

**TOWNSHIP OF ABERDEEN**

**ORDINANCE NO. 10-2019**

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF THE “FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW” PURSUANT TO N.J.S.A. 40A:21-1, ET. SEQ. FOR THE FOR-SALE, MARKET-RATE RESIDENTIAL UNITS IN THE GLASSWORKS REDEVELOPMENT AREA, BLOCK 155, LOT 1, ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF ABERDEEN**

**WHEREAS**, pursuant to New Jersey’s Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1, et. seq. (the “**Five-Year Exemption Law**”), a municipality having within its corporate limits areas in need of rehabilitation or redevelopment may, by ordinance, utilize the authority granted to municipalities under Article VIII, Section I, paragraph 6 of the New Jersey Constitution to provide for the exemption and/or abatement of real property taxes of dwellings, multiple dwellings, or commercial and industrial structures, or all of these; and

**WHEREAS**, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”) provides statutory authority for a municipality to designate an area within its corporate limits as an “area in need of redevelopment;” and

**WHEREAS**, on February 21, 2006, the Township Council of the Township of Aberdeen by resolution established that the real property identified as Block 155, Lot 1 on the Tax Map of the Township of Aberdeen (the “**Glassworks Redevelopment Area**”), met the requirements of an “area in need of redevelopment” in accordance with the Redevelopment Law; and

**WHEREAS**, also on February 21, 2006, the Township by resolution designated Somerset Development, LLC (“**Somerset**”) as the “redeveloper” of the Glassworks Redevelopment; and

**WHEREAS**, Somerset and the Township entered into that certain Master Redevelopment Agreement dated August 2006 (the “**MRA**”), as amended by that certain First Amendment to MRA dated April 14, 2016 and that certain Second Amendment to MRA dated August 3, 2016 (all, collectively, the “**Redevelopment Agreement**”); and

**WHEREAS**, the Redevelopment Agreement provides that the Township will implement the provisions of the Five-Year Exemption Law in the Glassworks Redevelopment Area to provide for the exemption and/or abatement of real property taxes of the for-sale market-rate residential units developed within the Glassworks Redevelopment Area (each a “**Unit**” and, collectively, the “**Units**”); and

**WHEREAS**, in accordance with the Five-Year Exemption Law, the Township of Aberdeen desires that this Ordinance set forth procedures for entering into agreements for the exemption and abatement of real property taxes for the Units.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Aberdeen, County of Monmouth, and State of New Jersey as follows:

Section 1.     DEFINITIONS.

The definitions contained in N.J.S.A. 40A:21-1, et. seq. are incorporated by reference as if set forth at length. As used in this Ordinance, words shall have the same meaning as so defined unless a different meaning is expressed. Without limiting the foregoing, it is understood that this Ordinance applies to those for-sale, market-rate residential units developed within the Glassworks Redevelopment Area (i.e., the Units, as defined above). The Units shall be understood to meet the definition of “multiple dwellings” as set forth in N.J.S.A. 40A:21-1, et. seq. The purpose of this clarification is to exclude any multi-family or other residential rental units or commercial development in the Glassworks Redevelopment Area, which may or may not be subject to a long-term tax exemption in accordance with N.J.S.A. 40A:20-1, et. seq. or N.J.S.A. 55:14K-37.

Section 2.     TAX EXEMPTIONS AND ABATEMENTS AUTHORIZED.

The Township of Aberdeen hereby authorizes the utilization of tax exemption and abatement in accordance with Article VIII, Section I, Paragraph 6, of the New Jersey Constitution and establishes the eligibility for the Units constructed within the Glassworks Redevelopment Area for five-year tax exemptions and abatements as authorized by N.J.S.A. 40A:21-1, et seq., subject to the terms, conditions, and requirements of this Ordinance.

Section 3.     TAX EXEMPTIONS AND ABATEMENTS FOR DWELLINGS.

A.     The Units shall be eligible for tax exemption and abatement commencing with the completion of each Unit. Any such exemption or abatement shall be subject to the developer of the Unit or Units and the Township entering into a tax agreement as provided by N.J.S.A. 40A:21-10. For the purposes of this Ordinance, “completion of the project” means the date that the Township issues a certificate of occupancy for the specific Unit that is to be the subject of a tax exemption or abatement under this Ordinance. The terms of the tax exemption are to be further defined in a tax agreement between the Township and the developer of the Unit or Units. The Glassworks Redevelopment Area is intended to be undertaken in several phases and sub-phases as shown on the approved phasing plan attached as Exhibit A. For example, Phase 1E will consist of 99 market-rate, for-sale townhomes, each of which constitutes a “Unit” for purposes of this Ordinance. By way of example, before any Unit in Phase 1E will be eligible for an exemption or abatement under this Ordinance, the developer of Phase 1E will be required to enter into a tax agreement that conforms to the requirements of this Ordinance and N.J.S.A. 40A:21-1, et. seq. It is intended that this structure be followed for any subsequent phases or sub-phases in which Units are to be developed, for example Phase 1D.

B.     An applicant for an exemption or abatement under this Ordinance shall furnish to the Township an application setting forth the information required by N.J.S.A. 40A:21-9. Once the application has been approved the Township Council shall thereafter adopt an ordinance authorizing a tax agreement for a particular phase or sub-phase of the Glassworks

Redevelopment Area. No tax exemption or abatement shall be granted unless such tax agreement is approved by resolution of the Township Council on an individual basis after review, evaluation, and approval of such tax agreement for compliance with the terms of this Chapter and the underlying statute, rules and regulations.

C. The tax agreement shall provide for the applicant (or its successors, as the case may be) to pay to the Township in lieu of full property tax payments a five-year phase-in of real estate taxes otherwise due in accordance with N.J.S.A. 40A:21-10(c) (as modified according to this Section), commencing as to each Unit on the date of issuance of a temporary or permanent certificate of occupancy for such Unit, based on the following schedule:

- (1) In the first full year after completion, no payment in lieu of taxes otherwise due;
- (2) In the second full year after completion, twenty percent (20%) of taxes otherwise due;
- (3) In the third full year after completion, forty percent (40%) of taxes otherwise due;
- (4) In the fourth full year after completion, sixty percent (60%) of taxes otherwise due; and
- (5) In the fifth full year after completion, eighty percent (80%) of taxes otherwise due.

D. Within thirty (30) days after the execution of any such tax agreement, the Township Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs in accordance with N.J.S.A. 40A:21-11.

E. In addition, every applicant (or its successors, as the case may be) shall file the application form prescribed by the Director of the New Jersey Division of Taxation in the Department of the Treasury in accordance with N.J.S.A. 40A:21-16, with the Tax Assessor, as a condition precedent to receiving an abatement for any specific Unit to, but in no case later than, thirty (30) days, including Saturdays and Sundays, following the completion of the Unit, as evidenced by issuance of a certificate of occupancy, which is to be the subject of the tax exemption or abatement under this Ordinance. Every application for exemption or abatement so filed shall be approved and allowed by the Assessor to the degree that the application is consistent with the provisions of this Ordinance, provided that the improvement for which the application is made qualifies as such pursuant to the provisions of this Ordinance and the specific tax agreement. The granting of an exemption or abatement and tax agreement, if appropriate, shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain notice of the termination date thereof.

F. It is the intention of the Township that the tax agreement with the developer of each phase or sub-phase of the Glassworks Redevelopment Area set forth the general parameters that will apply for each exemption for each individual Unit. Upon completion of each Unit, the developer (or its successors, as the case may be) must file the application form prescribed by the

Director of the New Jersey Division of Taxation in the Department of the Treasury in accordance with N.J.S.A. 40A:21-16, with the Tax Assessor, as a condition precedent to receiving an abatement for any specific Unit, in accordance with (E) immediately above.

Section 4.      **APPLICABILITY OF STATUTORY REGULATORY PROVISIONS.**

Every application for exemption or abatement and every exemption or abatement granted shall be subject to all of the provisions of N.J.S.A. 40A:21-1, et. seq. and all rules and regulations issued thereunder.

Section 5.      **APPLICABILITY OF FEDERAL, STATE, AND LOCAL LAWS.**

All tax abatement and exemption agreements shall provide that the applicant is subject to all federal, state and local laws and regulations.

Section 6.      **EQUALIZATION.**

The percentage which the payment in lieu of taxes bears to the property taxes which would have been paid had an abatement or exemption not been granted for a Unit under the agreement shall be applied to the valuation of that Unit to determine the reduced valuation of the Unit to be included in the valuation of the Township for determining equalization for county apportionment and school aid during the term of the tax abatement agreement covering the Unit.

Section 7.      **CESSATION OR DISPOSITION OF PROPERTY.**

If, during any tax year prior to the termination of the tax abatement or exemption agreement, the applicant ceases to operate or disposes of the Unit(s) or otherwise fails to meet the conditions of eligibility, the tax otherwise due for each year if there had been no abatement or exemption shall become due and payable by the Unit(s)'s owner. The Tax Assessor shall, within fifteen (15) days thereof, notify the owner of the Unit(s) of the amount of taxes due. However, with respect to the sale or other disposal of the Unit(s) where it is determined that the new owner of the Unit(s) will continue to use the Unit(s) pursuant to the conditions which qualified the Unit(s) initially, no tax shall be due, the exemption and the abatement shall continue, and the agreement shall remain in effect.

Section 8.      **DEFAULT IN TAX PAYMENTS.**

In the event of default by an applicant receiving an exemption or abatement under this Ordinance, or its successor(s), including but not limited to the failure to make timely tax or in lieu payments to the Township, the Township Tax Assessor shall notify the applicant, or its successor(s) (as the case may be), in writing, of said default. The applicant or its successor(s) shall have thirty (30) days to cure any default as to the delinquent multiple dwelling unit(s). Following the thirty (30) day cure period, the Township shall have the right to proceed against the delinquent multiple dwelling unit(s) pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:4-1 et. seq., and/or may cancel the tax agreement as to the delinquent multiple dwelling unit owner(s) upon thirty (30) days notice thereto. Where the delinquent multiple dwelling unit(s)

is/are one of several multiple dwelling unit(s) having received a tax exemption or abatement under this Ordinance by way of the same application and agreement, e.g., submitted by the original developer of a multiple dwelling project to cover each multiple dwelling unit within the project, the fact that the agreement and related exemption or abatement may be terminated under this Section as to that multiple dwelling unit will not, in any way, affect the eligibility of the remaining multiple dwelling units as to each multiple dwelling unit(s)'s individual exemption or abatement, except that where more than one multiple dwelling unit is owned by one delinquent applicant or multiple dwelling unit owner, the exemption or exemption and abatement provided under this Ordinance as to all such multiple dwelling units is subject to termination in accordance with this Section unless the delinquency is cured within the aforementioned cure period by the delinquent applicant or multiple dwelling unit owner.

Section 9. TAXES UPON TERMINATION.

At the termination of a tax abatement or exemption agreement, a project shall be subject to all applicable real property taxes as provided by state law and local ordinance.

Section 10. ORDINANCE SENT TO DEPARTMENT OF COMMUNITY AFFAIRS.

The Township Clerk is hereby authorized and directed to forward a certified copy of this Ordinance to the State of New Jersey Department of Community Affairs.

Section 11. INELIGIBILITY.

No exemption shall be granted for any property for which taxes or any other municipal charges are delinquent or remain unpaid or for which penalties for nonpayment are due for a period of at least one year, or for any property not being used in conformance with local, state, or federal ordinance, regulation or statute.

Section 12. APPEAL.

Appeal of any determination made by the Township under the terms of this Ordinance shall be made to the Monmouth County Board of Taxation, unless a direct appeal to the New Jersey Tax Court is authorized by law.

Section 13. INCONSISTENT ORDINANCES REPEALED.

Should any provision of this Ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of such prior ordinances are hereby repealed, but only to the extent of any inconsistencies.

Section 14. INVALIDITY.

In the event that any provision of this Ordinance or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this Ordinance which may be

given effect, and, to realize this intent, the provisions and applications of this Ordinance are declared to be severable.

Section 15. CAPTIONS.

Captions contained in this Ordinance have been included only for the purpose 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.