

**THE TOWNSHIP OF JEFFERSON**

**ORDINANCE #11-09**

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION  
IN THE TOWNSHIP OF JEFFERSON OF THE  
“FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW”  
PURSUANT TO N.J.S.A. 40A: 21-1, ET SEQ.**

**WHEREAS**, pursuant to N.J.S.A. 40A:21-1, et seq., a municipality having within its limits, areas in need of redevelopment may, by ordinance, provide for the exemption and/or abatement of real property taxes, to encourage and provide incentives for the construction and rehabilitation of multiple dwellings, mixed use structures and industrial and commercial structures; and

**WHEREAS**, the Township of Jefferson has as its objective for designating such areas in need of redevelopment the increase of general commerce, including employment opportunities and increasing property values, as well as improving the health and welfare of the citizens and businesses of Jefferson; and

**WHEREAS**, the Township of Jefferson desires to attract private investment in such areas in need of redevelopment which may necessitate a reduction of the property tax burden on the potential investor, as property owner, so as to provide an incentive to improve multiple dwellings, mixed use structures and commercial (including retail) and industrial structures within the boundaries of the areas in need of redevelopment; and

**WHEREAS**, N.J.S.A. 40A:21-1, et seq. provides for the exemption of assessments on improvements for five years following completion of a project as defined in the statute and the exemption or abatement of property taxes for new construction for a five year period following completion of the project as defined in the statute;

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Jefferson as follows:

Section 1. Definitions.

A. The definitions contained in N.J.S.A. 40A:21-3 are incorporated herein by reference as if set forth at length. As used in this Chapter, words shall have the meanings as so defined unless a different meaning is expressed.

B. Mixed Use Structure: A structure with two or more different uses such as, but not limited to, residential, commercial, or industrial.

## Section 2. Tax Exemptions and Abatements Authorized.

The Township Council hereby authorizes the implementation and utilization of tax exemption and abatement in accordance with Article VIII, Section I, Paragraph 6, of the New Jersey Constitution and establishes the eligibility of multiple dwellings, mixed use structures, commercial and industrial structures for five-year tax exemptions and abatements as authorized by N.J.S.A. 40A:21-1, in the Township to the extent any specific redevelopment area shall qualify pursuant to State Law and as set forth herein.

## Section 3. Improvements to Multiple Dwellings.

Improvements costing greater than \$5,000 to multiple dwellings are eligible for tax exemption. The Assessor's full and true value of the improvements shall be regarded as not increasing the value of the property for a period of five (5) years commencing with the completion of an improvement 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 existing thereon immediately prior to the improvement unless there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction. As used in this section, "improvements" shall not be construed to include an increase in the number of dwelling units nor the reduction of the total number of dwelling units to less than three.

## Section 4. Improvements to Mixed Use, Commercial (including Retail and Industrial Structures).

Improvements costing greater than \$5,000 to mixed use, commercial and industrial structures are eligible for tax exemption for a period of five (5) years commencing with the completion of an improvement. The Assessor's full and true value of the improvements shall be regarded as not increasing the value of the property notwithstanding that the value of the property to which the improvement is made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment existing thereon immediately prior to the improvements, unless there is damage to the structure through action of the elements sufficient to warrant a reduction.

## Section 5. Construction of New Mixed Use, Commercial and Industrial Structures.

Construction of new mixed use, commercial and industrial structures shall be eligible for tax exemption and/or tax abatement commencing with completion of the project. Any such exemption and abatement shall be subject to the owner and the Township of Jefferson entering into a tax agreement pursuant to the provisions of N.J.S.A. 40A:21-10.

A. The applicant, property owner, shall furnish to the Township of Jefferson all the information required by N.J.S.A. 40A:21-9. In addition, every applicant shall file the application form prescribed by the Director of the New Jersey Division of Taxation in the

Department of Treasury, with the Tax Assessor, as a condition to approval, within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement. Every application for exemption or exemption and abatement so filed shall be approved and allowed by the Assessor to the degree that the application is consistent with the provisions of this Ordinance, provided that the improvement for which the application is made, qualifies as such, pursuant to the provisions of this Ordinance and the aforesaid, duly executed tax agreement. The granting of an exemption and/or abatement and tax agreement, if appropriate, 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.

B. No tax exemption shall be granted pursuant to this Section unless approved by resolution of the Township Council on an individual, or case by case, basis after a financial analysis of the benefit of the tax agreement and review and approval of each application for compliance with the terms of this Ordinance.

C. The tax agreement shall provide that the applicant shall pay to the Township of Jefferson in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the three formulas set forth in N.J.S.A.40A:21-10, also known as the "Cost", "Gross Revenue," or "Tax Phase In" basis of providing for the payment in lieu of taxes. The following are the three formulae which may be incorporated in said tax agreement.

a. Cost basis: the tax agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the tax agreement, "the cost of the project" means only the cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; which the applicant, property owner, shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

b. Gross revenue basis: the tax agreement may provide for the applicant to pay to the Township in lieu of full property tax payments an amount annually equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project, or any operating or maintenance expenses ordinarily paid by the landlord, are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross

revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

c. Tax phase-in basis: the tax agreement may provide for the applicant to pay to the Township in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

- (1) In the first full year after completion, no payment in lieu of taxes otherwise due;
- (2) In the second full year after completion, an amount not less than 20% of taxes otherwise due;
- (3) In the third full year after completion, an amount not less than 40% of taxes otherwise due;
- (4) In the fourth full year after completion, an amount not less than 60% of taxes otherwise due;
- (5) In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

#### Section 6. Eligibility for Additional Construction or Improvement.

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

#### Section 7. Applicability of Statutory Regulatory Provisions.

Every application for exemption or abatement and every exemption and abatement granted shall be subject to all the provisions of N.J.S.A. 40A:21-1, et seq.

#### Section 8. Applicability of Federal, State and Local Laws.

All tax agreements entered into pursuant to this Ordinance shall provide that the applicant is subject to all federal, state and local laws and Ordinances.

Section 9. Cessation or Disposition of Property.

If during any tax year prior to the termination of the tax abatement or exemption agreement, the applicant ceases to operate or disposes of the property or otherwise fails to meet the conditions of eligibility, the tax otherwise due if there had been no abatement or exemption shall become due and payable by the property owner. The Tax Assessor shall notify the property owner and the Tax Collector forthwith and the Tax Collector shall within fifteen (15) days thereof notify the owner of the property of the amount of taxes due. However, with respect to sale or other disposal of the property which it is determined that the new owner of the property will continue to use the property pursuant to the conditions which were set forth in the tax abatement or exemption agreement, the tax agreement including any exemption and/or or abatement shall continue.

Section 10. Default in Tax Payments.

In the event of default by the applicant, property owner, including but not limited to the failure to make timely tax or in lieu of tax payments to the Township of Jefferson, the municipality shall notify the applicant, in writing, of said default. The applicant shall have thirty days to cure any default. Following the thirty day cure period, the Township shall have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:4-1, et seq. and/or may cancel the Financial Agreement upon thirty days notice to the applicant.

Section 11. Full Taxes To Be Paid Upon Termination of Agreement.

At the termination of a tax abatement or tax agreement, a project shall be subject to all applicable real property taxes as provided by state law and local Ordinance.

Section 12. Payment of Application Fees.

No application for tax exemption or abatement shall be accepted by the Township unless accompanied by full payment of the required application fee. Such fees shall be based on the estimated total project cost as set forth in a schedule on file with the Office of the Township Clerk. The Township shall verify the estimated total project cost as being reasonable. These fees shall be received as compensation for the financial analysis and other professional review and related work performed by the Township's consultants, departments and agencies. Said fees, or a portion thereof, may be refunded to the applicant, if such provision is made part of the tax agreement.

Application Fee Schedule

The following fees are based on the estimated cost of the improvement:

\$5,000 up to \$50,000-\$250 fee

\$50,001 - \$150,000-\$500 fee

\$150,001 - \$300,000-\$1,000 fee

\$300,001 - \$500,000-\$1,500 fee

\$500,001 and above \$1,750 plus \$1,000 in fees for each \$500,000 of additional improvement costs.

Example, an applicant estimating improvement costs of \$1,000,001, and up to \$1,500,000, shall pay a fee of \$2,750.

Section 13. Ordinance Transmitted to the State of New Jersey Department of Community Affairs.

The Township Clerk shall forward a certified copy of this Ordinance to the State of New Jersey Department of Community Affairs.

Section 14. Ineligibility.

No tax abatements and/or exemptions shall be granted for any property for which property taxes or any other municipal charges are delinquent or remain unpaid or for which penalties for nonpayment are due for a period of at least one year, or for any property not being used in conformance with local, state or federal law or ordinance.

Section 15. Tax Assessment Appeal Procedure.

Appeal of any determination made by the Township of Jefferson Tax Assessor under the terms of this Ordinance shall be made to the Hudson County Board of Taxation.

Section 16. Construction of Ordinance.

Where consistent with the context in which used in this Ordinance, words importing the singular shall include the plural; words importing the plural shall include the singular; and, words importing one gender shall include all other genders.

Section 17. Inconsistent Ordinances Repealed.

Should any provision of this Ordinance be inconsistent with the provisions of any prior Ordinance(s,) the inconsistent provisions of such prior Ordinances are hereby repealed, but only to the extent of the inconsistencies.

Section 18. Severability.

In the event that any provision of this Ordinance or the application thereof to any person

or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this Ordinance are declared to be severable.

Section 19. Captions.

Captions contained in this Ordinance have been inserted only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any specific Section.

**COUNCIL OF THE  
TOWNSHIP OF JEFFERSON**

**ATTEST:**

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LYDIA MAGNOTTI, CLERK

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RICHARD W. YOCUM, President

INTRODUCED: February 4, 2009

ADOPTED: April 15, 2009

RUSSELL W. FELTER, MAYOR  
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DATE AND TIME PRESENTED TO MAYOR FOR SIGNATURE:  
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