

Mayor Nolan offered the following Ordinance pass third, final reading and moved on its adoption and authorized its publication according to law:

O-12-24

AN ORDINANCE AMENDING AND RENEWING SECTIONS 2-8.5 THROUGH 2-8.9 ENTITLED "EXEMPTION AND ABATEMENT FROM TAXATION PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ." TO PROVIDE FOR A FIVE-YEAR TAX EXEMPTION FOR IMPROVEMENTS TO AND CONSTRUCTION OF RESIDENTIAL, COMMERCIAL AND INDUSTRIAL STRUCTURES WITHIN THE BOROUGH

WHEREAS, the Borough of Highlands previously adopted the provisions of N.J.S.A. 40A:21-1 et seq., the Five-Year Exemption and Abatement Law; and

WHEREAS, former Borough Ordinance § 2-8.5 et seq. expired as a matter of law; and

WHEREAS, the governing body wishes to readopt such an ordinance to encourage construction and rehabilitation of residential, commercial and industrial structures within the Borough; and

WHEREAS, Resolution R-12-203, referred to and approved by the Planning Board on September 13, 2012 with a memorializing resolution approved on October 11, 2012, was adopted by the Governing Body on September 19, 2012 and determined that the entire Borough of Highlands should be designated an area in need of rehabilitation; and

WHEREAS, the provisions of R-12-203 of the Mayor and Council, adopted on September 19, 2012, shall be incorporated herein by reference; and

WHEREAS, the current Master Plan encourages the use of rehabilitation laws of the state, such as N.J.S.A. 40A:21-1, to rehabilitate the housing stock of the Borough; and

WHEREAS, the Housing Plan Element of the current Master Plan identifies one of its goals as the rehabilitation of the existing housing stock within the Borough including the rehabilitation of substandard units;

WHEREAS, additional goals contained within Housing Plan Element include: (a) reestablishing a housing rehabilitation program within the Borough; (b) identifying commercial and industrial properties that are suitable for adaptive re-use and encourage their redevelopment for mixed use with housing on upper floors; and (c) recognize the potential of vacant, underutilized and deteriorated properties for in-fill residential development; and

WHEREAS, the Mayor and Council find that enacting the provisions of N.J.S.A. 40A:21-1 et seq. and this Ordinance will be part of the effort to satisfy the aforementioned goals and address the other concerns contained in the Master Plan.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Highlands, Monmouth County, New Jersey as follows:

SECTION ONE.

The Borough hereby readopts and supplements the provisions of Borough Code Sections 2-8.5 through 2-8.9 in the following form:

2-8.5 Exemption and Abatement From Taxation Pursuant to N.J.S.A. 40A:21-1.

a. *Purpose.* The Borough of Highlands seeks to encourage property owners to improve their property by offering certain tax incentives for limited periods of time upon completion of improvements or conversion or construction of structures as defined by law. Any exemption provided by this section shall not exceed five (5) years. In accordance with N.J.S.A. 40A:21-1 et seq., the eligibility for exemptions provided by this ordinance shall expire in ten (10) years.

b. *Definition of Terms.* Unless otherwise specifically provided in this section the definition of all words and terms used in this section shall be those provided in N.J.S.A. 40A:21-1 entitled "The Five-Year Exemption and Abatement Law" (hereinafter referred to as "the Exemption Law").

c. *Area In Need of Rehabilitation.* In accordance with N.J.S.A. 40A:12A-14 and N.J.S.A. 40A:21-3 and -4, the entire Borough of Highlands is hereby designated an area in need of rehabilitation.

d. *Eligibility.* All residential and nonresidential structures, including commercial and industrial structures, which qualify pursuant to the Exemption Law, shall be eligible for exemptions from taxation as provided in this section for improvements, conversions, construction or all of these. Additionally, any property seeking an exemption as provided herein (1) must not be delinquent in property taxes owed; and (2) must comply with current zoning code requirements. Any property receiving an exemption pursuant to the provisions herein shall immediately forfeit the exemption should property taxes on the property become delinquent.

e. *Exemptions For Improvements to or Construction of Dwellings or Multiple Dwellings, Conversions of Other Buildings to Multiple Dwelling Use.* The Borough shall provide the following exemptions to the extent permitted by law and by the provisions of these sections.

1. Exemptions for improvements to or construction of and conversion to dwellings and multiple dwellings

a. There shall be an exemption from taxation of improvements to dwellings. In determining the value of real property, the Borough shall regard up to twenty-five thousand dollars (\$25,000.00) of the assessor's full and true value of improvements for

each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old, as not increasing the value of the property for a period of five years. 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 dwelling through action of the elements sufficient to warrant a reduction.

b. There shall be an exemption from taxation of improvements to multiple dwellings or of conversions of other buildings and structures, including unutilized public buildings, to dwelling use or both.

(i) Tax exemptions for improvements to multiple dwellings shall only be available if the number of units within the multiple dwelling complies with current zoning restrictions either at the time of the improvements or as a result of the improvements.

(ii) Conversions of structures to multiple dwelling use shall not be eligible for the exemptions provided herein.

(iii) In determining the value of real property, the Borough shall regard the assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old, as not increasing the value of the property for a period of five years. 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 multiple dwelling through action of the elements sufficient to warrant a reduction.

c. There shall be an exemption from taxation of the following portion of the assessed valuation of construction of new dwellings or of conversions of other buildings and structures, including unutilized public buildings, to dwelling use or both, provided that, as a result of the construction or conversion, the structure is in compliance with the current zoning code. In determining the value of the real property, the Borough shall regard the following percentages of the assessor's full and true value of the property as exempt from taxation for a total of five years notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby.

i.	Year One:	30%
ii.	Year Two:	24%
iii.	Year Three	18%
iv.	Year Four	12%
v.	Year Five	6%

2. **Improvements to Commercial and Industrial Structures.** There shall be an exemption from taxation of improvements to all commercial and industrial structures within the Borough. In determining the value of real property, the Borough 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.

f. Tax Agreements for Exemption for Construction of Commercial or Industrial Structures or Multiple Dwellings. Applicants for exemption from taxation for construction of commercial structures, industrial structures or multiple dwellings shall comply with the following procedures:

1. Complete an application that provides the governing body with all information required by N.J.S.A. 40A:21-9 and its amendments or supplements.

2. After the governing body adopts an ordinance authorizing a tax agreement for the particular project for which the application has been made, enter into an agreement with the governing body for tax exemption which shall provide the applicant to pay the Borough of Highlands in lieu of full property tax payments an amount annually to be computed by the tax phase-in basis set forth in N.J.S.A. 40A:21-10(c) and below:

- (1) In the first full year after completion, no payment in lieu of taxes otherwise due;
- (2) In the second full year after completion, an amount not less than 20% of taxes otherwise due;
- (3) In the third full year after completion, an amount not less than 40% of taxes otherwise due;
- (4) In the fourth full year after completion, an amount not less than 60% of taxes otherwise due;
- (5) In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

The governing body shall not be required to enter into any agreement if the applicant does not agree to the same formula that the borough determines is in the best interest of the borough.

2-8.6 Date of Deduction.

Such amount as determined in subsection 2-8.5 herein may be deducted from the amount determined by the assessor on October 1 of any year following the date of completion of the improvements to be the true taxable value of the improvements and shall continue to be so treated for each of the five years subsequent to the original determination by the assessor.

2-8.7 Additional Deductions.

Additional improvements which are completed during a period in which the improved property is subject to previously granted extension privileges shall be qualified for additional exemptions under the terms specified herein and the applicable statute.

2-8.8 Written Application Required.

No exemption shall be granted or allowed except upon written application therefor on approved forms and filed with the assessor within 30 calendar days following the completion of the improvements. It shall be conclusively presumed that improvements shall be deemed complete upon the occurrence of the earlier of the following events: the issuance of a temporary certificate of occupancy, the occupancy or usage of the premises, or the issuance of a certificate of occupancy. The building inspector shall determine the completion date in accordance with the above, which decision shall be final, and not be subject to any appeal.

2-8.9 Interpretation.

The provisions of N.J.S.A. 40A:21-1 et seq. its amendments and supplements entitled "The Five Year Exemption and Abatement Law," shall apply to those sections of this section that specifically refer to said law and shall be applied to this section for any portion of same that is in need of interpretation.

SECTION TWO

SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION THREE

REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION FOUR

EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

Seconded by Mr. Redmond and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Redmond, Mr. O'Neil, Mr. Francy, Ms. Kane, Mayor Nolan
NAYES: None
ABSENT: None
ABSTAIN: None

DATE: December 19, 2012

Borough Clerk/Deputy Clerk

I hereby certify this to be a true copy of Ordinance O-12-24 introduced by the Governing Body of the Borough of Highlands at a meeting held on December 19, 2012.

Borough Clerk/Deputy Clerk