

SHAMONG TOWNSHIP

ORDINANCE 2016-3

**AMENDING TOWNSHIP CODE
TO CREATE CHAPTER 152
GOVERNING “TAX ABATEMENTS”**

WHEREAS, the Township has recently adopted redevelopment and rehabilitation areas within the Township in accordance with New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., and the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1, et seq.; and

WHEREAS, the Township desires to adopt regulations governing the establishment and process of tax abatements associated with redevelopment and rehabilitation areas.

NOW, THEREFORE, BE IT HEREBY ORDAINED that Chapter 152 is hereby created, entitled “Tax Abatements” as follows:

Section One.

Chapter 152. Tax Abatement.

§ 152-1. Authority.

The Committee hereby determines to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution to establish the eligibility of residential dwellings, multiple dwellings, condominiums and cooperatives, commercial and industrial structures for exemptions and abatements permitted by P.L. 1991, c. 441 (See N.J.S.A. 40A:21-1 et seq.), throughout areas designated, or to be designated, as in need of redevelopment or rehabilitation.

§ 152-2. Time of taking effect.

This article authorizes, but does not require, the Township of Shamong to grant exemptions and abatements to commence and take effect in the 2016 tax year and thereafter.

§ 152-3. Exemptions and abatements for new construction of commercial structures, industrial structures and multiple dwellings.

The Township Committee is hereby authorized, at its discretion, to enter into tax agreements for an exemption and abatement from taxation of new construction of commercial structures, industrial structures and multiple dwellings located within areas designated in need of redevelopment by the Planning Board in accordance with N.J.S.A. 40A:12A-1, et. seq., the Local Redevelopment and Housing Law, and other New Jersey Statutes.

§ 152-4. Applications for exemptions or abatement.

Applicants for tax exemption and abatement for a new construction of commercial structures, industrial structures and multiple dwellings pursuant to §152-3 of this chapter shall provide the Township Committee with an application setting forth certain information. A copy of the application will be available and on file with the Township Clerk's office.

- 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 the 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: 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 agreement between the applicant and proposed users of the project and a history and description of the user's businesses;
- I. If the 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 on a case-to-case basis.

§ 152-5. Tax agreements.

The governing body of the Township of Shamong may enter into a written agreement with an applicant for the exemption and abatement of local property taxes. The agreement shall provide for the applicant to pay the municipality in lieu of full property taxes an amount annually to be computed by one, but in no case a combination, of the following formulas authorized by N.J.S.A. 40A:21-10:

- 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 or improvement. 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 redevelopment 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

contractors' 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 annually equal to 5% 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, the Committee may authorize 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.

§ 152-6. Procedure.

The following procedure shall be applied to applications for exemption and abatement:

A. The Assessor shall determine on October 1 of the year following the date of the completion of an improvement, conversion or construction the true taxable value thereof.

B. All tax agreements entered into pursuant to this chapter shall be in effect for no more than the five full tax years next following the date of completion of the project. This chapter shall not preclude the governing body from entering into a financial agreement for a tax exemption and/or abatement pursuant to the Long-Term Tax Exemption Law or any other statute authorizing a tax exemption and/or abatement for a period longer than five years.

C. As a condition to granting an exemption or abatement, a property owner shall be required to waive the filing of any tax appeal for the subject property for the life of the exemption/abatement.

§ 152-7. Copy of agreement to be forwarded to Director of the Division of Local Government Services.

The Township Clerk, pursuant to N.J.S.A. 40A:21-11, shall forward a copy of all tax agreements entered into pursuant to this chapter to the Director of the Division of Local Government Services in the Department of Community Affairs within 30 days of the date of execution.

§ 152-8. Disqualification of property owner.

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 for the abatement, the local property taxes due for all the prior years subject to abatement and for the current year shall be payable as if no exemption or abatement has been granted. The Tax Collector of the Township of Shamong shall notify the property owner within 15 days of the date of disqualification of the amount of taxes due. In the event that 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 tax shall be due; the exemption and abatement shall continue and the agreement shall remain in effect.

§ 152-9. Additional exemption or abatement.

The Township of Shamong hereby determines that an additional improvement, conversion or construction completed on a property already granted a previous exemption or abatement pursuant to this chapter during the period in which the previous exemption or abatement is in effect may qualify for an additional exemption or abatement. The additional improvement, conversion or construction may be considered as separate for purposes of calculating the exemption and abatement, except that the assessed value of any previous improvement, conversion or construction may be added to the assessed valuation as it was prior to that improvement, conversion or construction for the purpose of determining the assessed value of the property for which any additional abatement is to be subtracted. Any additional exemption or abatement must be reviewed and approved by the Township Committee.

§ 152-10. Delinquent taxes.

No exemption or abatement shall be granted or tax agreement entered into pursuant to this chapter for any property for which property taxes and/or other municipal charges are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due. As a condition to granting an exemption or abatement, a property owner shall be required to waive the filing of any tax appeal for the subject property for the life of the exemption/abatement.

§ 152-11. Application form.

No exemption or abatement shall be granted pursuant to this chapter except upon written application therefor filed with the Tax Assessor. Every application shall be on the form available in the Township Clerk's office and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvements, conversion, alteration or construction.

§ 152-12. Termination of agreement.

At the termination of an agreement for tax abatement or exemption authorized pursuant to this chapter, the project shall be subject to all applicable real property taxes, as provided by state laws and regulations and local ordinances, provided that nothing herein shall be deemed to prohibit the project or improvement at the termination of the agreement for tax exemption or abatement from qualifying for and receiving the full benefits of any other tax preference provided by law.

§ 152-13. Applications; filing and approval; form.

Every application for exemption, or exemption and abatement, within a municipality adopting the provisions of this act, 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 tax agreement executed by Township Committee in accordance with §152-5 hereof. The granting of an exemption, or exemption and abatement, 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.

§ 152-14. Applicability of exemption or abatement to tax types.

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

§ 152-15. Minimum value of improvement.

In order to qualify for the abatement or exemption set forth herein, the underlying improvement must be equal to or greater than \$0.00.

Section Two: All Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.

Section Three: If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.

Section Four: This ordinance shall take effect immediately upon final passage and publication according to law.

I, Susan D. Onorato, Township Clerk of the Township of Shamong, County of Burlington, State of New Jersey, do hereby certify that this ordinance was passed on first reading at a meeting of the Township Committee held on February 2, 2016, and will be further considered for adoption following a public hearing to be held on March 8, 2016, at 7:30 p.m. at the Shamong Municipal Building.

Susan D. Onorato, RMC

