

ORDINANCE NO. 2019-11

AN ORDINANCE PROVIDING FOR REAL ESTATE TAX EXEMPTION FOR NEW CONSTRUCTION OF AND IMPROVEMENTS TO COMMERCIAL AND INDUSTRIAL STRUCTURES IN THE CITY OF VINELAND PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ.

WHEREAS, pursuant to N.J.S.A. 40A:21-1 et seq., a municipality having within its corporate limits areas in need of rehabilitation may, by ordinance, provide for the abatement and exemption of real property taxes to encourage and provide incentive for new construction of commercial or industrial structures and improvements; and

WHEREAS, the New Jersey Department of Community Affairs has determined, by letter of John P. Renna, Commissioner of the Department of Community Affairs, dated January 18, 1984, that the City of Vineland is an "area in need of rehabilitation", as that term was defined in N.J.S.A. 54:4-3.95 et seq., now 40A:21-1 et seq.; and

WHEREAS, the City of Vineland has heretofore provided for real estate tax exemption for new construction of and improvements to commercial and industrial structures, in accordance with N.J.S.A. 40A:21-1, et seq., pursuant to Ordinance No. 84-10, as amended by Ordinance No. 85-14; Ordinance No. 93-38, as amended by Ordinance No. 95-28; Ordinance No. 96-87, as amended by Ordinance No. 98-35, Ordinance No. 2001-23, Ordinance No. 2009-15.; and

WHEREAS, N.J.S.A. 40A:21-4 requires re-adoption by the governing body of the ordinance granting real estate tax exemptions every ten tax years; and

WHEREAS, it is considered to be in the best interest of the City of Vineland that the City's current provisions for tax exemption for industrial and commercial improvements, as last amended on March 10, 2009, be re-adopted; now, therefore,

BE IT ORDAINED by the Council of the City of Vineland, as follows:

SECTION 1. Definitions.

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

ABATEMENT -- That portion of the assessed value of a property as it existed prior to construction of a building or structure thereon which is exempted from taxation pursuant to this Article.

ASSESSOR -- The officer of the City of Vineland 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 or part thereof used or to be used by any business relocated from another qualifying municipality.

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

CONSTRUCTION -- The provision of a commercial or industrial structure, or the enlargement of the volume of an existing commercial or industrial structure by more than thirty percent (30%), but shall not mean the conversion of an existing building or structure to another use.

EXEMPTION -- 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 -- 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 and which does not change its permitted use. In the case of a 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 percent (30%). In no case

shall it include the repair of fire or other damage to a property for which 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.

SECTION 2. Grant of exemptions for improvements to commercial or industrial structures.

Exemptions from taxation for improvements to commercial or industrial structures may be granted upon review, evaluation and approval of each application on an individual basis by the governing body. In determining the value of real property, the City of Vineland 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 (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.

SECTION 3. Additional improvement, conversion or construction; eligibility for exemption and abatement.

An additional improvement, conversion or construction, completed on a property granted a previous exemption or abatement pursuant to this article during the period in which such previous exemption or abatement is in effect, shall be qualified for an exemption, or exemption and abatement, just as if such property had not received a previous exemption or abatement. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions and abatements pursuant to this article, 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, alteration or construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

SECTION 4. Application for tax exemption for construction of commercial or industrial structures.

Applicants for tax exemption for new construction of commercial or industrial structures shall provide the governing body with an application setting forth:

- A. A general description of a project for which an 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 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 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 the real property taxes currently being assessed at the project site; estimated tax payments that would 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. 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 governing body may require.

SECTION 5. Project tax exemption agreements; schedule of payment.

- A. Upon adoption of an ordinance authorizing an agreement or agreements for tax exemptions for a particular project or projects, the City of Vineland may enter into written agreements with the applicants for the exemption of local real property taxes. An 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 one, but in no case a combination, of the following formulas as described in N.J.S.A. 40A:21-10:
- (1) Cost basis.
 - (2) Gross revenue basis.
 - (3) Tax phase-in basis.
- B. Payments made in lieu of taxes pursuant to one of the above methods shall become a part of the City of Vineland general fund or such other fund or account maintained by or on behalf of the City of Vineland as may be designated by City Council in the ordinance authorizing a tax agreement for a particular project.

SECTION 6. Term of agreements; applicability of other regulations; valuation for county tax apportionment.

- A. All tax exemption agreements entered into pursuant to this Article shall be in effect no more than the five (5) full tax 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 municipality 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 under this section shall no longer apply.
- D. Within thirty (30) days after the execution of a tax agreement, the City of Vineland shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

SECTION 7. Disqualification of property owner; termination of 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 City shall notify the property owner and the 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. However, with respect to the disposal of the property, where 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 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.

SECTION 8. Determination of tax.

The Assessor shall determine, on October 1 of the year following the date of the completion of an improvement or construction, the true taxable value thereof. Except for projects subject to tax agreement as provided herein, the amount of tax to be paid for the first full tax 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. The property shall continue to be treated in the appropriate manner for each of the five (5) full tax years subsequent to the original determination by the Assessor.

SECTION 9. Eligibility.

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.

SECTION 10. Application; filing; approval; recording.

No exemption shall be granted pursuant to this Article except upon written application therefor 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 Department of the Treasury and provided for the use of claimants by the City of Vineland and shall be filed with the Assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement or construction. Every application for exemption which is filed within the time specified 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 or construction for which the application is made qualifies as an improvement or construction pursuant to the provisions of N.J.S.A. 40A:21-1 et seq. The granting of an exemption or tax agreement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date thereof.

SECTION 11. Repealer.

Ordinance No. 96-87, adopted by the City Council of the City of Vineland on October 22, 1996, and all amendments thereto, be and the same are hereby repealed. No exemption granted pursuant to prior ordinances 2009-15, as amended 96-87, as amended, 93-38, as amended, or 84-10, as amended, shall be affected or terminated by virtue of this repeal but shall remain in effect for the time and under the terms granted as if the ordinance authorizing the exemption had not been so repealed.

SECTION 12. Notice to taxpayers.

Pursuant to N.J.S.A. 40A:21-20, notice of the adoption of this ordinance shall be included in the mailing of annual property tax bills to each owner of a dwelling located in the City of Vineland during the first year following adoption of this ordinance.

SECTION 13.

This ordinance shall take effect upon publication and passage in the manner provided by law.

Passed first reading:

Passed final reading:

President of Council

Approved by the Mayor:

Mayor

ATTEST:

City Clerk