1- DEFINITIONS

As used in this chapter:

Abatement shall mean that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation to this act.

Redevelopment Law -

Assessor shall mean the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

Commercial structure shall mean a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the Board of Commissioners 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 or part thereof used or to be used by any business relocated from another qualifying municipality.

Completion shall mean substantially ready for the intended use for which a building or structure is constructed, improved or converted.

Condominium shall mean a property created or recorded as a condominium pursuant to the "Condominium Act," N.J.S. 46:8B-1 et seq.

Construction shall mean 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 thirty (30%) percent, but shall not mean the conversion of an existing building or structure to another use.

Conversion or conversion alteration shall mean 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 shall mean 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.

Cost shall mean when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the Board of Commissioners by an independent and qualified architect, following the completion of the project.

Dwelling shall mean 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 a 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. 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" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," N.J.S. 46:8A-1 et seq., or the "Condominium Act," N.J.S. 46:8B-1 et seq., or of a cooperative, if the residential units are owned separately.

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 this act.

Horizontal property regime shall mean a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," N.J.S. 46:8A-1 et seq.

Improvement shall mean 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 a multiple dwelling, it includes only improvements which affect common areas or elements, or three (3) or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, 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 thirty (30%) percent. In no case shall it include the repair of fire or other damage to property for which payment of a claim was received by any person from an insurance company at any time during the three (3) year period immediately preceding the filing of an application pursuant to this act.

Multiple dwelling shall mean a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Law," N.J.S. 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.

SECTION 2 - ELIGIBLE PROPERTY

Owner(s) of new residential structures, owner(s) of improved residential structures, or owner(s) of newly constructed or rehabilitated commercial structures that are located within the boundaries of attachment "A" are entitled to avail themselves of the opportunity to receive a five (5) year tax exemption and/or tax abatement as provided in this chapter when the qualifications are met as follows:

- a. All real estate taxes must be current;
- b. Written application to the Tax Assessor at the same time any application for any land use improvements (Planning Bd./Zoning Bd.) are submitted;
- c. Approval by Ordinance of the Board of Commissioners; and
- d. Submission by applicant of a certificate of occupancy.

SECTION 3 - APPLICATION FEE

No application for Tax Exemption and Abatement submitted pursuant to this chapter shall be accepted unless it is accompanied by full payment of the required application fee. Such fees shall be in the amount of two hundred fifty (\$250.00) dollars for dwellings; and for multiple dwellings and commercial projects the fee shall be two hundred fifty (\$250.00) ~~two thousand five hundred (\$2,500.00) dollars for all projects whose total project cost is less than one million (\$1,000,000.00) dollars~~ and one thousand (\$1,000.00) ~~dollars five thousand (\$5,000.00) dollars~~ for all projects whose total project cost is greater than one million (\$1,000,000.00) dollars but less than five million (\$5,000,000.00) dollars and seven thousand five hundred (\$7,500.00) dollars for all other projects. These fees shall be received as compensation for the legal review and related work of the City's departments and agencies. All checks shall be certified and payable to the City. This application fee shall be nonrefundable.

SECTION 4 - EXEMPTIONS AND ABATEMENTS FOR IMPROVEMENTS TO DWELLINGS

For the exemption from taxation of improvements to dwellings, in determining the value of real property, the municipality shall regard the first twenty-five thousand (\$25,000.00) dollars in assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than twenty (20) years old, 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 an abatement is granted pursuant to this Section, or there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

For any property for which an exemption is granted under the preceding paragraph of this Section, the ordinance approving said exemption may also provide for the abatement of some portion of the assessed value of the property (including the land) receiving the exemption as it existed immediately prior to the improvement, as provided in and subject to the limitations of N.J.S.A. 40A:21-5(b).

An ordinance authorizing an exemption and/or abatement pursuant to this Section need not contain a form of tax agreement, but may instead refer to a form of tax agreement which has been approved by separate ordinance.

If the applicant shall transfer ownership of a dwelling during the term of the applicable tax agreement or if any such transferee shall thereafter again transfer such ownership, the tax agreement, relating thereto shall be deemed to be assigned to and assumed by each such subsequent owner. Accordingly, the abatement and/or exemption shall continue notwithstanding such transfer, and the tax agreement shall remain in effect during the original term thereof. Such continuation shall also apply to any tax agreement relating to a dwelling which has been transferred prior to the effectiveness of the ordinance authorizing this section, provided that the Tax Assessor has not previously notified either the transferor or the transferee of the lapse of such abatement and/or exemption.

SECTION 5 - EXEMPTIONS AND ABATEMENTS FOR NEW MULTIPLE DWELLINGS CONSISTING OF CONDOMINIUM HOUSING UNITS AND COMMERCIAL PROPERTIES

In the case of construction of a multiple dwelling consisting of condominium housing units, commercial properties, or of conversions of other buildings and structures, including unutilized public buildings, to condominium housing use, or both, the owner of such property may apply for an exemption and abatement in respect of such project, stating separately (i) the "common elements" of such condominium as defined pursuant to the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.) and (ii) each proposed condominium housing unit which is intended to be subsequently conveyed by the applicant to an individual owner thereof (each, an "Eligible Property"). Such application shall be made in accordance with the provisions of N.J.S.A. 40A:21-9, and upon approval by the Board of Commissioners of an ordinance authorizing a tax agreement for such project, the applicant (or, if an Eligible Property shall have been conveyed to an individual owner thereof and the requirements of the following paragraph have been satisfied, such owner) shall, in lieu of full property tax payments on the Eligible Property, pay to the municipality an amount annually equal to the following percentage of taxes otherwise due:

- a. In the first full tax year after completion, no payment in lieu of taxes otherwise due on the Eligible Property;
- b. In the second tax year, an amount not less than twenty (20%) percent of taxes otherwise due on the Eligible Property;
- c. In the third tax year, an amount not less than forty (40%) percent of taxes, otherwise due on the Eligible Property;
- d. In the fourth tax year, an amount not less than sixty (60%) percent of taxes, otherwise due on the Eligible Property; and
- e. In the fifth tax year, an amount not less than eighty (80%) percent of taxes otherwise due on the Eligible Property.

If the applicant shall transfer ownership of an Eligible Property during the term of the applicable tax agreement, or if any transferee shall thereafter again transfer such ownership, the Board of Commissioners hereby determines that, in the absence of information to the contrary, each such subsequent owner shall continue to use the property pursuant to conditions which qualified the property for its abatement and/or exemption, and the tax agreement relating thereto shall be deemed to be assigned to and assumed by each such subsequent owner. Accordingly, the abatement and/or exemption shall continue notwithstanding such transfer, and the tax agreement shall remain in effect during the original term thereof.

~~—No exemption or abatement shall be granted under this Section more than three (3) years following the date of final adoption of the ordinance.~~

All other provisions of N.J.S.A. 40A:21-8 through N.J.S.A. 40A:21-13 shall be applicable to any exemption and abatement granted pursuant to this Section. An ordinance authorizing an exemption and/or abatement pursuant to this Section need not contain a form of tax agreement, but may instead refer to a form of tax agreement which has been approved by separate ordinance. Each such tax agreement shall require that the applicant (and any transferee of more than a single Eligible Property) shall provide written notice to each purchaser of an Eligible Property as to the existence and details of the exemption and/or abatement provided in the applicable tax agreement, together with instructions as to such actions, if any, such purchaser must take in order to remain entitled to the benefits thereof following such transfer.

SECTION 6 - APPLICATION PROCEDURES

Applicants for tax exemption and abatement shall provide the Board of Commissioners 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 Board of Commissioners 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 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 (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. If the project is a commercial or industrial structure, a description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses;

- i. Such other pertinent information as the City of Wildwood may require.

SECTION 7-

Deleted.

SECTION 8 - FINANCIAL AGREEMENT

Each commercial project which has been approved a tax exemption and/or abatement shall be evidenced by a financial agreement between the City of Wildwood and the applicant. The agreement shall be in a form prepared by the applicant and shall contain the representations that are required by this chapter, together with such other information required by the Corporation Counsel. The form of the agreement shall be approved by Board of Commissioners and shall be on file in the Office of the City Clerk. The agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by the formulas as set forth in N.J.S. 40A:21-10.

SECTION 9 - REAL PROPERTY TAXES

In addition to the payments required in lieu of taxes via Section 8 of this ordinance, the owner of property which has qualified for tax exemption and/or tax abatement shall be liable for all real estate taxes assessed and levied against the land on which the qualified property is located, except as such taxes may be abated pursuant to the provisions of this ordinance.

SECTION 10 - TAX DELINQUENCIES

No exemption and abatement shall be granted pursuant to this chapter with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for nonpayment of taxes are due.

SECTION 11 - PAYMENT IN QUARTERLY INSTALLMENT AND TERMINATION

The payment in lieu of full property taxes shall be made in quarterly installments according to the same schedule as real property taxes are due and payable. Failure to make these payments shall result in the termination of the exemption or abatement. In addition to the remedy set forth herein, the payment authorized by Section 8 of this ordinance shall be enforced in the same manner as is provided for in real property taxes.

SECTION 12 - PROPERTY TAXES SUBJECT TO EXEMPTION AND ABATEMENT

The exemption and abatement of real property taxes provided by the City of Wildwood pursuant to this chapter shall apply to property taxes levied for municipal purposes, school purposes, county/government purposes, and for the purposes of funding any other property tax exemptions or abatements.

SECTION 13 - APPLICANT'S RESPONSIBILITY FOR COSTS

All advertising costs for publishing the ordinance to grant tax exemption or tax abatement to a particular project shall be paid by the applicant.

SECTION 14 - CONFORMANCE WITH STATUTORY AND REGULATORY REQUIREMENTS

All projects subject to tax agreements 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

SECTION 15 - ADMINISTRATION OF AGREEMENTS

The Division of Tax Abatement and Special Taxes shall be responsible to administer the terms of the Agreement during the period of the exemption and abatement.

SECTION 16 - PROHIBITION AGAINST ADDED ASSESSMENT

The added assessment provisions of N.J.S. 54:4-63.3 and the omitted assessment provisions of N.J.S. 54:4-63.20 and N.J.S. 54:63-33 shall not be applicable to any property for which the owner-occupant has been granted a tax exemption and/or abatement under this ordinance.

SECTION 17 - INSPECTION

Any property which is granted a Tax Exemption and/or Abatement pursuant to this chapter shall be subject to an inspection by the City of Wildwood on an annual basis to ensure that such properties are in compliance with all ordinances, regulations, and safety codes of the City. Any property which is determined to be in violation of any ordinance, regulation, and/or safety code of the City, shall be subject to rescission by the Board of Commissioners.

SECTION 18 - SEVERABILITY

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION 19 – EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Peter Byron, Commissioner

Anthony Leonetti, Commissioner

Ernie Troiano, Jr., Mayor

Attest:

Christopher H. Wood, City Clerk
or
Karen M. Gose, Deputy City Clerk

The above ordinance was introduced and passed first reading on November 22, 2011.

Second Reading/Public Hearing on the above ordinance was held on December 14, 2011.

The above ordinance passed second reading on February 10, 2012.

CHRISTOPHER H. WOOD, CITY CLERK