

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2017-08

AN ORDINANCE IMPLEMENTING FOR THE TOWNSHIP OF LAFAYETTE THE FIVE (5)
YEAR TAX EXEMPTION AND ABATEMENT LAW, 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 boundaries 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, redevelopment and rehabilitation of industrial and commercial structures; and

WHEREAS, the Township of Lafayette desires to provide for real estate tax incentives for commercial and industrial structures within the Light Industrial (LI), Highway Commercial (HC) and Village Commercial (VC) zones as defined in Chapter XIII; and

WHEREAS, N.J.S.A. 40A:21-1 et seq. provides for the exemption of assessments for five (5) 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 (5) year period following completion of the project as defined in the statute.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette, in the County of Sussex, State of New Jersey as follows:

Section 1. Definitions

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.

Section 2. Tax Exemptions and Abatements Authorized

The Township hereby authorizes the 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 commercial and industrial structures for five (5) year tax exemptions and abatements as authorized by N.J.S.A. 40A:21-1 et seq., throughout the entire Township, but only to the extent set forth herein.

Section 3. Commercial and Industrial Structures

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

B. The applicant shall furnish to the Township an application setting forth the information required by N.J.S.A. 40A:21-9. The Township Committee shall thereafter adopt an ordinance authorizing a tax agreement for a particular project. No tax exemption or exemption and abatement shall be granted unless such tax agreement is approved by resolution of the Township Committee on an individual basis after review, evaluation and approval of such tax agreement for compliance with the terms of the Ordinance and the underlying statute, rules and regulations.

C. The tax 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 (1), but in no case a combination, of the three (3) formulas set forth in N.J.S.A. 40A:21-10, namely the “Cost”, “Gross Revenue”, or “Tax Phase-In” basis.

D. Within thirty (30) days after the execution of any such tax agreement, the Township Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

E. In addition, every applicant shall file the application form prescribed by the Director of the New Jersey Division of Taxation in the Department of the Treasury, with the Tax Assessor, as a condition of approval with 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 specific tax agreement. The granting of an exemption or exemption and 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 termination date thereof.

Section 4. 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 valuation 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 5. Applicability of Statutory Regulatory Provisions

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

Section 6. Applicability of Federal, State and Local Laws

All tax abatement and exemption agreements shall provide that the applicant is subject to all federal, state and local laws and regulations.

Section 7. Equalization

The percentage which the payment in lieu of taxes bears to the property taxes which would have been paid had an 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 Township for determining equalization for count apportionment and school aid during the term of the tax abatement agreement covering the property.

Section 8. Cessation or Disposition of Property

If, during any tax year period to the determination 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, within fifteen (15) days thereof, notify the owner of the property of the amount of taxes due. However, with respect to the sale or other 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.

Section 9. Default in Tax Payments

In the event of default by the applicant, including but not limited to the failure to make timely tax or in lieu payments to the Township, the Township Tax Assessor shall notify the applicant, in writing, of said default. The applicant shall have thirty (3) days to cure any default. Following the thirty (30) day cure period, the Township shall have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Action, N.J.S.A. 54:4-1 et seq. and/or may cancel the tax agreement upon thirty (30) days' notice to the applicant.

Section 10. Taxes Upon Termination

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

Section 11. Ordinance Sent to Department of Community Affairs

The Township Clerk is hereby authorized and directed to forward a certified copy of this Ordinance to the State of New Jersey Department of Community Affairs.

Section 12. Ineligibility

No exemptions shall be granted for any property for which 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 (1) year, or for any property not being used in conformance with local, state or federal ordinance, regulation or statute. In addition, one (1) and two (2) family structures which contain home-based businesses are ineligible for the tax exemption or abatement programs described herein.

Section 13. Appeal

Appeal of any determination made by the Township under the terms of this Ordinance shall be made to the Sussex County Board of Taxation, unless a direct appeal to the New Jersey Tax Court is authorized by law.

Section 14. Inconsistent Ordinances Repealed

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

Section 15. Invalidity

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 16. Captions

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

NOTICE

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on April 18, 2017 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on May 16, 2017.

Mayor:

Municipal Clerk: