

ORDINANCE NO. 2482

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF ROSELLE PARK ESTABLISHING CHAPTER XV, TO BE ENTITLED “SINGLE AND MULTI-FAMILY TAX ABATEMENTS” TO PROVIDE FOR THE IMPLEMENTATION OF A FIVE-YEAR TAX ABATEMENT LAW FOR SINGLE FAMILY AND MULTI-FAMILY DWELLINGS IN THE BOROUGH OF ROSELLE PARK PURSUANT TO N.J.S.A. 40A:21-1, ET SEQ.

BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union, and State of New Jersey that Chapter, Section be and here is added as follows:

WHEREAS, N.J.S.A. 40A:21-1, et seq., is known as the Five-year Abatement Law; and

WHEREAS, Article VIII, Section 1, paragraph 6, of the New Jersey Constitution permits municipalities to grant, for a period of five (5) years, an abatement from taxation in areas designated to be in need of rehabilitation; and

WHEREAS, N.J.S.A. 40A:21-2 provides for municipalities to grant five (5) year abatements from taxation under certain conditions;

WHEREAS, N.J.S.A. 40A:21-4 provides for municipalities to adopt an ordinance as a necessary predicate step to the establishment of eligibility requirement to receive five (5) years abatements from taxation, and

WHEREAS, on May 25, 2016 the Borough of Roselle Park designated Block 314, Lots 7, 8, 9, 10, 11, and 12 as an area in need of redevelopment under N.J.S.A. 40A:21-2, et seq.

WHEREAS, the Borough of Roselle Park desires to provide for real estate tax incentives for single family and multi-family dwellings within the boundaries of the area in need of rehabilitation and throughout the entire Borough.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Roselle Park as follows:

SECTION 1. Definitions.

The definitions contained in N.J.S.A. 40A:21-3 are incorporated herein by reference as if set forth at length. As used in this Chapter, words shall have the meaning as so defined unless a different meaning is expressed.

SECTION 2. Tax Abatements Authorized.

The Borough of Roselle Park hereby authorizes the utilization of tax abatements in accordance with Article VIII, Section 1, Paragraph 6, of the New Jersey Constitution and establishes the eligibility of dwellings and multi-dwellings for five (5) year tax abatements as

authorized by N.J.S.A. 40A:21-1, et seq., throughout the entire Borough, but only to the extent set forth herein.

SECTION 3. Abatements for Improvements to Single-Family Dwellings and Multi-Family Dwellings.

All dwellings which are at least twenty (20) years old shall, following receipt and approval by the Borough of Roselle Park of a fully-executed and complete application described herein, be exempt from taxation of the first \$25,000.00 in the Tax Assessor's full and true value of improvements, as defined in N.J.S.A. 40A:21-3 for a period of five (5) years following completion of such improvements, commencing with the first full tax year following completion of the improvements.

SECTION 4. Application for Tax Abatement.

Applicants for tax abatement for improvements to dwellings and multiple dwellings shall provide the municipal governing body with an application setting forth:

- a. A general description of a project for which 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 statement of the reasons for seeking tax abatement on the project and a description of the benefits to be realized by the applicant if a tax abatement is granted;
- e. A statement showing (1) the real property taxes currently being assessed at the project site, (2) estimated tax payments that would be made by the applicant on the project in the first full year following the termination of the tax agreement;
- f. If the project is a multi-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 dwelling units respecting low or moderate income housing;
- g. Such other pertinent information as the governing body may require.

SECTION 5. Filing of Application for Abatements with Roselle Park Tax Assessor.

Applications for abatements must be filed with the Roselle Park Tax Assessor within thirty (30) days, including Saturdays, Sundays, and legal holidays, of the completion of the improvement and obtaining a certificate of occupancy or approval. If the thirtieth (30th) day falls on a Saturday, Sunday and/or legal holiday, the time to file will be extended to the next business day. Every application for abatement which is filed within the time specified shall be approved and allowed to the degree the application is consistent with the provisions of this subsection, provided that the improvement for which application is made qualifies as an improvement. The granting of an abatement shall be recorded and made a permanent part of the official tax records of the Borough of Roselle Park, which records shall contain a notice of the termination date thereof.

SECTION 6. Approval by Borough Council

No tax abatement shall be granted unless approved by Resolution of the Borough Council on an individual basis after review, evaluation, and approval of each application for compliance with the terms of this Ordinance and the underlying statute, rules, and regulations.

SECTION 7. Compliance with Department of Community Affairs and Division of Taxation.

No abatement of improvements from taxation shall be allowed except pursuant to statute and to duly promulgated regulations of the Department of Community Affairs and Division of Taxation, which include the requirements that the taxpayer submit to the Roselle Park Tax Assessor, a written application, approved by the Tax Assessor, requesting said abatement, which application shall be in a form prescribed by the State Division of taxation.

SECTION 8. Duration of Tax Agreements.

All tax agreements entered into by the Borough of Roselle Park, pursuant to Section 9 through 12 of P.L. 1991 c.441 shall be in effect for no more than the five (5) full years next following the date of completion of the project.

Within thirty (30) days after the execution of a tax agreement, the Borough of Roselle Park shall forward a copy of the Agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

SECTION 9. Applicability of Statutory Provisions.

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

SECTION 10. Applicability of Federal, State, and Local Laws.

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

SECTION 11. Equalization.

The percentage of property taxes which would have been paid had an abatement not been granted for the property under the agreement 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 Borough of Roselle Park for determining equalization for county apportionment and school aid during the term of the tax abatement agreement covering the property.

SECTION 12. Determination of Tax Due Upon Completion of Improvement.

The Tax Assessor shall determine, on October 1 of the year following the date of the completion of an improvement or construction, the true taxable value thereof. The amount of tax to be paid for the tax year which the project is completed shall be based on the assessed valuation of the property. Subject to the provisions of the adopting ordinance, 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 Tax Assessor and shall be pro-rated for the final tax year in which the abatement expires.

SECTION 13. Retroactivity.

The granting of an abatement, 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 abatement is granted, and shall continue for five (5) annual periods from that date. The grant of the abatement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of termination date thereof.

SECTION 14. Cessation or Disposition of Property.

If during any tax year prior to the termination of the tax abatement, the applicant fails to meet the conditions of eligibility, the tax otherwise due if there had been no abatement shall become due and payable by the property owner. The Tax Assessor shall notify the property owner and the Roselle Park Tax Collector forthwith and the Roselle Park Tax Collector shall, within fifteen (15) days thereof, notify the owner of the property of the amount of taxes due. However, with respect to sale or otherwise disposal of the property which it is determined that the new owner of the property will continue to use the property pursuant to the conditions which were set forth in the tax abatement agreement, the abatement shall continue.

SECTION 15. Default in Tax Payments.

In the event of default by the applicant the municipality shall notify the applicant, in writing, of said default. The applicant shall have thirty (30) days to cure any default. Following the thirty (30) day cure period, the municipality shall have the right to proceed against the property pursuant to the In-Rem Tax Foreclosure Act, N.J.S.A. 54:4-1, et seq. and/or may cancel the Abatement Agreement upon thirty (30) days' notice to the applicant.

SECTION 16. Taxes Upon Termination.

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

SECTION 17. Ordinances Sent to Department of Community Affairs.

The Municipal 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 18. Ineligibility.

No abatements shall be granted for any property for which property 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 (1) year, or for any property not being used in conformance with federal, state, or local statute, regulation, or ordinance.

In addition, one and two family structures which contain home based businesses are ineligible for the tax and abatement programs described herein.

SECTION 19. Appeal.

Any appeal of any determination made by the Borough of Roselle Park under the terms of this Ordinance shall be made to the Union County Board of Taxation, unless a direct appeal to the New Jersey Tax Court is authorized by law.

SECTION 20. Invalidity

If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

SECTION 21. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

SECTION 22. 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.

SECTION 23. Effective Date.

This amendment to the Code of the Borough of Roselle Park shall become effective upon publication and in accordance with law.

Introduced: April 6, 2017

Adopted:

Mayor

Attest: _____
Borough Clerk