

ORDINANCE No. 18 - 2020

AN ORDINANCE RESCINDING ORDINANCE NO. 3-2003 AND ORDINANCE NO.13-2012 AND ORDINANCE NO. 18-2011 AND IMPLEMENTING A NEW TAX EXEMPTION AND TAX ABATEMENT PROGRAM PURSUANT TO THE “FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW,” N.J.S.A. 40A:21-1 et seq. FOR THE ENTIRETY OF THE CITY OF EGG HARBOR, COUNTY OF ATLANTIC

WHEREAS, pursuant to Article VIII, Section 1, Paragraph 6 of the new Jersey Constitution and N.J.S.A. 40A-21-1 et seq., known as the “Five Year Tax Exemption and Abatement Law,” (the “Act”), a municipality having within its corporate limits areas in need of rehabilitation may, by Ordinance, provide for the exemption or abatement of real property taxes to encourage and provide incentives for the construction and rehabilitation of multiple dwellings, industrial structures, commercial structures and mixed use structures; and

WHEREAS, the Act provides for exemption and or abatement of property taxes for improvements to existing structures, in the use of existing structures, for five years following completion of the project as defined in the Act; and

WHEREAS, the City of Egg Harbor previously designated the entire city as an “Area in need of Rehabilitation” as that term is defined in N.J.S.A. 40A:21-3; and

WHEREAS, the City of Egg Harbor believes that the enactment of an Ordinance authorizing certain tax incentives will promote growth and redevelopment opportunities which will inure to the long term benefit of the City of Egg Harbor, while affording taxpayers with short term benefits as authorized pursuant to the Act; and

WHEREAS, to commence this long term growth and redevelopment process, the City of Egg Harbor intends to enact this Ordinance to provide short term real estate tax incentives for multiple dwellings, industrial structures, commercial structures, and mixed use structures within the City and establishing the terms and conditions under which said tax incentives shall be granted.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Egg Harbor as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Ordinance No. 3-2003, Ordinance No.13-2012 and Ordinance No. 18-2011 are hereby rescinded. Such rescission shall not affect any tax exemption or abatement previously granted and in force prior to the adoption of this Ordinance.

Section 3. Chapter 241 of the City Municipal Code is hereby amended to remove and replace Articles I and II with a new Article I entitled “Tax Exemptions and Abatements,” as follows:

§ 241-1. Purpose and Scope.

The intention of this Ordinance is to effectuate and accomplish the purposes authorized by N.J.S.A. 40A-21-1 et seq. which permits municipalities to grant for period of 5 (five) years exemptions and or abatements or both from taxation in areas of the municipality in need of rehabilitation. The intended purpose of this Ordinance is to promote the, rehabilitation and or construction of multiple dwellings, commercial structures, industrial structures and mixed –use structures within designated rehabilitation areas of the City of Egg Harbor, County of Atlantic, State of New Jersey.

§ 241-2. Exemptions authorized.

The City of Egg Harbor hereby authorizes the utilization of tax exemptions in accordance with Article VIII, Section I, Paragraph 6, of the New Jersey Constitution and establishes the eligibility of multiple dwellings, commercial and industrial structures, and mixed-use structures for five years to the maximum degree permitted by N.J.S.A. 40A:21-1 et seq. in any area designated as any eligible area as defined in § 269-3.

§ 241-3. Definitions.

- A. The definitions contained in N.J.S.A. 40A:21-3 are incorporated herein by reference as if set forth at length. As used in this article, those words shall have the meanings as so defined unless a different meaning is clearly expressed.
- B. Additional terms. As used in this article, the following definitions shall apply:

ASSESSOR-The officer of the City of Egg Harbor charged with the duty of assessing real property for the purposes of general taxation.

AREA IN NEED OF REHABILITATION — The area(s) within the City of Egg Harbor which have been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law" (N.J.S.A. 40A:12A-1 et seq.), which have been determined to be a "blighted area" pursuant to the "Blighted Areas Act" (N.J.S.A. 40:55-21.1 et seq.), or which have been determined to be in need of rehabilitation pursuant to N.J.S.A. 54:4-3:72 et seq. or N.J.S.A. 54:4-3.121 et seq.

EXEMPTION AND ABATEMENT OFFICER — The individual

appointed by the City Council pursuant to this article to administer the five-year exemption and abatement programs provided by this chapter except where otherwise noted. The phrase "E&A Officer" shall mean Exemption and Abatement Officer.

MIXED-USE STRUCTURE — A structure with two or more different uses such as residential, commercial, or industrial.

MUNICIPAL CHARGES — Property taxes, assessments, water or sewer charges and any other charge for which a lien may be created, together with interest and penalties thereon, including all advertising fees and costs of sale.

PROJECT — Any improvement or construction undertaken by a single entity which may include the construction, reconstruction, structural alteration, relocation or enlargement of any building or other structure.

THE ACT — The Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. enacted into law on or about January 18, 1992, as amended and supplemented.

- C. Where consistent with the context used in this article, words importing the singular shall include the plural, words importing the plural shall include the singular, and words importing one gender shall include all other genders.

§ 241-4. Power to enter into agreements.

- A. The City Council may enter into agreements with developers and/or owners of property that are in areas in need of redevelopment or rehabilitation within the City of Egg Harbor as determined by the City Council in accordance with N.J.S.A. 40A:12A-1 et seq., providing tax exemptions for the construction and rehabilitation of multiple dwellings, industrial structures, commercial structures, and mixed-use structures within the City of Egg Harbor pursuant to the Act and the requirements of this article.
- B. Except as otherwise provided in § 269-8 and § 269-10 herein, the Assessor may approve tax exemptions and/or abatements for the benefit of developers and/or owners of property, for any project with an estimate of costs less than \$500,000, subject to the Act and the requirements of this article. Tax exemptions for any project with an estimate of costs exceeding \$500,000 shall be subject to the review and approval of the City Council pursuant to the Act and the requirements of this article.

§ 241-5. Improvements to dwellings.

Improvements to dwellings shall be eligible for a tax exemption and/ or abatement for a period of five years in accordance with the following:

- A. Only improvements made to dwellings more than 20 years old are eligible for tax exemption for a period of five years. For purposes of eligibility under this section, a dwelling will be considered less than 20 years old if in the last 20 years the dwelling has been demolished in its entirety or where less than 60% of the original square footage of the dwelling remains.
- B. Upon approval, the Assessor in determining value shall regard the first \$25,000 of the 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, notwithstanding that the value of the property to which the improvements are made is increased thereby. The five-year exemption period shall commence on the first day of the month following grant of the exemption. If the five-year period expires leaving a partial year in the tax year, the Assessor shall complete an added assessment as appropriate.
- C. An abatement for a dwelling may be granted with respect to the property for a total of up to five years, but the annual amount of the abatement granted to any single property may not exceed 30% of the annual amount of the exemption granted under this section. The five-year abatement period shall commence in the first full year following the tax year in which the improvements are completed.
- D. 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 has been granted pursuant to this section or there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

§ 241-6. Improvements to multiple dwellings.

Improvements to multiple dwellings shall be eligible for a tax exemption and/or abatement for a period of five years in accordance with the following:

- A. Upon approval, in determining the value of real property, the municipality shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding the value of the property to which the improvements are made is increased thereby.
- B. An abatement for a multiple dwelling may be granted with respect to the property for a total of up to five years, but the annual

amount of the abatement shall not exceed 30% of the total cost of the improvement, and the total amount of abatements granted to any single property shall not exceed the total cost of the improvement.

- C. The five-year exemption period shall not commence until the first full year following the tax year in which the improvements are completed.
- D. 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 has been granted pursuant to this section or there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

§ 241-7. Improvements to commercial structures.

Improvements to commercial structures are eligible for tax exemption for a period of five years in accordance with the following:

- A. Upon approval, in determining value, the Assessor shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years.
- B. This exemption is to be granted notwithstanding that the value of the property to which the improvement is 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.
- C. The five-year exemption period shall not commence until the first full year following the tax year in which the improvement is completed.

§ 241-8. New construction of commercial structures by tax agreement.

- A. New construction of commercial structures is eligible for tax exemption for a period of five years. This exemption may only be approved by ordinance of the City Council on a project-by-project basis.
- B. Pursuant to §241-15, applicants for tax exemption shall provide the E and O Officer, on behalf of the City Council, with an application setting forth all the following information:
 - (1) A general description of the 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 City Council or Assessor as applicable, to demonstrate the 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) A good faith estimate of the cost of completing such project, together with the expected method or plan of financing the improvements.
 - (7) A construction time schedule and projected completion schedule.
 - (8) A statement showing the real property taxes currently being assessed at the project site, the estimated tax payments that would be made annually by the applicant on the project during the period of the agreement, and the estimated tax payments that would be made by the applicant on the project during the first full year following the termination or expiration of the tax agreement.
 - (9) A description of any lease agreement between the applicant and proposed users of the project and a history and description of the users' businesses.
 - (10) A disclosure statement of the interests of all parties, including subsidiary companies, in the project.
 - (11) The owner's certification that the improvement as proposed meets the requirements of the redevelopment plan or the City of Egg Harbor's Zoning Ordinance.
 - (12) The signature of the owner and the owner's certification as to the truth and accuracy of the contents contained in the application.
 - (13) Such other pertinent information as the City Council may require on a case-by-case basis.
- C. The owner shall enter a written agreement with the City of Egg Harbor to pay a tax on the newly-constructed commercial structures to be computed in accordance with the "Tax Phase-in Basis" formula set forth in N.J.S.A. 40A:21-10. The agreement shall provide that the tax shall be billed and collected in the same manner as any conventional taxes, and any arrearages shall accrue at the rate of interest charged

for delinquent real estate taxes.

D. The five-year exemption period shall not commence until the first full year following the tax year in which the construction of the commercial structures is completed.

E. The E&A Officer, on behalf of the City Council, shall be responsible for the administration and enforcement of the tax agreement in accordance with the following:

(1) In the event that 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 and/or abatement set forth in § 269-8 herein, including but not limited to compliance with the requirements of the redevelopment plan or the City of Egg Harbor Zoning Ordinances, the local property taxes due for all the prior years subject to exemption and for the current year shall be payable as if no exemption had been granted.

(2) If 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, no additional tax shall be due, the exemption shall continue and the agreement shall remain in effect.

(3) The E&A Officer, on behalf of the City Council, shall notify the property owner, the Assessor and the Tax Collector of the amount of taxes due within 15 days of the date of disqualification.

F. Any tax agreement as authorized by this section shall only be available wherein the use of the property is permitted by the existing zoning standards of the City's Municipal Code and not the result of a variance.

§ 241-9. Improvements to industrial structures.

Improvements to industrial structures are eligible for tax exemption for a period of five years in accordance with the following:

A. Upon approval, in determining value the Assessor shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years.

B. This exemption is to be granted notwithstanding that the value of the property to which the improvement is 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.

C. The five-year exemption period shall not commence until the first full year following the tax year in which the improvement is completed.

§ 241-10. New construction of industrial structures by tax agreement.

New construction of industrial structures is eligible for tax exemption for a period of five years. This exemption may only be approved by Ordinance of the City Council on a project-by-project basis.

A. Applicants for tax exemption shall provide the City Council with an application setting forth all the following information:

- (1) A general description of the 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 City Council to demonstrate the 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) A good faith estimate of the cost of completing such project, together with the expected method or plan of financing the improvements.
- (7) A construction time schedule and projected completion schedule.
- (8) A statement showing the real property taxes currently being assessed at the project site, the estimated tax payments that would be made annually by the applicant on the project during the period of the agreement, and the estimated tax payments that would be made by the applicant on the project during the first full year following the termination or expiration of the tax agreement.
- (9) A description of any lease agreement between the applicant and proposed users of the project and a history and description of the users' businesses.
- (10) A disclosure statement of the interests of all parties, including subsidiary companies, in the project.
- (11) The owner's certification that the improvement as proposed meets the requirements of the redevelopment plan or the City of Egg Harbor's zoning ordinance.

(12) The signature of the owner and the owner's certification as to the truth and accuracy of the contents contained in the application.

(13) Such other pertinent information as the City Council may require on a case-by-case basis.

- B. The owner shall enter a written agreement with the City of Egg Harbor to pay a tax on the newly-constructed industrial structures to be computed in accordance with the "Tax Phase-in Basis" formula set forth in N.J.S.A. 40A:21-10. The agreement shall provide that the tax shall be billed and collected in the same manner as any conventional taxes, and any arrearages shall accrue at the rate of interest charged for delinquent real estate taxes.
- C. The five-year exemption period shall not commence until the first full year following the tax year in which the construction of the industrial structures is completed.
- D. The E&A Officer on behalf of the City Council shall be responsible for the administration and enforcement of the tax agreement in accordance with the following:
 - (1) In the event that 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 and/or abatement set forth in this article, including but not limited to compliance with the redevelopment plan or the City of Egg Harbor the local property taxes due for all the prior years subject to exemption and for the current year shall be payable as if no exemption had been granted.
 - (2) If 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, no additional tax shall be due, the exemption shall continue and the agreement shall remain in effect.
 - (3) The E&A Officer on behalf of the City Council, shall notify the property owner and the Assessor of the amount of taxes due within 15 days of the date of disqualification.

E. Any tax agreement as authorized by this section shall only be available wherein the use of the property is permitted by the existing zoning standards of the City's Municipal Code and not the result of a variance.

§ 241-11. New construction of mixed use.

Construction of mixed use structures are eligible for tax exemption in accordance with the requirements set forth in this article for the various components of the mixed use.

§ 241-12. Determination of true value by Assessor.

The Assessor shall determine on October 1 of the year following the date of the completion of any improvement or construction the true taxable value thereof. The amount of tax to be paid for the first full tax year following completion of any improvement or construction for any portion thereof not subject to an assessment or exemption shall be based on the valuation of the property by the Assessor pursuant to this section and shall continue in the appropriate manner for each of the five full tax years of the exemption period.

§ 241-13. Applicability of federal, state and local laws.

All tax exemption agreements shall provide that the property owner is subject to all applicable federal, state and local laws and regulations, including but not limited to laws and regulations governing pollution control, worker safety, discrimination in employment, housing provisions, zoning, planning and building code requirements.

§ 241-14. Appointment of Exemption and Abatement Officer.

The position of Exemption and Abatement Officer ("E&A Officer") is hereby created for the purpose of administering the City's five-year exemption and abatement programs under this chapter. The City Council shall appoint the E&A Officer by resolution of the City Council at its annual reorganization meeting for a period of one-year. The initial E&A Officer shall be appointed by resolution of the City Council at its first scheduled meeting following the effective date of this provision and shall serve until the next annual reorganization meeting. The compensation for the E&A Officer shall be set by ordinance.

§ 241-15. Procedure for applying for tax exemption.

- A. Applicants for tax exemption shall submit an application to the Assessor or E&A Officer, as applicable, on a form prescribed by the Director of the Division of Taxation in the Department of Treasury within 30 calendar days following the completion of the improvement or new construction.
- B. The Assessor or the E&A Officer shall forward a copy of the Completed application to the C i t y C o u n c i l within 30 days of the receipt of same for all tax exemption requests requiring City Council approval. Following receipt of

a completed application as set forth above, the City Council or the Assessor, as applicable, shall review same to determine whether an exemption and/or abatement shall be granted.

- C. All tax exemptions and all tax agreements shall be recorded and made a permanent part of the official tax records of the City of Egg Harbor, which records shall contain a notice of termination date thereof.
- D. Any tax exemption approved pursuant to this article shall apply to the property taxes levied for the City of Egg Harbor purposes, school purposes, county government purposes, and for any other property tax purposes.
- E. Every application for exemption shall be subject to the provisions of this article as well as the provisions of N.J.S.A. 40A:21-1 et seq., and all rules and regulations promulgated thereunder.

§ 241-16. Ineligibility and other limitations.

No exemptions shall be granted for any property for which property taxes or any other municipal charges, including interest, are delinquent or remain unpaid or for which penalties for nonpayment are due.

§ 241-17. Additional improvements eligible for tax exemptions.

Any additional improvement or new construction completed to a property already granted an exemption during the period in which the exemption is in effect shall be eligible for an additional exemption, just as if such property had not received a previous exemption. The additional improvement or new construction shall be considered as separate for purposes of calculating the exemption, except that the assessed value of any previous improvement or new construction shall be added to the assessed valuation as it was prior to that improvement or new construction for the purpose of determining the assessed value of the property from which any additional exemption is to be subtracted.

§ 241-18. Termination.

Upon termination of any tax exemption or any tax agreement approved pursuant to this article, a project shall be subject to all applicable real property taxes as provided by state law and regulation, as well as local ordinances. However, nothing herein shall prohibit a project, upon termination of a tax exemption or any tax agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

§ 241-19. Notice to be mailed.

During the first year following adoption of this article, the Assessor shall include an appropriate notice in the mailing of the annual property tax bills to property owners advising them of the availability of tax exemptions under this ordinance.

§ 241-20. Report of real property taxes.

A. The E&A Officer, on behalf of the City Council, 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, the Director of the Division of Taxation in the Department of the Treasury, and to the City Council, the total amount of real property taxes exempted within the Township in the current tax year for each of the following:

- (1) Improvements to multiple dwellings.
- (2) Improvements to commercial or industrial structures.
- (3) Construction to commercial or industrial structures under tax agreements.

B. In the case of Subsection A(3) above, as applicable, the report shall state instead the total amount of payments made in lieu of taxes according to the formula utilized by the City of Egg Harbor, and the difference between that total amount and the total amount of real property taxes which would have been paid on the project had the tax agreement not been in effect, for the current tax year.

C. The E&A Officer shall be responsible for ensuring the City's compliance with the provisions of this section and any additional requirements imposed by statute.

§ 241-21. Appeal.

Appeal of any determination made by the City of Egg Harbor under the terms of this article shall be made to the Atlantic County Board of Taxation.

§ 241-22. Expiration (sunset provision).

No application for tax exemption shall be filed for an exemption to take initial effect in the 11th tax year after initial adoption, or any tax year thereafter, unless this article is readopted by the City Council in accordance with N.J.S.A. 40A:21-4.

§ 241-23. Severability.

The various parts, sections and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

§ 241-24. Captions.

Captions contained in this article have been inserted only for the purposes 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.

§ 241-25. Repealer.

Any ordinances or parts thereof in conflict with the provisions of this article are hereby repealed.

§ 241-26. Effective date.

This article shall take effect upon final passage and publication as provided by law, provided that any exemptions approved thereafter shall not take effect until the following tax year. After the effective date, this article shall only apply to projects that have not received a construction permit as of the effective date of this article.

Section 4. The City of Egg Harbor shall forward a copy of all tax exemption agreements authorized by this Ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs within 30 (thirty) days of the date of execution of said agreement.

Section 5. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 6. This Ordinance shall take effect after final adoption and publication according to law.

Introduced: November 19, 2020

Publication: November 25, 2020

Public Hearing: December 17, 2020

Adoption:

Publication:

Meg Steeb, City Clerk

Lisa Jampetti, Mayor

