

ORDINANCE NO. 10, 2017

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 251 OF THE CODE OF THE CITY OF LINWOOD, TAXATION, ADDING ARTICLE III "100% DISABLED VETERANS PROPERTY TAX REFUNDS; AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, pursuant to N.J.S.A. 54:4-3.30, the dwelling house and the lot whereupon the same is erected, of any citizen and resident of this State, honorable discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100 percent permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy actions, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation on proper claim made therefor; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.31, upon review and approval of the required documentation by the municipal tax assessor, the assessor shall allow said exemption from taxation for the tax year in which the claim was filed; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.32, the governing body of each municipality, by appropriate resolution, may return all taxes collected on property from prior years which would have been exempt had proper claim been timely made in writing; and

WHEREAS, the statutory intent to grant discretion to the governing body of every municipality has been affirmed by the New Jersey Superior Court in Del Priore v. Edison Township 2012 WL 2384250 (L. 2012), affirmed by New Jersey Superior Court, Appellate Division Docket No. A4447-11T3 (2013), that a municipality has discretion to grant or deny a taxpayer a retroactive refund of property taxes that has been paid from the effective date of the disability as determined by the United States Department of Veterans Affairs as set forth in N.J.S.A. 54:4-3.32; and

WHEREAS, the timing of the determination of Total Disability made by the United States Department of Veterans Affairs is outside the control of either the City or the disabled veteran; and

WHEREAS, retroactive refunds have a significantly adverse financial impact on the City and its taxpayers and are not reimbursed to the City by the State of New Jersey; and

WHEREAS, the Governing Body of the City of Linwood desires to establish a formal policy providing that a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3.32 shall be limited to the current year of the submission of a proper claim to the tax assessor as required by N.J.S.A. 54:4-3.30 and, if timely filed, the prior year, but in no event greater than a twenty-four month period in the aggregate.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic, State of New Jersey as follows:

SECTION 1. Amendment to chapter 251 of the Code of the City of Linwood

Chapter 251 of the Code of the City of Linwood “Taxation” is hereby amended and supplemented to add an Article III “100% Disabled Veteran Tax Refunds” which shall read as follows:

Article III. 100% DISABLED VETERAN TAX REFUNDS.

251-4 Retroactive Refund of Property Taxes

4.1 Timely Filing with the Tax Assessor.

For a veteran, or his or her surviving spouse or domestic partner, entitled to exemption under N.J.S.A. 54:4-3.30, after a formal written request for a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3, submitted to the Linwood Tax Assessor with all required documentation, and which shall have been timely filed within 120 calendar days after the date on the Total Disability Termination Letter issued by the United States Department of Veterans Affairs, the City Council, by appropriate resolution, shall refund taxes previously paid only for the calendar year in which the claim of the veteran, or his or her surviving spouse or domestic partner was submitted to the City Tax Assessor, and for such portion of the prior calendar year during which the total disability was in effect, but in no event greater than a twenty-four month period in the aggregate.

No further or additional refund of taxes shall be permitted, regardless of the date of the disability of the veteran as determined by the United States Department of Veterans Affairs.

4.2 Late Filing with the Tax Assessor.

In the event a veteran, or his or her surviving spouse or domestic partner, entitled to exemption under N.J.S.A. 54:4-3.30, shall submit a request to the Linwood Tax Assessor for refund of taxes at any time than 120 calendar days after the date on the Total Disability Termination Letter issued by the United States Department of Veterans Affairs, the City Council, by appropriate resolution, shall refund taxes previously paid only for the calendar year in which the claim of the veteran, or his or her surviving spouse or domestic partner was submitted to the City Tax Assessor.

No further or additional refund of taxes shall be permitted, regardless of the date of the disability of the veteran as determined by the United States Department of Veterans Affairs.

SECTION 2. Enforcement

The City Tax Assessor, together with all other appropriate officers and employees, are hereby authorized and directed to take any and all legal steps necessary to effectuate the purposes of this Ordinance.

SECTION 3. Repealer Clause

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies. All other provisions of Chapter 251 which are not affected by this Article are ratified and confirmed and shall remain in full force and effect.

SECTION 4. Severability

If any portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this article, but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. Effective Date

This Ordinance shall be effective immediately upon final reading and publication in accordance with New Jersey Law.

<i>FIRST READING:</i>	<i>September 27, 2017</i>
<i>PUBLICATION:</i>	<i>October 2, 2017</i>
<i>PASSAGE:</i>	<i>October 11, 2017</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, September 27, 2017 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on October 11, 2017.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR