

AN ORDINANCE TO AMEND CHAPTER 44 OF THE CITY CODE BY AMENDING SECTION 44-71 THEREOF REGARDING THE REAL ESTATE TAX EXEMPTION PROGRAM

#4651

Sponsor:

Council
Member
Freel

WHEREAS, the City of Wilmington has enacted the real estate tax exemption program (the "Program"), which is set forth in section 44-71 of the City Code; and

WHEREAS, the City has determined that certain amendments to the Program are necessary and appropriate to promote economic development in the City; and

WHEREAS, City Council deems it necessary and appropriate to amend section 44-71 of the City Code to make such revisions to the Program.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 44 of the City Code is hereby amended by deleting Section 44-71 thereof in its entirety and replacing in with new Section 44-71 with the underlined language to read as follows:

Sec. 44-71. Real estate tax exemption program.

(a) Definitions. The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Commercial property means a property maintained for the purpose of operating a for-profit business. For the purposes of this section, a residential property held for investment purposes will not be considered a commercial property and will be subject to the provisions of this section regarding residential and mixed-use properties.

(2) Market-rate means that not more than twenty-five percent of the total residential units are rent restricted.

(3) Mixed-use property means a property on which there is a building containing at least two, above-ground stories in which:

a. Fifty percent of the first-floor space must be dedicated to retail uses;

- b. No portion of the building is being used as a taproom or for the sale of packaged alcohol goods; and
- c. The upper floors shall contain or include residential units, regardless of whether the uses are leased apartments or owner-occupied condominiums.

(4) Qualified improvement means an improvement to an existing structure or an improvement created by new construction that results in an increase in the assessment above the base assessment prior to the making of the improvement.

(b) Real estate tax exemption program for commercial, residential, and mixed-use properties and for off-street parking structures. There is hereby authorized a real estate tax exemption program of 2019, which shall include real estate tax exemptions as an incentive to new construction and improvements to existing structures and construction of off-street parking structures. As to off-street parking structures, the exemption provisions are set forth in § 44-61 of this chapter, as amended.

(c) Commercial properties. The real estate tax exemption program of 2019 shall be applicable to commercial properties as set forth below:

(1) There shall be a five-year abatement of one hundred percent of city real estate taxes attributable to qualified improvements for any commercial property which:

a. Is located within the areas beginning at the intersection of the city line on the north, and the westerly side of Tatnall Street running south along the westerly side of Tatnall Street to the southerly bank of the Brandywine River, then west along the southerly bank of the Brandywine River to Adams Street, then south on Adams Street to its intersection with Delaware Avenue and Interstate 95, then south along Interstate 95 to the westerly side of Maryland Avenue, then south along the westerly side of Maryland Avenue to the city line on the south, east along the city line to its intersection with the Delaware River on the east, then north along the Delaware River to its intersection with the city line on the north, and west along the city line until its intersection with the westerly side of Tatnall Street;

b. Is located within any other areas that are included in an urban renewal area; or

c. Is a commercially zoned property anywhere within the city that generates a minimum of twenty-five jobs that meet the definition of “qualifying activity” in 30 Del. C. § 2010(3); or

d. Is located within one continuous city block of the following neighborhood commercial corridors, inclusive of adjoining side streets: N. Market Street; Concord Avenue; Northeast Boulevard; Maryland Avenue; Lancaster Avenue; Fourth Street; Union Street; Church Street; S. Heald Street; and New Castle Avenue.

(d) Residential and mixed-use properties. The real estate tax exemption program of 2019 shall be applicable to residential and mixed-use properties as set forth below:

(1) There shall be a five-year abatement of one hundred percent of city real estate taxes attributable to qualified improvements for any residential or mixed-use property which is located in those areas of the city identified as market types c through h in the 2015 market value analysis of the city of wilmington performed by the Reinvestment Fund.

(2) There shall be a ten-year abatement of city real estate taxes attributable to qualified improvements for any market-rate multi-family residential or market-rate mixed-use property which is located:

- a. Within the area bounded by beginning on the southerly of the Brandywine River at its intersection with the westerly side of Washington Street, along the westerly side of Washington Street, then southward along Washington Street to its intersection with the Amtrak railroad line, then eastward along the Amtrak railroad line to its intersection with the easterly side of Walnut Street, and north along the easterly side of Walnut Street to the Brandywine River, and westerly along the Brandywine River to its intersection with the westerly side of Washington Street;
- b. Within one continuous city block of the following neighborhood commercial corridors, inclusive of adjoining side streets: N. Market Street; Concord Avenue; Northeast Boulevard; Maryland Avenue; Lancaster Avenue; Fourth Street; Union Street; Church Street; S. Heald Street; and New Castle Avenue; or
- c. Within the areas south and east of the Christina River with a W-4 zoning designation.

The ten-year tax abatement shall be calculated as follows: (i) the first five years of the abatement shall be for one hundred percent of city real estate taxes attributable to qualified improvements and (ii) the second five years of the abatement shall be for city real estate taxes attributable to qualified improvements calculated on a graduated basis, in which the abatement shall be

reduced by twenty percent in each year beginning at one hundred percent in year seven until the abatement is fully eliminated at year eleven.

- (e) *Conversion of commercial properties to market-rate multi-family residential or market-rate mixed-use properties.* There shall be a five-year abatement of one hundred percent of city real estate taxes attributable to qualified improvements or substantial improvements for any commercial property that is converted to a market-rate multi-family residential or market-rate mixed-use property within the geographical area bounded by beginning on the southerly of the Brandywine River at its intersection with the westerly side of Washington Street, along the westerly side of Washington Street, then southward along Washington Street to its intersection with the Amtrak railroad line, then eastward along the Amtrak railroad line to its intersection with the easterly side of Walnut Street, and north along the easterly side of Walnut Street to the Brandywine River, and westerly along the Brandywine River to its intersection with the westerly side of Washington Street. For purposes of this subsection only, substantial improvement means an investment of greater than fifty dollars per square foot, excluding acquisition costs, that does not result in an increase in the assessment above the base assessment prior to the making of the improvement. The investment shall be calculated as follows: the value of the building permit issued for the substantial improvement divided by the total square footage of the market-rate multi-family residential or market-rate mixed-use property.
- (f) *Zoning.* The tax abatements in this section shall only apply when the qualified improvements or substantial improvements are for uses that are permitted as a matter of right for the property's zoning classification pursuant to chapter 48 of the city code.
- (g) *Effect of Change in Ownership.* A tax abatement granted pursuant to this section resides with the property for the duration of the abatement regardless of ownership.
- (h) *Time limit for eligibility.* The tax incentive program shall expire on June 30, 2030.
- (i) *Procedures.*
- (1) The finance department shall be authorized to promulgate such rules, regulations, procedures, and forms as it deems necessary to implement the real estate tax exemption program of 2019 and to administer the program as provided for tax incentive programs generally in this code. The tax incentive program authorized by the provisions of this section shall be administered in accordance with the code's tax exemption provisions specifically regarding "effect of unpaid taxes, water and sewer charges and other fees or assessments," "effect of county reassessment," and "application for exemption from taxation of real property" in sections 44-53 through 44-56 of this chapter.

(2) Maps illustrating the areas included in the commercial, residential and mixed-use tax abatement programs of section 44-71 shall be maintained and kept on file in the city clerk's office and in the office of economic development.

- (i) Extension of prior real estate tax exemption program. The city's prior real estate tax exemption program, which expired on June 30, 2018, shall apply from July 1, 2018 until the effective date of the real estate tax exemption program of 2019.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First Reading April 18, 2019
Second Reading April 18, 2019
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ___ day of _____, 2019.

Mayor

SYNOPSIS: This Ordinance amends Section 44-71 of the City Code regarding the City's real estate tax exemption program to create a new real estate tax exemption program. There are several components to the City's new real estate tax exemption program as follows. First, there will be a five-year tax abatement of one hundred percent of City real estate taxes attributable to qualified improvements of existing commercial properties or created by new construction of commercial properties in certain areas. The abatement for commercial properties will not apply to residential properties held for investment purposes. Second, there

will be a five-year tax abatement of one hundred percent of City real estate taxes attributable to qualified improvements of existing residential and mixed-use properties or created by new construction of residential and mixed-use properties in certain areas identified by the 2015 Market Value Analysis of the City of Wilmington performed by the Reinvestment Fund. Third, there will be a ten-year tax abatement of City real estate taxes for qualified improvements of existing market-rate multi-family residential and market-use mixed-use properties or created by new construction of market-rate multi-family residential and market-rate mixed-use properties located in certain areas. The tax abatement for the first five years will be one hundred percent of City real estate taxes attributable to the qualified improvements, and the tax abatement for the second five years will be graduated and will be reduced by twenty percent per year. Fourth, there will be a five-year tax abatement of one hundred percent of City real estate taxes attributable to qualified improvements or substantial improvements for commercial properties that are converted to market-rate multi-family residential or market-rate mixed-use properties in certain areas. With respect to each of the tax abatements, such abatement resides with the property for the duration of the abatement regardless of ownership. Finally, this Ordinance extends the City's prior real estate tax exemption program, which expired on June 30, 2018, from July 1, 2018 until the effective date of the City's new real estate tax exemption program.

FISCAL IMPACT STATEMENT: Projects approved under this Ordinance, other than projects approved under subsection (e), will not negatively impact City revenues from existing real estate taxes during the abatement period because the abatement will only apply to qualified improvements. Approved projects will result in: (i) additional permitting revenues and wage taxes associated with the qualified improvements and (ii) an increase in new City real estate taxes after the expiration of the abatement. Projects approved under subsection (e) of this Ordinance will result in a temporary reduction of existing real estate tax revenue for the duration of the abatement period. These temporary reductions in real estate tax revenue will be offset by additional permitting revenues from the improvements, plus new wage taxes generated from the increased occupancy of the new market-rate multi-family residential or mixed-use property.

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