

**BOROUGH OF BUENA  
COUNTY OF ATLANTIC**

**ORDINANCE NO. 754**

**AN ORDINANCE OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC, STATE  
OF NEW JERSEY, PROVIDING FOR THE IMPLEMENTATION IN THE BOROUGH  
OF BUENA OF THE "FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW  
"PURSUANT TO N.J.S.A. 40A:21-1"**

**WHEREAS**, pursuant to the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1, et seq. (the "Law"), a municipality having within its corporate limits areas in need of rehabilitation or 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, among other things, industrial and commercial structures; and

**WHEREAS**, the Borough of Buena desires to provide real estate tax incentives for industrial and commercial structures on certain lands designated as an area in need of redevelopment pursuant to N.J. S.A. 40A: 1 2A-1, et seq. to encourage appropriate and sound development; and

**WHEREAS**, the Law provides for the exemption of assessments on improvements for five years following completion of a project as herein defined and the exemption or abatement of property taxes for improvements to and construction of commercial and industrial properties for a five-year period following completion of the project as defined in the Law.

**NOW THEREFOR, BE IT ORDAINED**, by the Mayor and Council of the Borough of Buena as follows:

1. Short Title.

This article is enacted pursuant to the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (hereinafter referred to as the "Act") and shall be known and may be cited as the "Five-Year Exemption and Abatement Ordinance."

2. Findings and Purpose.

The Governing Body finds that N.J.S.A. 40A:12-1, et seq., authorized by Article 8, § 1, paragraph 6, of the New Jersey Constitution, permitting municipalities to grant five-year periods of emptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of commercial and industrial structures in such areas. It is the purpose of this Article to permit the Borough of Buena the greatest flexibility possible within the constitutional and statutory limitations to address problems of deterioration and decay through the employment of such exemptions and abatements within areas in need of rehabilitation.

3. Intent.

The Borough, pursuant to N.J.S.A. 40A-21-1, et seq., makes known its intention to utilize the tax exemption and abatement provision enacted by the New Jersey Legislature to authorize five-year exemptions and abatements for projects involving the construction of , or improvements to, commercial or industrial structures in areas in need of rehabilitation.

4. Definitions.

- A. AGREEMENT-A tax agreement entered into between a developer and the Borough under the Five-Year Exemption and Abatement Law, including all amendments and supplements thereto.
- B. ABATEMENT-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).
- C. AREA IN NEED OF REHABILITATION-A portion of the 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.).
- D. APPLICATION-The information required to be submitted by a developer seeking an exemption and/or abatement and conforming to the requirements of Section 7 or Section 18 hereof, as the case may be.
- E. ASSESSOR-The Tax Assessor of the Borough.
- E. 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.
- F. COMPLETION- Substantially ready for the intended use for which a building or structure is constructed, improved, or converted.
- G. CONSTRUCTION-The provision of a new commercial or industrial structure, or the enlargement of the volume of an existing commercial or industrial structure by more than 30% but shall not mean the conversion of an existing building or structure to another use.
- H. DEVELOPER-The person or entity who or which is seeking or receiving an exemption, including an assignee in any case where the Council has approved the assignment thereof.
- I. 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, but 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 from an insurance company or a claim for payment pending.
- J. LAW-The Five-Year Exemption and Abatement Law (N.J.S.A. 40A:21-1, et seq.), as amended and supplemented.
- K. PROJECT-The real property and the improvements thereon which are the subject of an Agreement and are located within an area in need of rehabilitation or redevelopment, as defined in the Law.
- L. PROPERTY-The real property and the improvements subject to an Agreement.
- M. BOROUGH-The Borough of Buena, in the County of Atlantic, New Jersey.

- N. BOROUGH ADMINISTRATOR-The Business Administrator of the Borough.
- O. BOROUGH CLERK-The Clerk of the Borough.
- P. COUNCIL-The Council of the Borough.
- Q. MUNICIPAL REVIEW COMMITTEE-The following Officials and Employees of the Borough constitutes the Municipal Review Committee:
  - a. Mayor or designee
  - b. Two members of the governing body appointed by the governing body
  - c. Tax Assessor or designee
  - d. Business Administrator or designee
  - e. Zoning Officer or designee
  - f. Road Department Supervisor or designee

5. Eligible Property.

A developer of commercial or industrial property located in an area in need of rehabilitation or redevelopment in the Borough may avail himself/herself of the opportunity to receive a five-year tax exemption and/or abatement as provided in this article as follows:

- A. Application to the Municipal Review Committee in accordance with Section 7 hereof.
- B. Approval of the Borough by ordinance.
- C. Written application to the Borough Assessor in accordance with Section 18 hereof.
- D. Payment of all municipal taxes and charges must be current at all relevant times.

6. Duties of the Municipal Review Committee.

The Municipal Review Committee shall review and evaluate all applications submitted pursuant to Section 7 hereof and make recommendations to the Governing Body for tax abatements, exceptions, or denials. The recommendation of the majority of those members of the Committee present at a meeting called by the Mayor to review an Application shall constitute the recommendation of the Municipal Review Committee.

7. Application to Municipal Review Committee.

Applicants for tax exemption for construction of, or improvements to, commercial or industrial structures, shall provide the Municipal Review Committee with an application setting forth:

- A. A general description of a project for which an exemption is sought.
- B. A general description of a project for which an exemption is sought.
- C. A legal description of all real estate necessary for the project.
- D. Plans, drawings, and other documents as may be required by the governing body to demonstrate the structure and design of the project.
- E. A description of the number, classes, and type of employees to be employed at the project site within two years of completion of the project.
- F. A statement of the reasons for seeking tax exemption on the project and a description of the benefits to be realized by the applicant if a tax agreement is granted.
- G. Estimates of the cost of completing such project.

- H. 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.
- I. A description of any lease agreements between the applicant and proposed users of the project and a history and description of the users' businesses.
- J. Such other pertinent information as the Review Committee may require.

8. Consideration and Approval.

All exemptions and abatements shall be approved by Ordinance of the Council authorizing an agreement for tax exemption and/or tax abatement for a particular property for a period of five years. Such approval shall be made in Council's discretion based on the evaluation of the recommendation of the Municipal Review Committee.

9. Tax Agreement.

Each Project which has been approved by the Council for an exemption or abatement shall be evidenced by a tax agreement between the Borough and the developer. The agreement shall be in a form approved by the Council and shall contain representations that are required by this Article and as required under N.J.S.A. 40A-21-1, et seq. The agreement shall provide for the developer to make payments to the Borough in lieu of full property tax payments on improvements of an annual amount to be computed pursuant to the formula set forth in N.J.S.A. 40A-2 1-10(c).

- A. Form of Agreement. All Agreements for an exemption and/or abatement shall be in the form appropriate to the nature of the exemption and/or abatement. Such agreements shall at a minimum set forth the identification of the Property, the nature and magnitude of the improvements to be constructed thereon, the consideration to be paid to the Borough and the conditions thereon, the duration of the agreement and the grounds for its termination. The agreement shall in all cases further provide that any changes made in the ownership of the Project, or which would materially change the terms of the agreement shall under the agreement be void unless approved by the Borough by ordinance.
- B. Formula for payments under tax agreements. The agreement shall provide for the applicant to pay annually to the Borough in lieu of full property tax payments an amount to be computed by in accordance with N.J.S.A. 40A:21-10(c).
- C. Execution of agreement. No agreement shall be considered to be in force and effect unless and until it has been signed by the developer and the mayor, after which it shall be dated and certified by the Borough Clerk by his/her signature and the affixing of the Borough Seal.

10. Administration of Agreements After Construction.

After completion of construction and the issuance of a final certificate of occupancy, the project shall be maintained and operated consistent with the terms of the agreement and in accordance with the provisions of N.J.S.A. 40A-21-1, et seq. until the termination of the agreement.

11. Real Property Taxes.

In addition to the payments required in lieu of property taxes pursuant to the tax agreement, the developer or owner of the Property which has qualified for an exemption and/or abatement shall be liable for all real estate taxes assessed and levied against the land on which the exempt and/or abated improvements are located.

12. 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 set forth in N.J.S.A. 40A:21-10(c), 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 taxes otherwise due.
- C. In the third full year after completion, an amount not less than 40% if taxes otherwise due.
- D. In the fourth full year after completion, an amount not less than 60% if taxes otherwise due.
- E. In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

13. Tax Delinquency.

No exemption and/or abatement shall be granted pursuant to this Article with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for nonpayment of taxes are due.

14. Payment in Quarterly Installments; Terminations.

The payment in lieu of property taxes 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 and/or abatement.

15. Property Taxes Subject to Exemption.

The exemption and abatement of real property taxes provided pursuant to this article shall apply to property taxes levied for municipal purposes, school purposes, county/government purposes, and for the purposes of funding any other property tax exemptions or abatements.

16. 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.

17. Prohibition Against Added and Omitted Assessment.

The added assessment provisions of Section 3 of P.L. 1941, c. 397 (N.J.S.A. 54:4-63.3), and the omitted assessment provisions of Section 9 of P.L. 1947, c. 413 (N.J.S.A. 54:4-63.20), and Section 1 of P.L. 1968, c. 184 (N.J.S.A. 54:4-63.31), shall not be applicable to any improvements that are exempt from taxation under this article.

18. Application for Exemption and Abatement to be filed with the Assessor.

No exemption or abatement shall be granted pursuant N.J.S.A. 40A:21-1 et seq. 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 by the Governing Body, and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the Improvement or Construction. Every application for exemption, or exemption and abatement, within a municipality adopting the provisions of this 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, or Construction for which the application is made qualifies as an Improvement or Construction pursuant to the provisions of N.J.S.A. 40A:21-1, et seq and the Tax Agreement, if any. 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, and 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.

19. Inspection.

The Property which is granted an exemption and/or abatement pursuant to this article shall be subject to an inspection by the Borough on an annual basis to ensure that the Property is in compliance with all ordinances, regulations, and safety codes of the Borough. Property which is determined to be in violation of any ordinance, regulation, and/or safety code of the Borough shall be subject to any penalties and fines, or any other remedial action permitted by state law.

20. Amendment.

Any amendment to this ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the amendment.

21. 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.

22. Notice.

Pursuant to N.J.S.A. 40A:21-20, notice of the adoption of this article shall be included in the mailing of annual property tax bills to each owner of a dwelling located in the Borough of Buena during the first year following adoption of this article.

23. Effective Date.

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

Passed First Reading: May 13, 2024

Passed Second Reading: May 28, 2024

ATTEST:

By: *Pamela Johnston*  
Borough of Buena- Acting Clerk  
PAMELA JOHNSTON

By: *D Adams*  
Council President  
DOUGLAS ADAMS

APPROVED on this 28 day of May 2024, by the Mayor of the Borough of Buena.

ATTEST:

By: *Pamela Johnston*  
Borough of Buena- Acting Clerk  
PAMELA JOHNSTON

By: *Joseph Baruffi*  
Mayor  
JOSEPH BARUFFI

Introduced: May 13, 2024

Adopted: May 28, 2024

Councilmember	By	2 <sup>nd</sup>	Yes	No	Abstain	Absent
GIOVINAZZI			✓			
ALVAREZ			✓			
ADAMS	✓		✓			
BARSUGLIA		✓	✓			
ANDALORO			✓			
DESTEFANO			✓			

Councilmember	By	2 <sup>nd</sup>	Yes	No	Abstain	Absent
GIOVINAZZI			✓			
ALVAREZ			✓			
ADAMS			✓			
BARSUGLIA	✓		✓			
ANDALORO		✓	✓			
DESTEFANO			✓			