Introduced: February 11, 2019

Adopted: February 25, 2019

THE TOWNSHIP OF SOUTH ORANGE VILLAGE

ORDINANCE #2019-03

AN ORDINANCE READOPTING, AMENDING AND RESTATING CHAPTER 316 REGARDING THE PROVISION OF FIVE YEAR TAX EXEMPTIONS AND ABATEMENTS BY THE TOWNSHIP OF SOUTH ORANGE VILLAGE

WHEREAS, the Board of Trustees of the Township of South Orange Village wishes to utilize the tax exemption and abatement provision authorized by the State legislature to provide five (5) year exemptions and abatements for residential structures, improvements and commercial projects and has recommended that Chapter 316 of the Code of the Township of South Orange Village (the "Code") be readopted and amended;

NOW, THEREFORE, be it ordained, by the Board of Trustees of the Township of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, that Chapter 316 of the Code be readopted, amended and restated as follows:

Section 1.

Chapter 316 is hereby amended and restated as follows:

§316-1 Purpose And Intent

The Legislature of the State of New Jersey has found that the various statutes authorized by Article VIII, Section I, paragraph 6 of the New Jersey Constitution permitting municipalities to grant, for a period of five years, exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of residential and commercial and industrial structures in areas threatened with economic and social decline. In response, the Legislature adopted Chapter 441 of the Laws of 1991 (N.J.S.A. 40A:21-1 et seq.) to consolidate and make more coherent the most useful features of those statutes. The Township of South Orange Village, pursuant to N.J.S. 40A:21-1 et seq. makes known its intention to utilize the tax exemption and abatement provision authorized by the State legislature to provide five (5) year exemptions and abatements for residential structures, improvements and commercial projects as defined herein.

§316-2 Definitions Terms, as used in this chapter, are defined as per N.J.S.A. 40A:21-3 as amended:

ABATEMENT shall mean that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.

ANNUAL PERIOD shall mean a 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 Section 16 of P.L. 1991, c. 441 (N.J.S.A.

40A:21-16).

AREA IN NEED OF REHABILITATION shall mean a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," (N.J.S.A. 40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," (N.J.S.A. 40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to N.J.S.A. 54:4-3.72 et seq., N.J.S. 54:4-3.95 et seq., or N.J.S.A. 54:4-3.121 et seq.

ASSESSOR shall mean the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

COMMERCIAL or INDUSTRIAL STRUCTURE shall mean 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. Commercial and industrial structures shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of $250,000 pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L. 1970. c.33 (c.13:1D-1 et seq.), the "Water Pollution Control Act" (N.J.S.A 58:10A-1 et seq.), the "Solid Waste Management Act" (N.J.S.A. 13:1E-1 et seq.) and the "Spill Compensation and Control Act" N.J.S.A. 58:10-23.11 et seq.).

COMPLETION shall mean substantially ready for the intended use for which a building or structure is constructed, improved or converted.

CONDOMINIUM shall mean a property created or recorded as a condominium pursuant to the "Condominium Act" (N.J.S.A. 46:8B-1 et seq.).

CONSTRUCTION shall mean the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than thirty (30%) percent, but shall not mean the conversion of an existing building or structure to another use.

CONVERSION or CONVERSION ALTERATION shall mean the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

COOPERATIVE shall mean a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

COST shall mean when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a

multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the Governing Body by an independent and qualified architect, following the completion of the project.

DWELLING shall mean a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for a fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law" (N.J.SA. 55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act" (N.J.S.A. 46:8A-1 et seq.) or the "Condominium Act" (N.J.S.A. 46:8B-1 et seq.) or of a cooperative, if the residential units are owned separately.

EXEMPTION shall mean that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

HORIZONTAL PROPERTY REGIME shall mean a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act" (N.J.S.A. 46:8A-1 et seq.).

IMPROVEMENT shall mean 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. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three (3) or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, 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% percent. In no case shall it include the repair of fire or other damage to property for which payment of a claim was received by any person from an insurance company at any time during the three (3) year period immediately preceding the filing of an application pursuant to this act.

MULTIPLE DWELLING shall mean a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Law" (N.J.S.A. 55:13A-1 et seq.), and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

PROJECT shall mean the construction, improvement or conversion of a structure that would qualify for an exemption, or exemption and abatement pursuant to the "Five Year Exemption and Abatement Law" (N.J.S.A. 40A:21-1 et seq.).

VILLAGE shall mean the Township of South Orange Village.

§316-3 Qualifications

Properties where the owner(s) seek to newly construct dwellings, multiple dwellings,

commercial, or industrial structures, and properties where the owner(s) seek to construct improvements to dwellings, multiple dwellings, commercial, or industrial structures are entitled to avail themselves of the opportunity to receive a five (5) year tax exemption and/or tax abatement as provided in this chapter when the following qualifications are met:

a. All real estate taxes must be current;

b. Written application to the Assessor shall be filed within thirty (30) days, including Saturdays and Sundays, following completion of the improvements;

c. Approval by Ordinance of the Board of Trustees;

d. Submission by applicant of a Certificate of Occupancy; and

e. A 5-Year Financial Agreement between the Village and the applicant is executed.

§316-3 Application To Be Filed

No exemption shall be granted except upon written application therefor 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 provided for the use of claimants of the taxing district and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement and the form of the application shall contain requirements set forth in N.J.S.A. 40A:21-9. Every application for exemption for improvements to dwellings, as permitted below pursuant to Section 316-6(A), 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 article, provided that the improvement for which the application is made qualified as an improvement pursuant to the provisions of this article. All exemptions shall be recorded and made a permanent part of the official tax records of the Village, which record shall contain a notice of the termination date thereof.

§316-4 Application Fee

No application for Tax Exemption and Abatement submitted pursuant to this chapter shall be accepted unless it is accompanied by full payment of the required application fee. Such fees shall be:

- $2,500.00 for multiple dwellings and commercial projects whose total project cost is less than $1,000,000.00;
- $5,000.00 for all projects whose total project cost is greater than $1,000,000.00 but less than $5,000,000.00; and
- $7,500.00 for all other projects.

These fees shall be received as compensation for the legal and professional review and related work of the Village's departments and agencies. All checks shall be certified and payable to the Village. This application fee shall be nonrefundable.

§316-5 Transferability

If the applicant shall transfer ownership of a dwelling during the term of the applicable tax agreement or if any such transferee shall thereafter again transfer such ownership, the tax agreement, relating thereto shall be deemed to be assigned to and assumed by each such

subsequent owner. Accordingly, the abatement and/or exemption shall continue notwithstanding such transfer, and the tax agreement shall remain in effect during the original term thereof.

§316-6 Exemptions And Abatements

A. For improvements to dwellings

In determining the value of real property, the Village shall regard the first $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 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. An ordinance authorizing an exemption and/or abatement pursuant to this Section need not contain a form of tax agreement, but may instead refer to a form of tax agreement which has been approved by separate ordinance.

An additional improvement completed on a property granted a previous exemption during the period in which such previous exemption is in effect shall be qualified for an exemption just as if such property had not received a previous exemption. In such case, the additional improvement shall be considered as separate for the purposes of calculating the exemption, 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.

B. For construction of new single family dwellings or conversion of other buildings and structures to single family dwelling use

An exemption shall be granted for a portion of the assessed value of the construction of new single family dwellings and conversions of other buildings and structures, including unutilized public buildings, to single family dwelling use. In determining the value of the real property, the Village shall regard 30% of the Assessor's full and true value of the dwelling constructed, or conversion alterations made, as not increasing the value of the property for a total of five years, notwithstanding that the value of the property upon which the construction or conversion occurs is increased as a result.

C. For new construction or improvements of multiple dwellings, commercial, and industrial structures

In the case of construction or improvement of a multiple dwelling, commercial and/or industrial structure, the owner of such property may apply for an exemption and abatement in respect of such project. Such application shall be submitted to the Assessor and made in accordance with the provisions of N.J.S.A. 40A:21-9, and upon approval by the Board of Trustees of an ordinance authorizing a tax agreement for such project, the applicant shall, in lieu of full property tax payments on the property, pay to the Village an amount annually equal to the following percentage of taxes otherwise due:

1. In the first full tax year after completion, no payment in lieu of taxes otherwise due on the property;

2. In the second tax year, an amount not less than twenty (20%) percent of taxes otherwise due on the property;

3. In the third tax year, an amount not less than forty (40%) percent of taxes, otherwise due on the property;

4. In the fourth tax year, an amount not less than sixty (60%) percent of taxes, otherwise due on the property; and

5. In the fifth tax year, an amount not less than eighty (80%) percent of taxes otherwise due on the property.

D. For new multiple dwellings consisting of condominium housing units

In the case of construction or improvement of a multiple dwelling consisting of condominium housing units, or of conversions of other buildings and structures, including unutilized public buildings, to condominium housing use, or both, the owner of such property may apply for an exemption and abatement in respect of such project, stating separately (i) the "common elements" of such condominium as defined pursuant to the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.) and (ii) each proposed condominium housing unit which is intended to be subsequently conveyed by the applicant to an individual owner thereof (each, an "Eligible Property"). Such application shall be made in accordance with the provisions of N.J.S.A. 40A:21-9, and upon approval by the Board of Trustees of an ordinance authorizing a tax agreement for such project, the applicant (or, if an Eligible Property shall have been conveyed to an individual owner thereof and the requirements of the following paragraph have been satisfied, such owner) shall, in lieu of full property tax payments on the Eligible Property, pay to the Village an amount annually equal to the following percentage of taxes otherwise due:

1. In the first full tax year after completion, no payment in lieu of taxes otherwise due on the Eligible Property;

2. In the second tax year, an amount not less than twenty (20%) percent of taxes otherwise due on the Eligible Property;

3. In the third tax year, an amount not less than forty (40%) percent of taxes, otherwise due on the Eligible Property;

4. In the fourth tax year, an amount not less than sixty (60%) percent of taxes, otherwise due on the Eligible Property; and

5. In the fifth tax year, an amount not less than eighty (80%) percent of taxes otherwise due on the Eligible Property.

§316-7 Financial Agreement

Each project involving multiple dwellings, commercial and/or industrial structures, which has been approved a tax exemption and/or abatement, shall be evidenced by a financial agreement between the Village and the owner of the project. The form of the agreement shall be approved by the Village Counsel and shall be on file in the Office of the Village Clerk. The agreement shall provide for the applicant to pay to the Village in lieu of full property tax payments an amount annually to be computed by the formulas as set forth above. Each agreement shall require that the applicant (and any transferee of more than a single Eligible Property) shall provide written notice to each purchaser of an Eligible Property as to the existence and details of the exemption and/or abatement provided in the applicable agreement, together with instructions as to such actions, if any, such purchaser must take in order to

remain entitled to the benefits thereof following such transfer.

§316-8 Real Property Taxes

In addition to the payments required in lieu of full property taxes under Sections 316-6 (C) and (D), the owner of property which has qualified for tax exemption and/or tax abatement shall be liable for all real estate taxes assessed and levied against the land on which the qualified property is located.

§316-9 Payment In Quarterly Installment And Termination

The payment in lieu of full property taxes under Sections 316-6 (C) and (D) shall be made in quarterly installments according to the same schedule as real property taxes are due and payable. Failure to make these payments shall result in the termination of the exemption or abatement. In addition to the remedy set forth herein, the payment in lieu of full property taxes shall be enforced in the same manner as is provided for in real property taxes.

§316-10 Applicant's Responsibility For Cost

All advertising costs for publishing the ordinance to grant tax exemption or tax abatement to a particular project shall be paid by the applicant.

§316-11 Conformance With Statutory And Regulatory Requirements

All projects subject to tax agreements as provided herein shall be subject to 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.

§316-12 Inspection

Any property which is granted a Tax Exemption and/or Abatement pursuant to this chapter shall be subject to an inspection by the Village on an annual basis to ensure that such properties are in compliance with all ordinances, regulations, and safety codes of the Village. Any property which enjoys an exemption or abatement pursuant to this Chapter and which is determined to be in violation of any ordinance, regulation, and/or safety code of the Village, shall be subject to rescission of such exemption and/or abatement by the Board of Trustees.

§316-13 Applicability And Sunset Provision

The Five-Year Tax Exemption and Abatement shall apply for the next 10 years following the date of final adoption of this amendment to this chapter.

Section 2.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

Section 3.

This ordinance shall take effect upon final passage and publication as required by law.

Section 4.

On passage this ordinance shall be codified.

Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke			X			
Davis Ford			X			
Hartshorn Hilton			X			
Levison	X		X			
Rosner			X			
Schnall		X	X			

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Board of Trustees at their meeting held on February 11, 2019.

Kevin D. Harris
Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke			X			
Davis Ford			X			
Hartshorn Hilton			X			
Levison			X			
Rosner		X	X			
Schnall	X		X			

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Board of Trustees at their meeting held on February 25, 2019.

Kevin D. Harris
Village Clerk

Adopted:

Sheena C. Collum, Village President

Attest:

Kevin D. Harris, Village Clerk