

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 74
TAXATION

No..... Date.....

Approved.....Mayor

AN ORDINANCE INVOLVING STATE LAW REGARDING UNUTILIZED
COMMERCIAL PROPERTY

Be it ordained by the City of Warwick:

Section I: Chapter 74, of the City of Warwick Code of Ordinances is hereby amended by adding Article VIII, entitled “Unutilized Commercial Property,” as follows:

TITLE

Sec. 74-154. – Authority.

In accordance with the express enabling authority granted by the General Assembly in G.L. 1956 § 44-5.1 there is hereby established in the city a real estate non-utilization tax.

Sec. 74-155. – Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section:

Abutter means a neighbor whose property touches the property in question.

Actively marketed means the good faith efforts by the owner of the property to obtain one (1) or more occupants of the property. These good faith efforts may include, without limitation, one (1) or more of the following:

- (1) Making substantial financial expenditures in comparison with the value of the property;
- (2) Listing the property for sale or lease, or both, with one (1) or more real estate brokers, for a price and on terms, or for a rental that is realistic considering the fair market value or fair market rental value of the property; or
- (3) Advertising, using one (1) or more signs on the property and at least one (1) other

1 medium, the availability of the property for sale or rental for a price and on terms, or
2 at a rental that is realistic considering the fair market value or fair rental value of the
3 property. Sporadic attempts to sell or lease the property during the privilege year may
4 be viewed as not constituting a good-faith marketing effort.

5
6 *Continuously unoccupied* means any property which is listed during the entire privilege
7 year as vacant in the records of the Department of Planning.

8
9 *Development plan* means a plan to rehabilitate a vacant and abandoned property within a
10 set time frame for a use in conformance with the city's comprehensive plan and zoning
11 ordinances.

12
13 *New owner* means any person who has purchased the vacant and abandoned property
14 during the period subsequent to the notice of designation as vacant and abandoned.

15
16 *Nonprofit housing organization* means any organization exempt from taxation pursuant to
17 § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) whose exempt purposes
18 include the provision of affordable housing to low and moderate income households.

19
20 *Privilege year* means the twelve-month period corresponding to the calendar year.

21
22 *Reviewing entity* means the administrative officer, designated in accordance with G.L.
23 1956, § 45-23-55; if no administrative officer has been so designated, then the City Planning
24 Board.

25
26 *Housing* means Rhode Island Housing and Mortgage Finance Corporation, a public
27 corporation created under G.L. 1956, tit. 42, ch. 55.

28
29 *Vacant and abandoned property* means any property which is:

- 30
31 (1) A structure that has been determined to be continuously unoccupied by the
32 Building Department during the privilege year; and
33 a. Has been under continuous citation by the Building Department and/or
34 Minimum Housing or
35 b. Has not been maintained as evidenced by the exterior condition and
36 structure.
37 (2) A lot with no existing structure that is littered with trash and obviously
38 abandoned.

39
40 Sec. 74-156. – Notice of designation as vacant or abandoned.

- 41
42 A. The Building Department shall, upon designation of a property as vacant and
43 abandoned, notify the owner in writing of the date of designation of the property as
44 vacant and abandoned and the date upon which the non-utilization tax shall be
45 imposed and said notice shall be immediately sent to the city assessor. The Building
46 Department shall file the notice of designation as vacant and abandoned with the

1 recorder of deeds.

2
3 Sec. 74-157. – Imposition.

- 4
5 A. The city imposes a tax upon the privilege of utilizing property as vacant and abandoned
6 property within the city during any privilege year commencing with the privilege year
7 beginning December 31, 2021, and every calendar year thereafter.
8 B. The city shall, through the office of the city assessor, annually impose upon any property
9 which is vacant and abandoned, as determined by the Building Department, a non-
10 utilization tax measured by the assessed value of the real estate at the rate of \$100 for
11 each \$1,000 of assessed value of the real estate as most recently returned by the tax
12 assessor of the city.
13 C. The tax imposed under the authority of this chapter shall be due and payable in the same
14 manner as other municipal taxes are due in the city.
15 D. Taxes imposed under the authority of this chapter shall constitute an automatic lien
16 against the property like any other real estate tax imposed.
17 (1) The non-utilization tax lien date shall be December 31st annually.
18 (2) Unpaid non-utilization taxes must be satisfied before a deed transferring the
19 ownership of the subject property can be recorded with the city clerk.
20 (3) The city can sell any unpaid non-utilization tax liens through the normal tax sale
21 process used for unpaid real estate taxes.

22
23 Sec. 74-158. – Exceptions.

- 24
25 A. The non-utilization tax authorized by this article shall not be imposed on property:
26
27 (1) Owned by an abutter, a new owner, or a nonprofit housing organization if:
28 a. The abutter, new owner, or nonprofit housing organization submits a proposed
29 development plan to the administrative officer, designated in accordance with
30 G.L. 1956, § 45-23-55; if no administrative officer has been so designated,
31 then to the city Planning Department.
32 b. The administrative officer, in accordance with G.L. 1956, § 45-23-55, or if no
33 administrative officer, then the city Planning Department, determines that the
34 proposed development plan contains a reasonable timetable for the
35 development or reuse of the property;
36 c. The administrative officer, in accordance with G.L. 1956, § 45-23-55, or if no
37 administrative officer, then the city planning commission, determines that the
38 abutter, new owner, or nonprofit housing organization has obtained adequate
39 funding for the development plan; and
40 d. The administrative officer, in accordance with G.L. 1956, § 45-23-55, or if no
41 administrative officer, then the city Planning Department determines that the
42 proposed development plan is in accordance with the approved
43 comprehensive plan and zoning ordinances of the city and approves it.
44 (2) The administrative officer, in accordance with G.L. 1956, § 45-23-55, or if no
45 administrative officer, then the city planning commission, shall deliver a copy of the
46 approved development plan to the tax assessor who shall certify the property as

1 exempt from the non-utilization tax.

- 2 a. Failure of the nonprofit housing organization, new owner or abutter, without
3 good cause, to carry out the development or refuse of the property in
4 accordance with the timetable set forth in the approved development plan
5 shall result in the property being subject to the non-utilization tax as of the
6 first date of assessment following the expiration of the timetable in the
7 approved development plan.
8 b. The decision of the administrative officer, or the city planning commission,
9 denying approval of a development plan may be appealed as provided in
10 Section 74-160 of this article.

11 B. The non-utilization tax authorized by this article shall not be imposed on property for
12 which RI Housing:

- 13
14 (1) Holds an interest on the property pursuant to G.L. 1956, § 44-9-8.3;
15 (2) Holds a first mortgage on the property, which mortgage is insured under any federally
16 sponsored mortgage insurance program, including, without limitation, programs
17 sponsored by the Federal Housing Administration (FHA), the Federal Home Loan
18 Mortgage Administration (Freddie Mac) or the Government National Mortgage
19 Association (Fannie Mae); or
20 (3) Owns the property under the RI Housing land bank program, which property is
21 intended for development into housing for low or moderate-income households.
22

23 Section 74-159. – Abatement of tax.

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25 The tax assessor is empowered to abate the non-utilization tax if it is imposed in error.
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27 Section 74-160. – Appeals.
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- 29 A. If any appeal from the imposition of the tax set forth in this article, the board of
30 assessment review shall find in favor of an appellant who shows that the property
31 assessed;
32
33 (1) Was actively marketed during the privilege year; or
34 (2) Was occupied for substantial portions of the privilege year, notwithstanding its
35 designation by the Building Department
36 (3) Was exempt pursuant to Section 74-158(A)(2) of this article from the imposition of
37 the tax as set forth in that section.
38
39 B. Appeals of the non-utilization tax must be made within the same statutorily mandated
40 time constraints required for other real estate tax appeals.
41
42 C. Nothing contained in this article shall be deemed to enlarge or diminish any other right of
43 appeal that an appellant may possess pursuant to the general or public laws or city
44 ordinances. Appeals of the non-utilization tax must be made within the same statutorily
45 mandated time constraints as required for any other real estate tax appeals.
46

1 Section 74-161. – Use of collected taxes.

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3 All taxes collected under the provisions of this Article shall be allocated to economic
4 development.

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6 Section 74-162. – Reserved.

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8 Section II. This Ordinance shall take effect immediately upon its passage.

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SPONSORED BY: COUNCILMAN SINAPI

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COMMITTEE: FINANCE

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