

**ORDINANCE NO. 2011-9**

**TOWNSHIP OF EASTAMPTON  
BURLINGTON COUNTY**

**AN ORDINANCE OF THE TOWNSHIP OF EASTAMPTON CREATING NEW  
TOWNSHIP CODE CHAPTER 476, ARTICLE II ENTITLED “FIVE YEAR TAX  
EXEMPTION AND ABATEMENT”**

**WHEREAS**, pursuant to N.J.S.A. 40A:21-1, et seq., a municipality 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 certain structures; and

**WHEREAS**, the Township of Eastampton desires to provide real estate tax incentives for commercial and industrial structures within the boundaries of designated redevelopment areas within the Township; 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 Eastampton as follows:

**SECTION I**

The Township Council hereby adopts Chapter 476, Article II “Tax Exemption and Abatement” as follows:

**Chapter 476 Taxation**

**ARTICLE II: FIVE-YEAR TAX EXEMPTION AND ABATEMENT**

**476-7. General Provisions.**

The Township of Eastampton may enter into agreements with applicants for tax abatement on commercial and industrial projects pursuant to the provisions of P.L. 1991, c. 441 set forth in the Five Year Exemption and Abatement Law (N.J.S.A. 40A: 21-1, et seq.), as amended.

#### 476-8. Definitions.

The following words, terms, phrases, when used in this chapter shall have the meaning ascribed to them in this subsection, consistent with the provisions of N.J.S.A. 40A: 21-3, except where the context clearly indicates a different meaning:

A. **Abatement** shall mean 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.

B. **Annual Period** shall mean 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.

C. **Area in need of rehabilitation** shall mean a portion or all of a Township which has been determined to be an area in need of rehabilitation or redevelopment pursuant to P.L. 1991, c.441 (N.J.S.A. 40A: 12A-1 et al.).

D. **Commercial or industrial structure** shall mean 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 Township Council determines will tend to maintain or provide gainful employment within the Township, assist in the economic development of the Township, maintain or increase the tax base of the Township and maintain or diversify and expand commerce within the Township . It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying Township.

E. **Completion** shall mean substantially ready for the intended use for which a building or structure is constructed, improved or converted.

F. **Construction** shall mean 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 thirty (30%) percent, but shall not mean the conversion of an existing building or structure to another use.

G. **Exemption** shall mean that portion of the assessor's full and true value of any improvement, or construction not regarded as increasing the taxable value of a property pursuant to this chapter and the Five Year Exemption and Abatement Law.

H. **Improvement** shall mean 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. 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 thirty (30%) percent. In no case shall it include the repair of fire or other damage to property for which payment of a claim was received by any person from an insurance company at any time during the three (3) year period immediately preceding the filing of an application pursuant to this chapter.

I. **Project** shall mean the construction or improvement 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: 12A-1 et al.).

**476-9. Eligible Property.**

Prospective applicants who own newly constructed or rehabilitated commercial or industrial structures located in an area in need of rehabilitation within the Township of Eastampton are entitled to apply for a five (5) year tax exemption and tax abatement as provided in this chapter.

**476-10. Application Procedures.**

A. Prospective applicants for tax exemption and abatement shall submit an application, approved by the Director of the Division of Taxation in the Department of Treasury and currently on file with the Township, to the Tax Assessor specifying the following:

1. A general description of a project for which exemption and abatement is sought;
2. A legal description of all real estate necessary for the project;
3. Plans, drawings and other documents as may be required by Township Council to demonstrate the structure and design of the project;
4. A description of the number, classes and type of employees to be employed at the project site within two (2) years of completion of the project (if applicable);
5. 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;
6. Estimates of the cost of completing such project;
7. A statement showing (1) the real property taxes currently being assessed at the project site; (2) estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and (3) 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;
8. A description of any lease agreement between the applicant and proposed users of the project, and a history and description of the applicant's businesses;
9. Completed copy of the Township Tax Abatement Application Form E/A-1;
10. Such other pertinent information as the Township of Eastampton may require.

B. Separate applications shall be filed for each building involved in a phased project.

C. A preliminary application is required to be filed with the Tax Assessor prior to the issuance of a construction permit for the project. A final application shall be filed with the Tax Assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement or construction.

**476-11. Approval of Application.**

No exemption or abatement shall be granted except upon written application to the Tax Assessor. All tax exemptions and/or tax abatements shall be approved by Ordinance of the Township Council authorizing an agreement for tax exemption and/or abatement.

Every application for exemption and abatement which is filed within the time specified shall be allowed by the Tax Assessor and approved by Township Council to the degree that the application is consistent with the provisions of this chapter and the tax agreement, if any, and provided that the construction or improvement for which the application is made qualifies as an improvement or construction under the terms of this chapter 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 Township, which record shall contain notice of the termination date thereof.

**476-13. Tax Agreement.**

A. Upon approval of an ordinance authorizing an agreement for tax abatement for a particular project, the Township Council shall enter into a written agreement with the applicant for the abatement of local real property taxes. The 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:

1) Cost basis: the applicant shall pay to the Township 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 Township Council by an independent and qualified architect, following the completion of the project.

2) Gross revenue basis: the applicant shall 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, 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 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

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.

3) Tax phase-in basis: the applicant shall 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:

(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% 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.

If during the term of the tax exemption and/or abatement, the property owner disposes of the property, the tax which would otherwise have been payable for each tax year shall become due and payable unless the Township Council determines by Resolution that the subsequent owner will continue to use the property pursuant to the conditions which qualified the property.

No exemption or abatement 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 non-payment of taxes are due or for which other municipal charges are due.

All tax agreements entered into pursuant to this chapter shall be subject to the condition that all taxes and other municipal charges shall be kept current to the extent the same are assessed. In the event that taxes and charges go unpaid for more than six months beyond the date upon which such amounts become due, then the agreement shall terminate and the property restored to full assessment.

All tax agreements entered into by virtue of this chapter shall be in effect for no more that five (5) full tax years from the date of completion of the project. Within thirty (30) days of the execution of a tax agreement, the Township shall forward a copy of said agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

**476-14. Termination of Agreement.**

At the termination of an agreement for tax exemption or abatement authorized pursuant to this chapter, the project shall be subject to all applicable real property taxes, as provided by state and local law and regulations, provided that nothing herein shall be deemed to prohibit the project or improvement at the termination of the agreement for tax abatement from qualifying and receiving the full benefits of any other tax preference as provided by law.

**SECTION II.**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**SECTION III.**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

**SECTION IV.**

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

ATTEST:

KIM-MARIE WHITE  
KIM-MARIE WHITE  
Municipal Clerk

LOUISE CAMPBELL  
LOUISE CAMPBELL  
Mayor

Introduced: September 26, 2011  
Adopted: October 11, 2011  
Effective Date: October 31, 2011