

ORDINANCE NO. 2421

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XIII OF THE "REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF OCEAN, 1965" ENTITLED: TAXATION

WHEREAS, the Township of Ocean (the "Township") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Township is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law") to determine whether certain parcels of land within the Township constitute an area in need of rehabilitation or an area in need of redevelopment; and

WHEREAS, pursuant to the Five-Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (the "Five Year Law"), improvements to property located within an area in need of rehabilitation or redevelopment may qualify for short term tax exemptions; and

WHEREAS, in order to fulfill the aims of the Redevelopment Law, the Township Council establishes this municipal Five-Year Law;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Township of Ocean, County of Monmouth, State of New Jersey, as follows:

SECTION I Chapter XIII shall be amended as follows:

13-5 Tax Exemption for Improvements.

13-5.1 Definitions.

As used in this section, terms shall be defined as in the Five-Year Exemption and Abatement Law (the "Act"), N.J.S.A. 40A:21-1 et seq.

13-5.2 Tax Exemptions for Improvements and New Construction of Dwellings.

a. Improvements to Dwellings. Tax exemptions shall be granted for improvements to dwellings only on an individual basis, after review and evaluation of each application by the Tax Assessor of the Township. Such exemption shall regard the first twenty-five thousand dollars (\$25,000.00) in the Tax Assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than twenty (20) years old, as not increasing the value of such property for a period of five (5) years, notwithstanding the value of the dwelling to which the improvements are made is increased thereby; provided, however, that during the five (5) year period, the assessment on such dwelling shall in no case, except that of damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to such improvements.

b. New Construction. Upon review and evaluation by the Tax Assessor and the Tax Assessor's recommendation to the governing body, the governing body may by resolution approve an exemption of some portion of the assessed valuation of construction of new dwellings or of conversions of other buildings and structures, including unutilized public buildings to dwelling use, or both. In determining the valuation of real property, the Township shall regard up to thirty percent (30%) of the Tax Assessor's full and true value of the dwelling constructed, or conversion alterations made, as not increasing the value of such property for a period of up to five (5) years, notwithstanding that the value of the property on which the construction or conversion occurs is increased thereby; provided that, during the five (5) year period, the assessment on such dwelling shall in no case, except that of damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to the construction or conversion of the dwelling unit. The exemption period and annual percentage of the exemption shall be determined on an individual basis. The annual percentage of the exemption may be defined in a schedule that exempts from taxation a different percentage, up to thirty percent (30%), for each year of the exemption period.

c. Action of the Assessor. The Tax 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 of the real property granted an exemption pursuant to this section. The amount of tax to be paid for the tax year in which the project is completed shall be based on the assessed valuation of the property for the current tax year plus the pro-rated portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this section. The property shall continue to be treated in the appropriate manner for each of the four (4) tax years subsequent to the resolution of the governing body and shall be pro-rated for the final tax year in which the exemption expires.

d. Additional Improvements. Additional improvements, completed during a period in which the improved property is subject to a previously granted exemption in an amount less than the maximum deductible permissible, may qualify, subject to the review and approval provisions in this section, for additional exemptions under terms and conditions herein specified. In calculating the assessed value in such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating the exemption. However, in no tax year shall the total exemption for any single property exceed twenty-five thousand dollars (\$25,000.00).

e. Filing of Application. Any property owner desiring to seek an exemption as set forth in this section and provided by law shall submit a written application on the form prescribed by the Director of the Division of Taxation with the Tax Assessor of the Township pursuant to the provisions of the Five-Year Exemption and Abatement Law. Such application shall be filed with the Tax Assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement, conversion, alteration or construction as said term is defined in the Act.

f. Delinquent Taxes. No exemption shall be granted, or tax agreement entered into, with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

g. Tax Payments Due upon Disqualification. If during any tax year prior to the termination of a tax agreement the property owner 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 had been granted. The Township shall notify the property owner and tax collector forthwith pursuant to the requirements of the Five-Year Exemption and Abatement Law.

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 exempted tax shall be due and the exemption and/or the abatement shall continue, and the agreement shall remain in effect.

13-5.3 Tax Exemption for Improvements and New Construction: Multiple Dwellings, Commercial Structures and Industrial Structures.

a. Declarations. The Legislature has determined that various statutes authorized by the New Jersey Constitution Article 8, Section 1, Paragraph 6, permitting municipalities to grant, for periods of up to five (5) years, exemptions from taxation in areas in need of rehabilitation, have proved to be effective in prompting construction and rehabilitation of multiple dwellings, commercial and industrial structures. The Legislature adopted Chapter 441 of the Laws of 1991 (N.J.S.A. 40A:21-1 et seq., the Five-Year Exemption and Abatement Law) so as to consolidate and make more coherent the most useful features of such statutes. Chapter 441 provides that the Governing Body may utilize these laws in order to reverse and to prevent trends towards deterioration. The Governing Body of the Township has previously offered such a program to residential taxpayers in the Township. It is now the position of the Governing Body that the entire Township, including multiple dwellings, commercial and industrial buildings, are in need of rehabilitation as set forth in the statute and that the Governing Body believes that by exempting for a limited period improvements from taxation, to multiple dwellings, commercial establishments and industrial properties, owners and investors would be encouraged to

rehabilitate said properties within the Township. The Governing Body does hereby grant tax exemptions to commercial and industrial properties and multiple dwellings, subject to the requirements specifically set forth in the within section.

b. Application to Be Filed for Improvements to Multiple Dwellings, Commercial or Other Industrial Structures. Tax exemptions for improvement, conversion or construction of a multiple dwelling, commercial or industrial structure shall be granted only on an individual basis after review and evaluation of each application and recommendation by the Tax Assessor to the governing body. The governing body shall review and may approve each application. A tax exemption under this section shall be granted only after approval by resolution of the governing body.

c. Tax Exemption for Improvements to Multiple Dwellings, Commercial or Other Industrial Structures.

1. Upon approval of an exemption by the governing body, in determining the value of real property, the Township shall regard up to the Assessor's full and true value of improvements for each multiple dwelling, or of conversions of other buildings and structures, including unutilized public buildings, to multiple dwelling use, or both, commercial property or industrial structure, primarily and directly affected by the improvement in any multiple dwelling, commercial property or industrial structure more than twenty (20) years old, as not increasing the value of the property for a period of five (5) 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 multiple dwelling, commercial property or industrial structure sufficient to warrant a reduction. The Township may enter into written agreements with applicants for tax exemptions applicable to this Section that shall be applied for and granted on an individual basis after review, evaluation and recommendation by the Tax Assessor to the governing body.

2. Action of the Assessor. The Assessor shall determine, as of October 1 of the year following the date of the completion of improvement, conversion or construction, the true taxable value thereof. The amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, plus a pro-rated portion of the assessed valuation of the improvement, conversion, or construction not allowed an exemption pursuant to this act. The property shall be treated in the appropriate manner for five (5) tax years and shall be pro-rated for the final tax year in which the exemption expires.

3. Additional Improvements, Conversions or Construction. Additional improvements or construction completed on a property granted a previous exemption during the period in which the previous exemption is in effect may qualify, subject to the review and approval provisions herein, for an exemption as if such property had not received a previous exemption. The additional improvement, conversion or construction shall be considered as separate for the purposes of calculating the exemption, 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 or construction for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted.

d. Tax Exemption for Newly Constructed Multiple Dwellings, Commercial and Industrial Structures.

1. The Township may enter into written agreements with applicants for tax exemption for new construction of commercial or industrial structures or multiple dwellings. All tax agreements shall be applied for and granted on an individual basis.

2. Applications for Tax Agreements for New Construction, requirements. All applications shall be submitted pursuant to the Five-Year Exemption and Abatement Law.

3. Formula for Payments Under Tax Agreements for New Construction. An agreement shall provide for the applicant to pay to the Township in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

a. Cost basis: The 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 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 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 agreement may provide for the applicant to pay to the municipality 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 the 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 agreement shall 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 tax year, 20% of taxes otherwise due;
- (3) In the third tax year, 40% of taxes otherwise due;
- (4) In the fourth tax year, 60% of taxes otherwise due; and
- (5) In the fifth tax year, 80% of taxes otherwise due.

The formula provided for in a tax agreement under this section shall be determined on an individual basis.

4. Action of the Assessor. The Assessor shall determine, as of October 1 of the year following the date of the completion of the new construction, the true taxable value thereof. The amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, plus a pro-rated portion of the assessed valuation of the construction not allowed an exemption pursuant to this act. The property shall be treated in the appropriate manner for five (5) tax years and shall be pro-rated for the final tax year in which the exemption expires.

5. Tax agreements, duration, other law, valuation of ratables, copy to DCA.

a. All tax agreements entered into by municipalities pursuant to this subsection shall be in effect for no more than the five full years next following the date of completion of the project.

b. All projects subject to 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 provision, 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 this section shall no longer apply.

d. Within 30 days after the execution of a tax agreement, a municipality shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

6. Failure of conditions, full taxes due, termination

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 governing body of the municipality shall notify the property owner and tax collector forthwith and the tax collector shall within 15 days thereof notify the owner of the property of the amount of taxes due.

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.

b. 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.

e. All applications shall be submitted pursuant to the Five-Year Exemption and Abatement Law and on a form prescribed by the Division of Taxation in the Department of Treasury and shall be filed with the Assessor within thirty (30) calendar days following the completion of the improvement. The granting of an exemption shall be made a permanent part of the official tax records of the Township, which records shall contain a notice of termination date thereof.

13-5.4 Costs Associated with Applications.

In all cases, an applicant for an exemption pursuant to this Chapter shall be responsible for all reasonable and actual costs incurred by the Township in connection with authorizing and entering into tax agreements or granting of tax exemptions, including but not limited to reasonable legal fees incurred by the Township and reasonable out-of-pocket third-party costs.

13-5.5 Report of Tax Assessor.

The Tax Assessor shall report, on or before August 1 of each year, to the Township Council as to the total amount of real property taxes exempted and the termination dates of each exemption within the Township in the current tax year under this section deemed applicable to improvements and new construction of dwelling units.

13-5.6 Municipal Report.

The governing body shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury the total amount of real property taxes exempted within the municipality in the current tax year.

13-5.7 Effective Date.

No exemption or abatement granted by a prior ordinance or law shall be affected or terminated by this section, but shall remain in effect for the time and under the terms granted as if the section had not been superseded or repealed. This section shall take effect immediately upon final adoption and publication according to law. Except as specifically authorized by the governing body, the exemptions or abatement under this section shall not be effective or granted for projects or improvements upon which a building permit has been issued or construction commenced prior to the effective date of this section.

SECTION II

If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

SECTION III

Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

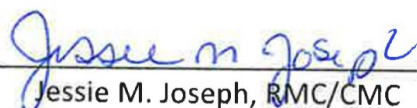
SECTION IV

This Ordinance shall take effect upon final passage and publication in accordance with Law.

Record of Vote	Deputy Mayor Donlon	Councilman Acerra	Councilman Fisher	Councilwoman Terry	Mayor Napolitani
Motion to Approve		X			
Motion to Second				X	
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

CERTIFICATION

I hereby certify that this is a true copy of an Ordinance adopted by the Township of Ocean Governing Body at their meeting held on **May 11, 2023.**


Jessie M. Joseph, RMC/CMC
Township Clerk