

NOTICE OF PENDING ORDINANCE NO. 1792-2015

The Ordinance published herewith was introduced and passed upon first reading at a regular meeting of the Township Committee of the Township of Hamilton, County of Atlantic, State of New Jersey, held on Monday, June 15, 2015, and will be further considered for final passage and adoption after a public hearing thereon at a regular meeting of the Township Committee to be held in the Municipal Building, 6101 Thirteenth Street, Mays Landing, NJ on Monday, July 6, 2015 at 6:30 PM or as soon thereafter as the agenda will allow. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be available at the Township Clerk's Office to members of the general public who shall request same.

By order of the Township Committee of the Township of Hamilton, Atlantic County, NJ. Joan I. Anderson, R.M.C., Township Clerk.

TOWNSHIP OF HAMILTON
ORDINANCE NO.1792-2015

CREATING ARTICLES II AND III OF CHAPTER 269, "TAXATION", TO BE ENTITLED, RESPECTIVELY, "FIVE-YEAR EXEMPTION PROGRAM FOR CONSTRUCTION IN THE INDUSTRIAL BUSINESS PARK ZONE" AND "FIVE-YEAR EXEMPTION PROGRAM FOR IMPROVEMENTS IN THE INDUSTRIAL BUSINESS PARK ZONE"

WHEREAS, Article 8, Section 1, Paragraph 6 of the New Jersey Constitution authorizes the State Legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on commercial and industrial buildings and structures and the land on which they are situate in areas declared in need of rehabilitation.

WHEREAS, The State Legislature has adopted the "Five-Year Exemption and Abatement Law", N.J.S.A. 40A:21-1 et seq., under said constitutional authority for the purpose of providing municipalities the greatest flexibility possible within the constitutional limitations to address problems of deterioration and decay while preserving the salient features of existing tax exemption and abatement programs.

WHEREAS, Pursuant to the "Local Redevelopment and Housing Law", N.J.S.A. 40A:12A-1 et seq., by Resolution dated April 20, 2015, the Township of Hamilton determined that certain areas of the Industrial Business Park Zone are in need of rehabilitation.

WHEREAS, The Township of Hamilton finds and declares that a tax exemption program, requiring the entrance into a Tax Agreement providing for payments in lieu of taxes on a gradually increasing basis during the exemption period, for the construction of new commercial and industrial structures, and a limited tax exemption program for improvements to commercial and industrial structures where the square footages of such structures are increased and the improvement increases the assessed value of the property by more than \$50,000.00 as authorized by N.J.S.A. 40A:21-1, et seq., will promote rehabilitation in the areas designated herein by incentivizing investment.

WHEREAS, Subject to the requirement of review for each individual project, the Township of Hamilton finds and declares that the investments incentivized will be of such a nature that they will have both short-term and long-term substantial, positive impacts on the local economy.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hamilton, County of Atlantic and State of New Jersey, that:

SECTION I. CREATION OF ARTICLE II OF CHAPTER 269

Article II of Chapter 269 of the Township Code is hereby created and shall be as follows:

Article II. Five-Year Exemption Program for Construction in the Industrial Business Park Zone

§ 269-7 Legislative Authority

- A. Article 8, Section 1, Paragraph 6 of the New Jersey Constitution authorizes the State Legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on commercial and industrial buildings and structures and the land on which they are situate in areas declared in need of rehabilitation.
- B. The State Legislature has adopted the “Five-Year Exemption and Abatement Law”, N.J.S.A. 40A:21-1 et seq., under said constitutional authority for the purpose of providing municipalities the greatest flexibility possible within the constitutional limitations to address problems of deterioration and decay while preserving the salient features of existing tax exemption and abatement programs.
- C. The Township of Hamilton creates this Article under the authority provided by N.J.S.A. 40A:21-1 et seq.

§ 269-8 Findings and Purpose

- A. Pursuant to the “Local Redevelopment and Housing Law”, N.J.S.A. 40A:12A-1 et seq., by Resolution dated April 20, 2015, the Township of Hamilton determined that certain areas of the Industrial Business Park Zone are in need of rehabilitation.
- B. The Township of Hamilton finds and declares that a tax exemption program, requiring the entrance into a Tax Agreement providing for payments in lieu of taxes on a gradually increasing basis during the exemption period, for the construction of new commercial and industrial structures, as authorized by N.J.S.A. 40A:21-1, et seq., will promote rehabilitation in the areas designated herein by incentivizing investment.
- C. Subject to the requirement of review for each individual project, the Township of Hamilton finds and declares that the investments incentivized will be of such a nature that they will have both short-term and long-term substantial, positive impacts on the local economy.

§ 269-9 Definitions

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

Abatement

The portion of the assessed value of a property as it existed prior to Construction, which is exempted from taxation pursuant to this Article.

Annual Period

The duration of time comprising 365 days, or 366 days when the included month of February has 29 days, that commences on the date that an exemption or abatement for a project becomes effective pursuant to N.J.S.A. 40A:21-16 and this Article.

Assessor

The Assessor of the Township of Hamilton who is 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 municipality which has designated any area therein as an “area in need of rehabilitation” as defined in N.J.S.A. 40A:21-3(b). References to “Structure” herein shall mean “Commercial or Industrial Structure” unless otherwise specified.

Completion

Substantially ready for the intended use for which a building or structure is constructed or improved.

Construction

The provision of a new commercial or industrial structure, or the enlargement of the volume of an existing commercial or industrial structure by more than 30%, but not 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 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 or work, and which does not change its permitted use. 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 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a 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 act.

Project

The Construction or Improvement of a Structure in an area in need of rehabilitation that would qualify for an exemption pursuant to this Article.

§ 269-10 Lots for Which Exemptions are Available

The following Lots shall comprise the “area in need of rehabilitation” pursuant to N.J.S.A. 40A:21-3 and the Township’s Resolution of April 20, 2015 providing for same and shall be the only Lots subject to the provisions of this Article:

A. Lots in the Hamilton Township Business Park

Block	Lot(s)
987	5, 5.01
987.01	5.02
991	1-3, 3.01, 16.01, 16.02, 17-19, 19.01, 20.01, 20.02, 21, 22.01, 22.02, 23.01, 23.02, 33-39
992	1
993	1
994	1-10, 11.01, 12-18, 19.01, 31-45, 46.01, 47-50, 58.01, 58.02, 58.05, 58.07, 58.12-58.23
994.01	1, 6-10
994.02	1-4
994.03	1-10
994.04	1-10
994.05	20-30
995	1.01, 1.02, 1.03, 2

- B. Industrial Business Park Zone Lots Adjacent to Hamilton Township Business Park

Block	Lot(s)
987	1-4
1029	1, 2.01, 4
1030.03	2.02, 4.01

§ 269-11 Exemptions for Commercial and Industrial Construction Projects

- A. Owners of any lot or lots referenced in § 269-10 shall be entitled to apply for an exemption under this Article for the Construction of Industrial or Commercial Structures planned for said lot or lots. Exemptions shall only be granted through Tax Agreements as provided for in § 269-16 of this Chapter.
- B. Exemptions shall not be granted for any Structure which will be utilized in its entirety by a business relocated from another municipality which has designated any area therein as an “area in need of rehabilitation” as defined in N.J.S.A. 40A:21-3(b). Where only a portion of a Structure will be utilized by a business relocated from a qualified municipality, the exemption shall only apply to the increase in assessed value of the property attributable to that portion of the Structure not utilized by the relocating business. For the purpose of this provision a business does not “utilize” common space in a Structure unless the relocating business’s activities are primarily carried out in common space.
- C. A Construction Project may be completed in phases with the exemptions provided by the Tax Agreement becoming effective as to each phase on January 1st in the year after Completion of the phase. Each phase must consist of the Construction of at least one Structure separated from all other Structures on the property. Structures will be considered separated if there is no roofed physical connection between them or the connection between them consists solely of a walkway of a minimum length of twenty feet. The Construction of any particular Structure may not be part of more than one phase.
- D. In no event shall separate dates of Completion be attributed to different portions of a single Structure or multiple Structures which are not separated.

§ 269-12 Application for Tax Agreement

- A. Approval of an Application for Tax Agreement shall be required for any exemption for Commercial and Industrial Construction Projects.
- B. The current Owner or Owners of the lot on which the Project will occur shall be the applicant. However, if the Industrial or Commercial Structured will be owned or operated by another individual or entity or there is a prospective purchaser of the lot whose purchase is contingent on receiving an exemption, that individual, entity, or prospective purchaser shall be a co-applicant with the Owner or Owners.
- C. The application shall set forth:
1. The full legal name of the applicant and any co-applicant, and if the applicant or co-applicant is a legal entity, a certified copy of the entity or entities’ Status Report from the State of New Jersey, Department of the Treasury, Division of Revenue and Finance;
 2. A general description of the Project for which exemption is sought;
 3. A legal description of all real estate necessary for the Project;

4. Plans or drawings of the Project and a narrative statement of the design of the Project sufficient to fully apprise the Township of the design and structure of the Project;
 5. Any and all land use approvals from the municipality, county, State, or any agencies thereof and documents demonstrating such approvals;
 6. An estimated date of Completion; where the Project is to be completed in Phases, an estimated date of Completion for each Phase shall be provided.
 7. A description of the number, classes and types of employees to be employed at the Project site within two years of the Project's completion;
 8. An estimate of the number, classes, and types of person to be employed by the Owner or the Owner's contractors to complete the Construction or Improvement;
 9. A statement of the reasons for seeking a tax exemption on the Project, and a description of the benefits to be realized by the applicant if a Tax Agreement is granted;
 10. Estimates of the cost of completing the Project;
 11. 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 Agreement;
 12. A statement and supporting documents demonstrating that no property taxes are delinquent or remain unpaid and that there are no unpaid penalties for nonpayment of taxes in relation to the lot or lots on which the Project is to occur;
 13. A description of any lease agreements between the applicant and any co-applicant or other proposed users of the Project, and a history and description of the users' business; and
 14. A statement that no business who will utilize the space is relocating from a another municipality which has designated any area therein as an "area in need of rehabilitation" as defined in N.J.S.A. 40A:21-3(b); or a statement identifying the portion of the Structure that will be utilized by such a relocating business, specifically the square footage utilized by that business and a detailed description of the interior design of the area utilized by that business must be provided.
- D. The applicant and any co-applicant shall certify that to the best of their knowledge, that the application is complete and the information therein is true and accurate.

§ 269-13 Submission and Approval of Application for Tax Agreement

- A. The applicant shall submit eight (8) copies of its application materials to the Tax Assessor prior to commencing physical, on-site work on the Project.
- B. The application shall be accompanied by non-refundable payment in the amount of \$250.00 to cover costs associated with review.
- C. The Assessor shall review the application materials within ten (10) days of receipt. If the application appears complete on its face, the Assessor shall provide the application materials to the Township Committee within fourteen (14) days of receipt. If the application appears incomplete on its face, the Assessor shall notify

the applicant of the additional materials required within fourteen (14) days of receipt. An applicant must correct any deficiencies noted by the Assessor within sixty (60) days or its application shall be deemed void; if the applicant believes its application complete, within sixty (60) days of the Assessor's notice of incompleteness it may request the Assessor forward the application to the Township Committee in the normal course and the Assessor shall forward same.

- D. The Assessor's determination of completeness is not a final determination of the Township and is not binding on the Township Committee. In all cases, the Township Committee shall independently consider the completeness of an application without deference to the prior determinations of the Assessor.
- E. At the time the Assessor forwards the application to the Township Committee, he or she shall also forward to the Township Committee a draft Tax Agreement and draft ordinance authorizing the Township's entrance into same.
- F. The Township Committee shall schedule a public hearing on the application to be held within seventy-five (75) days of the receipt of the application by the Assessor.
- G. The applicant and any co-applicant, or representatives thereof, shall be present at the public hearing and subject to questioning by the Township Committee, the Township Solicitor, and any other Township professional under oath or affirmation. The applicant and any co-applicant shall have the right, but not obligation, to present sworn testimony in support of the application. Any member of the public, including the representative of any legal entity, shall have the right to comment at the time of the hearing.
- H. The Township Committee shall grant the application upon a demonstration by the applicant and any co-applicant that the terms and conditions of this Article have been met in their entirety and that the Project will: tend to maintain or provide gainful employment within the Township; assist in the economic development of the Township; maintain or increase the tax base of the Township; and maintain, or diversify and expand, commerce within the Township.
- I. During the first regular public meeting following the hearing, the Township shall: (a) introduce and pass on first reading an ordinance approving the application and authorizing the entrance into a Tax Agreement; or (b) adopt a resolution denying the application. Where the Township intends to approve the application, it shall thereafter adopt the approving and authorizing ordinance at its next regular meeting. The final form of the Tax Agreement shall include all provisions required by § 269-14 of this Article.

§ 269-14 Scope of Tax Agreement; Calculation of Payment in Lieu of Full-Property Taxes; and Required Terms

- A. The Tax Agreement shall be between the Township, the Owner or Owners of the property, and any co-applicant.
- B. The Tax Agreement shall fully describe the scope of the real property and Construction subject to its terms. This description shall include an identification of the subject block and lot, a metes and bounds of the property and, additionally but alternatively, may be provided by reference to drawings, site plans, or surveys appended to the Tax Agreement and made a part thereof.
- C. The Tax Agreement shall require that the Owner and any co-applicant follow the terms of this Article; The Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq.; and 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.

D. The Tax Agreement shall provide:

“If during any tax year prior to the termination of the Tax Agreement, the property owner or co-applicant ceases to operate or disposes of the property, fails to meet the conditions for qualifying, or violates the Tax Agreement 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 Township shall notify the property owner and tax collector forthwith and the tax collector shall within 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. In order for the benefits of this Tax Agreement to continue under these circumstances, prior to disposal, the new owner to be must execute a confirming agreement with the Township.”

There shall be no such determination unless the new owner executes an agreement with the Township to the effect that it will abide by all terms of the Tax Agreement in exchange for the continuation of benefits thereunder. The Township shall authorize the execution of such agreements by Resolution of the Township Committee.

E. The Tax Agreement shall provide:

“At the termination of this Tax Agreement, the project and property described herein 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 this Tax Agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.”

F. The Tax Agreement shall require that during the pendency of Construction, the assessed value of the property shall remain unchanged, and the Owner or Owners shall pay the full amount of taxes due as determined by generally applicable rates except to the extent that the property is subject to an existing abatement, exemption, or other special tax status. Where, after the most recent assessment but prior to completion of Construction on the project, demolition of any structure occurs on the property, that demolition shall not cause a reduction in the assessed value of the property.

G There shall be no abatement on the value of the land or of any improvement or structure on the property that existed prior to the commencement of the Construction project, nor shall there be an exemption from taxation on such assessed value or an increase therein.

H. The Tax Agreement shall provide that, starting January 1st of the year following completion of the Construction Project, on application of the Owner or Owners in accordance with § 269-15 of this Article, the Owner or Owners shall make payments as follows:

- a. The full amount of taxes due upon on the land and any structures and improvements pre-existing the commencement of the Construction Project; and
- b. Payments in lieu of taxes on the fully-assessed value of the completed Construction Project, as determined by § 269-16 of this Article, as follows:

- In the first full year after Completion: no payment;
 - In the second full year after Completion: 20% of taxes otherwise due;
 - In the third full year after Completion: 40% of taxes otherwise due;
 - In the fourth full year after Completion: 60% of taxes otherwise due;
 - In the fifth full year after Completion: 80% of taxes otherwise due.
- I. If the Construction Project has separate dates of completion for different phases of the Project, the Tax Agreement shall provide that the payments in lieu of taxes shall not be triggered for a particular phase until January 1st in the year after that phase is completed.
- J. The Township and the Owner or Owners and any co-applicant shall at all times abide by the terms of the Tax Agreement until the Tax Agreement is terminated.

§ 269-15 Application for Exemption Pursuant to Tax Agreement Following Completion of Construction

- A. No exemption provided for in a Tax Agreement shall become effective except upon written application filed with and approved by the Assessor.
- B. Within 30 days, including Saturdays and Sundays (but not legal holidays), of the Completion of a Construction Project subject to a Tax Agreement, or a phase of a Project subject to a Tax Agreement, the Owner or Owners must apply in writing for the approval of an exemption. If the 30th day falls on a Saturday, Sunday, or legal holiday, the time shall be extended until the next day that is not a Saturday, Sunday, or legal holiday.
- C. The application shall be on the form prescribed by the Director of the Division of Taxation in the Department of the Treasury, which form shall be available to the public in the office of the Assessor. The form need not be retrieved from the office of the Assessor if the applicant obtains the correct form from another source.
- D. The application shall be granted by the Assessor upon his or her determination that the application is consistent with the provisions of this Article, consistent with the Tax Agreement or ordinance adopting same, and the Project qualifies as Construction under the terms of this Article and the definition of “Construction” found in N.J.S.A. 40A:21-3.

§ 269-16 Assessment of Value of New Construction

- A. On October 1st of the year following the date of the Completion of the Construction project or any phase thereof, the Assessor shall determine the true taxable value thereof to be applied on January 1st of the following year.
- B. Where the Completion does not occur until after October 1st in a given year, the Assessor shall determine the true taxable value on October 1st of the following year and that assessment shall relate back to January 1st of the year in which the value is determined for purposes of determining payments under the Tax Agreement.

§ 269-17 Additional Improvements or Construction

- A. An additional Improvement or Construction completed on a property granted a previous exemption under a Tax Agreement pursuant to this Article during the period in which the previous exemption is in effect, shall be qualified for an exemption just as if such property had not received a previous exemption.
- B. In such case, the additional Improvement or Construction shall be considered as separate for the purposes of calculating exemptions pursuant to this Article or Article II of this Chapter 269, except that the assessed value of any previous Construction shall be added to the assessed valuation as it was prior to that Construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

§ 269-18 Ineligibility of Property with Outstanding Taxes or Penalties

No exemption under this Article may be granted, or Tax Agreement entered into, with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

§ 269-19 Property Taxes Subject to Exemption

- A. The exemption of real property taxes provided by the Township pursuant to this Article shall apply to property taxes believed for municipal purposes, school purposes, county government purposes, and for the purposes of funding any other property tax exemptions or abatements.
- B. The percentage of the tax payment otherwise owing that is paid in lieu of property taxes 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 Township 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 a Tax Agreement for a property, this reduced valuation procedure shall no longer apply.

§ 269-20 Regular Reporting Requirements; Preparation and Submission of Annual Report; Recording Requirements

- A. Within 30 days after the execution of a Tax Agreement under this Article, the Township shall forward a copy of the Tax Agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.
- B. The Township Committee shall report, on or before October 1st of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury: (1) the total amount of real property taxes exempted within the municipality in the current tax year for each of the following Improvements of Commercial or Industrial Structures under Article III of this Chapter 269; and (2) for all Construction of Commercial or Industrial Structures under Tax Agreements under this Article II of Chapter 269, the total amount of payments made in lieu of taxes according to each formula utilized by the Township, and the difference between that total amount and the total amount of real property taxes which would have been paid on the Project had the tax agreement not been in effect for the current tax year.
- C. The grant of an exemption and Tax Agreement under this Article shall be recorded and made a permanent part of the official tax record of the Township, which record shall contain a notice of the termination date thereof.

§ 269-21 Effect of Amendment to Article; Automatic Expiration and Required Reauthorization

- A. This Article may be amended from time to time.
- B. An amendment to this Article, or the adoption of an Ordinance otherwise affecting this Article, shall not affect any exemption and Tax Agreement in force prior to the adoption of the amendment.
- C. No exemption and Tax Agreement authorized by this Article shall be applied for, entered into, or take initial effect in the eleventh tax year after this Article is first adopted or in any year thereafter. Except as provided in sub-part D of this section, any such application or Tax Agreement and exemption shall be void *ab initio* where it is apparent on the face of the application or Tax Agreement that the exemption and Tax Agreement would not take effect until such a year. Except as provided in sub-part D of this section, where it is not apparent on the face of the application and Tax Agreement, but the completion of the Construction is delayed such that the exemption or Tax Agreement will not take effect until the eleventh tax year after this Article is first adopted or thereafter, the exemption or Agreement shall be void on January 1st of said eleventh year.
- D. The provisions of this Article may be readopted by ordinance at any time during or after the tenth tax year after this Article is initially adopted. Exemptions and Tax Agreements which on their face will not take effect until the eleventh year after this Article is first adopted, or thereafter, shall not be void *ab initio* if the application for such exemption and Tax Agreement is filed after the adoption of an ordinance readopting this Article. Exemptions and Tax Agreements which, by virtue of delayed completion of the Construction, do not take effect until the eleventh tax year after this Article is first adopted or thereafter, shall not be void if this Article is readopted during the tenth year after this Article is initially adopted.
- E. Notwithstanding anything in this Article to the contrary, under no circumstances may an application be filed or approved for an Exemption and Tax Agreement that, on its face, would not take effect until the eleventh tax year after the application is filed.

SECTION II. CREATION OF ARTICLE III OF CHAPTER 269

Article III of Chapter 269 of the Township Code is hereby created and shall be as follows:

Article II. Five-Year Exemption Program for Improvements in the Industrial Business Park Zone

§ 269-22 Legislative Authority

This Article is authorized in the manner described in Article II of this Chapter 269.

§ 269-23 Findings and Purpose

- A. Pursuant to the “Local Redevelopment and Housing Law”, N.J.S.A. 40A:12A-1 et seq., by Resolution dated April 20, 2015, the Township of Hamilton determined that certain areas of the Industrial Business Park Zone are in need of rehabilitation.
- B. The Township of Hamilton finds and declares that a limited tax exemption program for improvements to commercial and industrial structures where the square footages of such structures are increased and the improvement increases the assessed value of the property by more than \$50,000.00, as authorized by N.J.S.A. 40A:21-1, et seq., will promote rehabilitation in the areas designated herein by incentivizing investment.

- C. Subject to the requirement of review for each individual project, the Township of Hamilton finds and declares that the investments incentivized will be of such a nature that they will have both short-term and long-term substantial, positive impacts on the local economy.

§ 269-24 Definitions

As used in this Article, the definitions provided for in Article II of this Chapter 269 shall apply.

§ 269-25 Lots for Which Exemptions are Available

The Lots specified in Article II of this Chapter 269 shall comprise the “area in need of rehabilitation” pursuant to N.J.S.A. 40A:21-3 and the Township’s Resolution of April 20, 2015 providing for same and shall be the only Lots subject to the provisions of this Article.

§ 269-26 Exemptions for Commercial and Industrial Improvement Projects

- A. Owners of any lot or lots referenced in § 269-26 and § 269-10 shall be entitled to apply for an exemption under this Article for the Improvement of an Industrial or Commercial Structure planned for said lot or lots where the Improvement increases the square footage of the structure.
- B. To qualify for an exemption, the additional square footage must consist of interior, four-walled space with a permanent roof.
- C. To the extent the additional square footage is part of a broader Improvement, the exemption shall only apply to the increase in assessed value of the property attributable to the portion of the Improvement that has added square footage to the structure. For example, where an Owner adds a new wing to an existing structure and also renovates the existing structure the exemption is available for the amount the tax assessment is increased as a result of the interior, four-walled, permanent-roofed space of the new wing and everything therein but is not available for any increase in assessment arising from the renovation.
- D. Exemptions shall not be granted for any Improvement which will be utilized in its entirety by a business relocated from another municipality which has designated any area therein as an “area in need of rehabilitation” as defined in N.J.S.A. 40A:21-3(b). Where only a portion of an Improvement will be utilized by a business relocated from a qualified municipality, the exemption shall only apply to the increase in assessed value of the property attributable to that portion of the Improvement not utilized by the relocating business. For the purpose of this provision a business does not “utilize” common space in an Improvement unless the relocating business’s activities are primarily carried out in common space.
- E. Exemptions shall not be granted for any Improvement which will increase the full and true assessed value of the property by less than \$50,000.00.

§ 269-27 Submission and Approval of Applications

- A. No exemption shall be approved for an Improvement except upon written application filed with and approved by the Assessor and thereafter granted by the Township Committee.
- B. Within 30 days, including Saturdays and Sundays (but not legal holidays), of the Completion of an Improvement the Owner or Owners must apply in writing for the approval of an exemption. If the 30th day falls on a Saturday, Sunday, or legal holiday, the time shall be extended until the next day that is not a Saturday, Sunday, or legal holiday.
- C. The application shall be on the form prescribed by the Director of the Division of Taxation in the Department of the Treasury, which form shall be available to the

public in the office of the Assessor. The form need not be retrieved from the office of the Assessor if the applicant obtains the correct form from another source.

- D. The applicant shall submit eight (8) copies of its application materials to the Tax Assessor along with a non-refundable payment in the amount of \$50.00 to cover costs associated with review.
- E. The Assessor shall review the application within ten (10) days of receipt. The application shall be approved by the Assessor upon his or her determination that the application is consistent with the provisions of this Article, including but not limited to the limitations on the availability of exemptions provided for in § 269-26 of this Article and the Project qualifies as an Improvement under the terms of this Article and the definition of “Improvement” found in N.J.S.A. 40A:21-3.
- F. Within fourteen (14) days of the Assessor’s receipt of the application, and upon his or her approval, the Assessor shall forward the application to the Township Committee.
- G. The Township Committee shall schedule a public hearing on the application to be held within seventy-five (75) days of the receipt of the application by the Assessor.
- H. The applicant and any co-applicant, or representatives thereof, shall be present at the public hearing and subject to questioning by the Township Committee, the Township Solicitor, and any other Township professional under oath or affirmation. The applicant and any co-applicant shall have the right, but not obligation, to present sworn testimony in support of the application. Any member of the public, including the representative of any legal entity, shall have the right to comment at the time of the hearing.
- I. The Township Committee shall grant the application upon a demonstration by the applicant and any co-applicant that the terms and conditions of this Article have been met in their entirety and that the Project will: tend to maintain or provide gainful employment within the Township; assist in the economic development of the Township; maintain or increase the tax base of the Township; and maintain, or diversify and expand, commerce within the Township.
- J. During the first regular public meeting following the hearing, the Township shall: (a) adopt a resolution granting the requested exemption; or (b) adopt a resolution denying the application.

§ 269-28 Assessment of Value of Improvement; Effective as of Completion

- A. On October 1st of the year following the date of the Completion of the Improvement Project, the Assessor shall determine the true taxable value thereof.
- B. The amount of tax to be paid for the tax year in which the Improvement Project is completed shall be based on the assessed valuation of the property for the current tax year plus any portion of the assessed valuation of the Improvement not allowed an exemption pursuant to this Article, prorated.
- C. The property shall continue to be treated in the appropriate manner for each of the four tax years subsequent to the original determination by the Assessor and shall be prorated in the final tax year in which the exemption expires to the last day of the fifth Annual Period from the date of Completion.

§ 269-29 Scope of Exemption

- A. During the exemption period, the assessment of the property shall not be less than the assessment thereon immediately prior to the Improvements unless there is

damage to the Structure through action of the elements sufficient to warrant a reduction.

- B. The full and true value of the Improvement, as determined by the Assessor, shall be exempt from taxation for five annual periods from the date of Completion.

§ 269-30 Additional Improvements or Construction

- A. An additional Improvement or Construction completed on a property granted a previous exemption for an Improvement pursuant to this Article during the period in which the previous exemption is in effect, shall be qualified for an exemption just as if such property had not received a previous exemption.
- B. In such case, the additional Improvement or Construction shall be considered as separate for the purposes of calculating exemptions pursuant to this Article or Article II of this Chapter 269, except that the assessed value of any previous Improvement shall be added to the assessed valuation as it was prior to that Improvement for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

§ 269-31 Ineligibility of Property with Outstanding Taxes or Penalties

No exemption under this Article may be granted with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

§ 269-32 Property Taxes Subject to Exemption

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

§ 269-33 Recording of Exemption; Preparation and Submission of Annual Report

- A. The grant of an exemption pursuant this Article shall be recorded and made a permanent part of the official tax record of the Township, which record shall contain a notice of the termination date thereof.
- B. The Township Committee shall meet its reporting obligations under this Article by filing a report as required by §269-20 of this Chapter 269.

§ 269-34 Effect of Amendment to Article; Automatic Expiration and Required Reauthorization

- A. This Article may be amended from time to time.
- B. An amendment to this Article, or the adoption of an Ordinance otherwise affecting this Article, shall not affect any exemption in force prior to the adoption of the amendment.
- C. No exemption authorized by this Article shall be applied for, entered into, or take initial effect in the eleventh tax year after this Article is first adopted or in any year thereafter. Except as provided in sub-part D of this section, any such application or exemption shall be void *ab initio* where it is apparent on the face of the application that the exemption would not take effect until such a year. Except as provided in sub-part D of this section, where it is not apparent on the face of the application, but the Improvement's completion is delayed such that the exemption will not take effect until the eleventh tax year after this Article is first adopted or

thereafter, the exemption shall be void on January 1st of the said eleventh year.

- D. The provisions of this Article may be readopted by ordinance at any time during or after the tenth tax year after this Article is initially adopted. Exemptions which on their face will not take effect until the eleventh year after this Article is first adopted, or thereafter, shall not be void *ab initio* if the application for such exemption is filed after the adoption of an ordinance readopting this Article. Exemptions which, by virtue of delayed completion of the Improvement, do not take effect until the eleventh tax year after this Article is first adopted or thereafter, shall not be void if this Article is readopted during the tenth year after this Article is initially adopted.
- E. Notwithstanding anything in this Article to the contrary, under no circumstances may an application be filed or approved for an exemption that, on its face, would not take effect until the eleventh tax year after the application is filed.

SECTION III. SEVERABILITY and REPEALER

- (a) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or enforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
- (b) Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION V. EFFECTIVE DATE.

This Ordinance shall take effect upon its final passage and publication as provided by law.

ATTEST:

**TOWNSHIP COMMITTEE OF
THE TOWNSHIP OF HAMILTON,
COUNTY OF ATLANTIC and
STATE OF NEW JERSEY**

**Joan I. Anderson, R.M.C.
Township Clerk**

Roger Silva, Mayor

ROLL CALL: GATTO
GUISHARD
KURTZ
LINK
SILVA

**ORDINANCE #17 92 – 2015 INTRODUCED AND PASSED FIRST READING JUNE 15 , 2015.
ORDINANCE #17 92 - 2015 ADOPTED , 2015.**