

## Ordinance 2022-16

Adopted July 5, 2022

**AN ORDINANCE OF THE BOROUGH OF DUNELLEN,  
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY,  
PROVIDING FOR THE IMPLEMENTATION OF THE  
“FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW”  
PURSUANT TO N.J.S.A. 40A:21-1, ET SEQ.**

**WHEREAS**, the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (the “**Exemption Law**”) enables municipalities which contain an area that has been designated as an area in need of rehabilitation pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”), to provide for the short term exemption or abatement of local property taxes imposed upon eligible dwellings, commercial, and industrial structures within such rehabilitation area; and

**WHEREAS**, on May 5, 2003, the Borough of Dunellen (the “**Borough**”) adopted a Resolution, which designated certain properties on the Tax Maps of the Borough as an area in need of redevelopment in accordance with the Redevelopment Law (the “**Redevelopment Area**”); and

**WHEREAS**, the Borough has determined that the authorization of tax exemptions for improvements to dwellings, multiple dwellings, commercial structures, and industrial structures, and for new construction of the same, is in the best interests of the Borough and shall facilitate the rehabilitation and redevelopment of the Borough for productive use; and

**WHEREAS**, the Borough desires to amend the ordinances of the Borough to implement the Exemption Law in the Borough as specifically provided herein,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, AS FOLLOWS:**

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

**Section 2.** Part II, General Legislation, of the Borough Code is hereby supplemented with the addition of Chapter 115B, Five Year Tax Exemptions, which shall read as follows:

**§115B-1 Intent.**

The Borough of Dunellen hereby determines to utilize the authority granted pursuant to the Five Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (the “**Exemption Law**”) to establish the eligibility of certain dwellings, multiple dwellings, commercial structures, and industrial structures for exemption throughout the Redevelopment Area as provided in this ordinance.

**§115B-2 Definitions.**

Terms used as defined terms herein shall have the meaning assigned to such terms in the Exemption Law or as set forth below:

**ASSESSOR** shall mean the tax assessor of the Borough of Dunellen.

**BOROUGH** shall mean the Borough of Dunellen.

**EXEMPTION LAW** shall mean the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq.

**REDEVELOPMENT AREA** shall mean the portions of the Borough of Dunellen, which have been determined to be an area in need of rehabilitation, as designated by the May 5, 2003 Resolution or any amendments thereto or as such properties have been modified, subdivided, or consolidated, pursuant to the Redevelopment Law.

**REDEVELOPMENT LAW** shall mean the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

**§115B-3 Tax Exemptions and Abatements Authorized.**

The Borough hereby authorizes the utilization of an Exemption in accordance with the Exemption Law and establishes the eligibility of five-year tax Exemptions within the Redevelopment Area as set forth herein. Improvements and Conversions to, and new Construction of, Dwellings shall be eligible for Exemptions as set forth herein. Improvements and Conversions to, and Construction and new Construction of, Multiple Dwellings shall be eligible for Exemptions as set forth herein. Improvements to, and Construction and new Construction of, Commercial Structures shall be eligible for Exemptions as set forth herein. Improvements to, and Construction and new Construction of, Industrial Structures shall be eligible for Exemptions as set forth herein.

**§115B-4 Application, Fee, Escrow and Approval.**

- A.** No Exemption for Improvements or Conversions of Dwellings, Multiple Dwellings, Commercial Structures, or Industrial Structures, or new Construction of Dwellings shall be granted except upon written application 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 shall be filed with the Assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the Improvement, Construction or Conversion.

- (1) An application fee of Five Hundred Dollars (\$500.00) shall be submitted by the applicant with every application for an Exemption at the time of filing the application with the Assessor. The application fee covers the costs of the administrative services to be undertaken by the Assessor, and any other Borough official, in order to render a determination on the applicant's eligibility for an Exemption.
- (2) Every application for an 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 ordinance, provided that the improvement, construction or conversion for which the application is made qualifies as an improvement, construction or conversion pursuant to the Exemption Law.
- (3) The granting of an Exemption shall relate back to, and take effect as of, the date of completion of the project, or portion or stage of the project for which the Exemption is granted, and shall continue for five (5) annual periods from that date.
- (4) All Exemptions shall be recorded and made a permanent part of the official tax records of the Borough, which record shall contain a notice of the termination date thereof.

**B.** No Exemption for Construction or new Construction of Multiple Dwellings, Commercial Structures, or Industrial Structures shall be granted except upon written application filed with and approved by the Borough Council. The application shall contain the requirements set forth in N.J.S.A. 40A:21-9. Applications for Construction or new Construction of Multiple Dwellings, Commercial Structures, or Industrial Structures shall be submitted prior to the commencement of Construction or prior to a change in circumstance necessitating the need for the tax exemption.

- (1) An application fee of Five Hundred Dollars (\$500.00) shall be submitted by the applicant with every application for an Exemption at the time of filing the application with the Borough Council. The application fee covers the costs of the administrative services to be undertaken by the Assessor and any other Borough official, in order to render a determination on the applicant's eligibility for an Exemption.
- (2) An escrow deposit of One Thousand Five Hundred Dollars (\$1,500.00) shall be submitted by the applicant with every application for an Exemption at the time of filing the application with the Borough Council. The escrow deposit covers the actual costs of Borough professionals' review of the application and preparation of a tax agreement in connection therewith.

- (3) Exemptions for Construction or new Construction of Multiple Dwellings, Commercial Structures, or Industrial Structures shall be granted or denied on an individual basis after review and evaluation of each application and recommendation by the Assessor to the Borough Council.
- (4) Exemptions for Construction or new Construction of Multiple Dwellings, Commercial Structures, or Industrial Structures shall be granted or denied via the adoption of an ordinance by the Borough Council. Ordinances approving an Exemption for Construction or new Construction of Multiple Dwellings, Commercial Structures, or Industrial Structures shall also authorize the execution of a tax agreement between the Borough and the applicant on a form provided by the Borough and reviewed and approved by the applicant. The tax agreement shall set forth which one of the formulas provided in N.J.S.A. 40A:21-10 shall be used to calculate the annual payment to the Borough in lieu of full property tax payments and shall comply with the requirements of N.J.S.A. 40A:21-10 through 12.
- (5) All Exemptions shall be recorded and made a permanent part of the official tax records of the Borough, which record shall contain a notice of the termination date thereof.

#### **§115B-5 Exemptions and Abatements.**

##### **A. Dwellings**

- (1) For Improvements to Dwellings, in determining the value of real property for an Exemption, the Borough shall regard the first Twenty-Five Thousand Dollars (\$25,000.00) in Assessor's full and true value of Improvements for each dwelling unit primarily and directly affected by the Improvement in any Dwelling more than twenty (20) years old, 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 Dwelling through action of the elements sufficient to warrant a reduction. The total amount of the Exemption granted to any single property shall not exceed the total cost of the Improvement.
- (2) For new Construction of Dwellings and Conversions of other buildings or structures to Dwellings, the Borough shall regard thirty (30) percent of the Assessor's full and true value of the dwelling constructed or conversion made, 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 new Construction or Conversion are made is increased thereby.

##### **B. Multiple Dwellings**

- (1) For Improvements to Multiple Dwellings and Conversions of other buildings and structures to Multiple Dwellings, in determining the value of real property for an Exemption, the Borough shall regard the Assessor's full and true value of the Improvements or Conversion 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 or Conversion 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 or Conversion, unless there is damage to the Multiple Dwelling through action of the elements sufficient to warrant a reduction.
- (2) For Construction or new Construction of Multiple Dwellings, the tax agreement between the Borough and the applicant shall specify which one of the formulas provided in N.J.S.A. 40A:21-10 shall be used to calculate the annual payment to the Borough in lieu of full property tax payments.

#### **C. Commercial Structures and Industrial Structures**

- (1) For Improvements to Commercial Structures and Industrial Structures, in determining the value of real property for an Exemption, the Borough shall regard 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 Commercial Structure or Industrial Structure through action of the elements sufficient to warrant a reduction.
- (2) For Construction or new Construction of Commercial Structures or Industrial Structures, the tax agreement between the Borough and the applicant shall specify which one of the formulas provided in N.J.S.A. 40A:21-10 shall be used to calculate the annual payment to the Borough in lieu of full property tax payments.

#### **D. Additional Improvements**

Additional Improvements completed during a period in which a property is subject to a previously granted Exemption shall qualify for additional Exemptions just as if such property had not received a previous Exemption. The additional Improvement, Conversion or Construction shall be considered as separate for the purposes of calculating Exemptions.

#### **§115B-6 Tax Delinquency.**

No Exemption shall be granted pursuant to this ordinance with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for non-payment of taxes are due.

**§115B-7 Revaluation During Exemption Period.**

In the event that the Borough implements a revaluation or reassessment during the exemption period for any property, any Exemptions granted hereunder shall continue to apply but at a valuation level consistent with the revaluation or reassessment.

**§115B-8 Revision of Base Assessment During Exemption Period.**

The granting of an Exemption for a particular property shall not prejudice the right of the Borough to appropriately examine and revise the assessment during the exemption period in the event the base assessment is found to be improperly valued and assessed.

**§115B-9 Applicability of Exemption and/or Abatement to Taxes.**

The Exemption of real property taxes provided by the Borough pursuant to this ordinance shall apply to property taxes levied for municipal purposes, school purposes, county government purposes, and the purposes of funding any other property tax exemptions.

**§115B-10 Effective Date; Sunset Provision.**

Upon final passage and publication, this ordinance shall take effect as provided by law, and shall authorize the Borough to grant exemptions to commence and take effect in the 2023 tax year and thereafter for up to a five-year period in duration. This ordinance shall lapse, unless readopted, on January 1, 2033, and no exemptions shall be granted after January 1, 2033, without such readoption.

**Section 3.** If any provision of this ordinance is legally invalid or is hereafter found to be legally invalid, the remainder of the ordinance shall remain in full force and effect.