

TOWNSHIP OF WALL

ORDINANCE NO. 3-2020

**AN ORDINANCE OF THE TOWNSHIP OF WALL, IN THE COUNTY OF MONMOUTH,
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE CODE OF THE
TOWNSHIP OF WALL SPECIFICALLY CHAPTER 203 “TAX EXEMPTIONS AND
ABATEMENT”**

WHEREAS, The New Jersey Constitution authorizes the state legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such buildings or structures are erected and which is necessary for the fair enjoyment thereof. Such exemptions shall be for limited periods of time as specified by law, but not in excess of five years; and

WHEREAS, “The Five-Year Exemption and Abatement Law”, P.L. 1991, Chapter 441, N.J.S.A. 40A:21-1 et seq. (the “Act”), requires a municipality to adopt an ordinance setting for the terms and conditions under which the Township may enter into a five-year tax abatement agreement with redevelopers constructing structures in an area declared in need of rehabilitation; and

WHEREAS, the Township of Wall wishes to amend the existing Chapter 203 “Tax Exemptions and Abatements” so that it conforms with the changes in the Act;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Wall, in the County of Monmouth, in the State of New Jersey, as follows:

Section 1. Chapter 203 entitled “Tax Exemptions and Abatements” of the Code of the Township of Wall be and the same is hereby deleted in its entirety and replaced with the attached new Chapter 203 Five-Year Tax Exemption and Abatement:

Section 2. All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

Section 4. Should any section, paragraph clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 5. This Ordinance shall take effect upon its passage and publication according to law.

Introduced: March 25, 20220

Adopted: April 22, 2020

Attest:

Approve:

Roberta M. Lang, RMC
Township Clerk

Carl Braun
Deputy Mayor

**SUMMARY AND NOTICE
TOWNSHIP OF WALL
ORDINANCE NO. 3-2020**

**AN ORDINANCE OF THE TOWNSHIP OF WALL, IN THE COUNTY OF
MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING
THE CODE OF THE TOWNSHIP OF WALL SPECIFICALLY CHAPTER 203
“TAX EXEMPTIONS AND ABATEMENT”**

Adoption of this Ordinance will replace the existing Chapter 203 entitled “Tax Exemptions and Abatements” with a new Chapter 203 entitled Five-Year Exemption and Abatement

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Township Committee of the Township of Wall on March 25, 2020, and finally adopted on April 22, 2020. Copies of said Ordinance will be made available at the Clerk’s Office in the Township of Wall, to members of the general public who shall request the same or may be viewed in full on the Township’s website www.wallnj.com under Legal Notices.

Roberta M. Lang, RMC
Township Clerk

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Chapter 203. Five-Year Exemption and Abatement

§ 203-1. Legislative authority.

- A. The New Jersey Constitution authorizes the state legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such buildings or structures are erected and which is necessary for the fair enjoyment thereof. Such exemptions shall be for limited periods of time as specified by law, but not in excess of five years. See Article 8, Section 1, paragraph 6.
- B. This chapter is enacted pursuant to the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:211 et seq. (hereinafter referred to as the "Act"). This article is also enacted pursuant to N.J.S.A. 40A:12A-5g of the Local Redevelopment and Housing Law.

§ 203-2. Findings and purpose.

The governing body of the municipality finds and declares that there are areas within the municipality which are in need of rehabilitation by private enterprise. The governing body further finds and declares that tax incentives are useful economic stimulants to promote the construction and rehabilitation of commercial and industrial structures in areas threatened with economic and social decline. It is the intent and purpose of this article to permit the municipality the greatest flexibility possible within the constitutional limitations to address problems of deterioration and decay.

§ 203-3. Definitions.

As used in this chapter, the following terms shall have the following meanings as set forth in the Act.

ABATEMENT

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 the Act.

ANNUAL PERIOD

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 § 16 of P.L. 1991, c. 441 (N.J.S.A. 40A:21-16).

AREA IN NEED OF REHABILITATION

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, P.L. 1992, c. 79 (N.J.S.A. 40A:12A-1 et seq.),

ASSESSOR

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

COMMERCIAL OR INDUSTRIAL STRUCTURE

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. It 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, together with the total square footage of the land used or to be used by the business, 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 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under. P.L. 1970, c. 33 (N.J.S.A. 13:1D-1 et seq.), the Water Pollution Control Act, P.L. 1977, c. 74 (N.J.S.A. 58:10A-1 et seq.), the Solid Waste Management Act, P.L. 1970, c. 39 (N.J.S.A. 13:1E-1 et seq.), and the Spill Compensation and Control Act, P.L. 1976, c. 141 (N.J.S.A. 58:10-23.11 et seq.).

COMPLETION

Substantially ready for the intended use for which a building or structure is constructed, improved or converted.

CONSTRUCTION

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 30%, but shall not mean the conversion of an existing building or structure to another use.

EXEMPTION

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 the Act.

IMPROVEMENT

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 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%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three-year period immediately preceding the filing of an application pursuant to the Act.

PROJECT

The construction, improvement or conversion of a structure in an area in need of rehabilitation that would qualify for an exemption, or an exemption and abatement, pursuant to P.L. 1991, c. 441

(N.J.S.A. 40A:21-1 et seq.).

§ 203-4. Municipal ordinance granting exemptions or abatements.

- A. An ordinance adopted pursuant to the Act may be amended from time to time. An amendment to an ordinance shall not affect any exemption, abatement or tax agreement previously granted and in force prior to the amendment.
- B. Application for exemptions and abatements from taxation may be filed pursuant to an ordinance so adopted to take initial effect in the tax year in which the ordinance is adopted, and for tax years thereafter as set forth in the Act, but no application for exemptions or abatements shall be filed in the 11th tax year, or any tax year thereafter, unless the ordinance is readopted by the governing body pursuant to the Act.

§ 203-5. Designation of areas in need of rehabilitation.

- A. The areas within the municipality located within the West Belmar Gateway Area Redevelopment Area, as amended from time to time, are areas in need of rehabilitation. Application for exemptions and abatements from taxation may be filed with the Assessor of the municipality for eligible projects located within the West Belmar Gateway Redevelopment Area.

§ 203-6. Commercial and industrial projects.

- A. This chapter provides for the exemption from taxation of improvements to commercial and industrial structures. In determining the value of real property, the municipality shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five 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 structure through action of the elements sufficient to warrant a reduction.
- B. Exemptions for commercial and industrial improvements shall be authorized on an individual basis after review, evaluation and approval of each application by the governing body of the municipality.

§ 203-7. Contents of application for tax agreement.

Applicants for exemptions or abatements from taxation for new construction of commercial or industrial structures shall provide the municipality with an application setting forth the following information:

- A. A general description of a project for which exemption and abatement is sought;

- B. A legal description of all real estate necessary for the project;
- C. Plans and drawings which illustrate the general design of the project and all the structures to be constructed;
- D. The total number of full-time and part-time employees employed at the subject property prior to the new construction. A description of the number, classes and type of employees to be employed at the project site within two years of the completion of the project;
- E. A statement of the reasons for seeking tax exemption and abatement on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted;
- F. Estimates of the cost of completing such project;
- G. A statement showing the real property taxes currently being assessed at the project site, estimated tax payments that would be made annually by the applicant on the project during the period of the agreement and estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;
- H. If the project is a commercial or industrial structure, a description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses.

§ 203-8. Tax agreement.

All tax agreements shall be applied for and granted on a project basis in accordance with the following procedures:

- A. All applications for exemptions and abatements from taxation shall be reviewed by the Assessor of the municipality to insure that they were filed in a timely manner, are complete and comply with the applicable state law and municipal law. The Assessor shall thereafter refer the application, along with a tax agreement and ordinance, to the governing body of the municipality for its review, evaluation and approval.
- B. The Standard Form Five-Year Tax Agreement is hereby approved. All tax agreements shall be approved using only the standard form with the individual application for exemption and abatement from taxation attached as an exhibit to the agreement.
- C. The governing body of the municipality must review and evaluate all applications for exemptions or abatements from taxation before approving them.
- D. No exemption or abatement for a commercial or industrial improvement shall be granted until the application and tax agreement is approved by ordinance of the governing body of the municipality. The adopting ordinance shall include the following findings and determinations:
 - (1) The project is a commercial or industrial project which is eligible for exemption or abatement from taxation.
 - (2) The project will maintain or provide gainful employment within the municipality.
 - (3) The project will assist in the economic development of the municipality.
 - (4) The project will maintain or increase the tax ratable base of the municipality.
 - (5) The project will maintain or diversify and expand commerce within the municipality.
 - (6) The economic benefits derived from the project outweigh any negative effects associated with granting the exemption or abatement from taxation.

§ 203-9. Formula for computation of payments in lieu of full property tax.

The tax agreement shall provide for the applicant to pay to the municipality, in lieu of full property tax payments, an amount annually based on the tax phase-in approach, which shall be an amount equal to a percentage of taxes otherwise due according to the following schedule:

- A. In the first full year after completion, no payment in lieu of taxes otherwise due.
- B. In the second full year after completion, an amount not less than 20% of the taxes otherwise due.
- C. In the third full year after completion, an amount not less than 40% of taxes otherwise due.
- D. In the fourth full year after completion, an amount not less than 60% of taxes otherwise due.
- E. In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

§ 203-10. Duration of tax agreements.

- A. All tax agreements entered into by the municipality pursuant to the Act shall be in effect for no more than the five full calendar years next following the date of completion of the project.
- B. All projects subject to a tax agreement 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 provisions, zoning, planning and building code requirements.
- C. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption and 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 municipality for determining equalization for county tax apportionment and school aid during the term of the tax agreements covering the properties, and at the termination of an agreement for a property, the reduced valuation procedure required under the Act shall no longer apply.
- D. Within 30 days after the execution of a tax agreement, the City Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

§ 203-11. Termination of agreement.

- A. If during any tax year prior to the termination of the tax agreement the property owner ceases to operate or disposes of the property, or fails to meet the conditions for qualifying, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no exemption and abatement had been granted. The Assessor of the municipality shall notify the property owner and the tax collector forthwith. The tax collector shall, within 15 days thereof, notify the owner of the property of the amount of taxes due.
- B. However, with respect to the disposal of the property, where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption and the abatement shall continue, and the agreement shall remain in effect.

- C. At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by state law and regulation and local ordinance, but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

§ 203-12. Assessed value of property under exemption or abatement.

The Assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to a tax agreement pursuant to the Act and this article, the amount of tax to be paid for the tax year in which the project is completed shall be based on the following:

- A. The assessed valuation of the property for the current tax year, minus the amount of the abatement, if any, allowed pursuant to the Act and prorated, plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to the Act, also prorated.
- B. 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 Assessor and shall be prorated for the final tax year in which the exemption or abatement expires.

§ 203-13. Subsequent exemptions or abatements.

- A. This article also provides that an additional improvement, conversion or construction completed on a property granted a previous exemption or abatement pursuant to the Act during the period in which such previous exemption or abatement is in effect shall be qualified for an exemption, or exemption and abatement, just as if such property had not received a previous exemption or abatement.
- B. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions and abatements, pursuant to the Act, except that the assessed value of any previous improvement, conversion or construction shall be added to the assessed valuation as it was prior to that improvement, conversion alteration or construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

§ 203-14. Ineligible properties.

- A. No exemption or abatement shall be granted, or tax agreement entered into, pursuant to the Act with respect to any property for which property taxes are delinquent or remain unpaid. The existence of a tax installment agreement shall not make the property eligible.
- B. Residential dwellings and multiple dwellings are not eligible for exemption or abatement from taxation for the improvements, conversion alteration or construction pursuant to this article.

§ 203-15. Application forms and date due; records.

- A. No exemption or abatement shall be granted pursuant to the Act except upon written application filed with and approved by the Assessor of the taxing district wherein the improvement, conversion alteration or construction is made.

- B. 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 by the governing body of the municipality constituting the taxing district and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion alteration or construction.
- C. Every application for exemption, or exemption and abatement, within a municipality adopting the provisions of the Act 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 the adopting ordinance or the tax agreement, provided that the improvement, conversion alteration or construction for which the application is made qualifies as an improvement, a conversion alteration or construction pursuant to the provisions of the Act and the tax agreement, if any.
- D. In the absence of a tax agreement to the contrary, the granting of an exemption, or exemption and 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 exemption, or exemption and abatement, is granted. It shall continue for five annual periods from that date. The grant of the exemption, or exemption and abatement, or tax agreement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date thereof.

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