

ORDINANCE O019- 2019

**WASHINGTON TOWNSHIP
GLOUCESTER COUNTY**

**ORDINANCE READOPTING AND AMENDING CHAPTER 229, ARTICLE 1 OF
THE CODE OF THE TOWNSHIP OF WASHINGTON (“TAXATION”)**

WHEREAS, N.J.S.A. 40A:21-1 entitled the “Five-Year Exemption and Abatement Law” permits municipalities the ability to grant for periods of five years, exemptions or abatements, or both, from taxation in areas in need of rehabilitation; and

WHEREAS, N.J.S.A. 40A:21-4 limits an Ordinance under the Five-Year Exemption and Abatement Law to a period of ten years; and

WHEREAS, Chapter 229 of the Code of the Township of Washington was initially adopted in 2008 and has expired;

WHEREAS, N.J.S.A. 40A:21-4 permits a Township to readopt an Ordinance under the Five Year Tax Exemption and Abatement Law;

WHEREAS, the Council of the Township of Washington has determined that it is appropriate to readopt and reestablish Chapter 229 for areas in need of rehabilitation in an effort to promote the construction and rehabilitation for commercial and industrial development, and generate economic development and job growth in Washington Township.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Washington, in the County of Gloucester, State of New Jersey, that it hereby reestablishes, readopts and amends Chapter 229, Article 1 of the Code of the Township of Washington entitled “Exemption for Industrial and Commercial Improvements” as follows:

**“ARTICLE 1. EXEMPTION FOR INDUSTRIAL AND COMMERCIAL
IMPROVEMENTS.**

SECTION 1:

§229-1. Supersession.

All previous ordinances adopted by the Township of Washington related to abatements and exemptions for properties located in areas in need of rehabilitation are superseded by this article.

§ 229-2. Authority.

The Township hereby determines to utilize the authority granted under Article VIII, Section 1, Paragraph 6 of the New Jersey Constitution to establish the eligibility of commercial and industrial structures for exemptions and abatements permitted by P.L. 1991, c. 441 (N.J.S.A. 40A:21-1 et seq.), throughout areas designated, or to be designated, as in need of rehabilitation.

§ 229-3. Time of taking effect.

This article authorizes the Township of Washington to grant exemptions and abatements to commence and take effect in the 2019 tax year and thereafter.

§ 229-4. Improvements.

- A. Pursuant to N.J.S.A. 40A:21-7, all improvements as defined in N.J.S.A. 40A:213n, to commercial or industrial structures of 2,500 square feet or more, being used as provided in §229-5B below, shall be exempt from local real property taxes, on the improved portion only, for a period of five years as provided herein if, after proper and timely application has been made, the governing body determines that the improvement meets the intent and criteria established by this article without compromising the equity of the tax structure.
- B. Applicants must apply for tax exemptions on improvements within 30 days of completion of construction of the improvement.
- C. All applications for five-year tax exemptions and abatements under this article shall be filed with the Clerk of the Township, who shall forward the application to the Township Tax Collector, who shall deem the application complete prior to forwarding to the governing body for consideration. A copy of the application shall also be forwarded by the Township Clerk to the County Tax Assessor.

D. No applications will be approved for fit-outs to structures which were not previously fully completed and occupied.

E. No applications will be approved for changing a structure from one construction code use group to another.

F. For multi-unit projects, such as condominium ownership, the project as a whole must be approved at the onset of development and not on a per-unit basis. The agreement for abatement may permit projects to be built in phases; however, the five-year time period commences with the occupancy of the first unit in each phase.

§ 229-5.

A. Pursuant to N.J.S.A. 40A:21-9, to be considered for tax abatement, a project must contain a minimum of 2,500 square feet of floor space per use. Applicants shall provide the governing body with an application setting forth:

- (1) A general description of the project for which abatement is sought;
- (2) A legal description of all real estate necessary for the project;
- (3) Plans and drawings and other documents as may be required by the Tax Collector, or governing body to demonstrate the structure and design of the project;
- (4) A description of the number, classes and types of employees to be employed at the project site within two years of the completion of the project;
- (5) A statement of the reasons for seeking tax abatement on the project, why the applicant is choosing Washington Township for their project, and a description of the benefits to be realized by the applicant if abatement is granted;
- (6) Estimates of the cost of completing such project;
- (7) 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 tax abatement; 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 abatement agreement;

- (8) A description of any lease agreements between the applicant and proposed users of the project, and a history and description of the user's business.

Any lease and/or agreement must contain a clause which shows the owner of the premises will pass through any benefits achieved from the proposed abatement.

- (9) A check in the amount of \$500 payable to the Township of Washington, representing a nonrefundable application fee, shall be paid to the Clerk of the Township of Washington;

- (10) Proof of payment of taxes through the current quarter;

- (11) A certification to be filed with the office of the Township Clerk, signed by the owner and developer of the property/project which is the subject of the tax abatement application certifying, under the penalty of perjury, and later to be placed in the Tax Abatement Agreement, the following information:

- (a) That the person making the certification has the authority, or is vested with the authority, to make representations;
- (b) That the actual tradespeople/workforce/labor to be employed for the construction of all improvements, including all new buildings, additions to existing structures, and all additional site improvements, shall be not less than 30% of the total tradespeople/work force/labor utilized for construction of the project during its entire duration, which will be defined from the date of the issuance of the first construction permit through the date of the issuance of a final certificate of occupancy;
- (c) An acknowledgement that a breach of this provision by the owner/developer will result in a forfeiture of tax abatement status for said property, and that the discovery of such breach, during the

course of the tax abatement shall also require a repayment of all abated taxes in full to the Township of Washington.

(d) This provision stating that this requirement shall also be binding upon all successors-in-interest to said property/project which is the subject of the tax abatement application, and that written notification of this provision must be provided to all successors-in-title or – interest to said property, including the repayment requirement upon discovery of the breach of this provision by the Township.

(12) Such other pertinent information as the Tax Collector, or governing body may require.

B. Tax abatement applications will be considered for approval for uses such

as:

- (1) Electronics and small parts assembly and/or manufacture.
- (2) Scientific or industrial research engineering laboratory, testing or experimental laboratory or similar establishments for research or product development.
- (3) Warehouse facilities.
- (4) Administrative activities and offices.
- (5) Light manufacturing of beverages, cosmetics, pharmaceuticals, printing and publishing, confections, food projects (exclusive of meat and fish packing, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils), ceramics, clothing, plastics, electrical goods, furniture and wood products, hardware, tools, dies, patterns, professional and scientific instruments, handcraft products, electronics and small parts assembly and/or manufacture.
- (6) Wholesale business establishment.
- (7) Indoor storage building or warehouse
- (8) Retail

- (9) (Reserved)
- (10) Contractor's equipment storage yard or building or rental of equipment commonly used by contractors.
- (11) (Reserved)
- (12) (Reserved)
- (13) Frozen food lockers and indoor storage.
- (14) (Reserved)
- (15) Milk or soft-drink distribution station or storage house.
- (16) (Reserved)
- (17) The manufacture, compounding, processing, packaging or treatment of the following previously prepared materials; cork, feathers, cellophane, ceramics, felt, fur, glass, hair, horn, paper, pharmaceuticals, plastics, shells, iron and steel, aluminum, leather, plaster, metals, precious and/or semiprecious stones, wood, yarns, containers or novelties from paper or natural or synthetic rubber, tobacco, textiles, or textile products or perfumes.
- (18) The manufacture of musical instruments, toys, novelties and electrical or electronic devices; home, commercial and industrial appliances and instruments, including the manufacture of accessory parts or assemblies; dental and medical equipment; watches and clocks; optical goods; drafting equipment and canvas products.
- (19) Experimental, research or testing laboratories.
- (20) Carpet or rug cleaning; laundry, dry-cleaning and dyeing plant.
- (21) Wholesaling and distributing activities.
- (22) Light metal processing as follows: cleaning, finishing, grinding, heat treating, plating, polishing, rustproofing and sharpening, metal stamping and extrusion of small products; similar metal-working processes.
- (23) Job printing and newspaper or book publishing.
- (24) Baking and food and dairy processing.
- (25) (Reserved)
- (26) (Reserved)

- (27) (Reserved)
- (28) (Reserved)
- (29) Corporate and professional offices.
- (30) Recreational facilities, including, but not limited to, theaters and bowling alleys.
- (31) Artists' and photographers' studios.
- (32) Motels-hotels and related facilities such as restaurants, meeting rooms and auditorium spaces and swimming pools.
- (33) (Reserved)
- (34) General service and repair shops, including carpenter, cabinet making, furniture repair, plumbing or similar shop.
- (35) Office of a builder, carpenter, caterer, cleaner, contractor, decorator, electrician, furrier, mason, painter, plumber, roofer, upholsterer and similar nonnuisance business, excluding open storage of materials and excluding open storage of motor vehicles.
- (36) Veterinary hospital, provided that all animals are kept in a permanent enclosed structure and are not within 150 feet of any existing residential use or zone.
- (37) Laboratory, dental and medical.
- (38) Catering establishment.
- (39) Business and instructional school, including trade school.
- (40) Nursing homes, rest homes, homes for the aged, and assisted living facilities.
- (41) (Reserved)

§ 229-6. Tax Agreements.

The governing body of the Township of Washington may enter into a written agreement with an applicant for the exemption and abatement of local property taxes. The agreement shall provide for the applicant to pay the municipality in lieu of full property taxes an amount equal to a percentage of taxes otherwise due

according to anyone, but in no case a combination, of the following formulas authorized by N.J.S.A. 40A:21-10:

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 or improvement. 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 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.

Tax phase-in basis. The agreement may provide for the applicant to pay the municipality 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 tax year after completion, no payment in lieu of taxes otherwise due.
- (2) In the second tax year, an amount not less than 20% of taxes otherwise due.
- (3) In the third tax year, an amount not less than 40% of taxes otherwise due.
- (4) In the fourth tax year, an amount not less than 60% of taxes otherwise due.
- (5) In the fifth tax year, an amount not less than 80% of taxes otherwise due.

§ 229-7. Procedure.

- A. All tax agreements entered into pursuant to this article shall be in effect for no more than the five full tax years next following the date of completion of the project. This article shall not preclude the governing body from entering into a financial agreement for a tax exemption and/or abatement pursuant to the Long Term Tax Exemption Law or any other statute authorizing a tax exemption and/or abatement for a period longer than five years.
- B. As a condition to granting an exemption or abatement, a property owner shall be required to waive the filing of any tax appeal for the subject property for the life of the exemption/abatement.

§229-8. Copy of agreement to be forwarded to Director of the Division of Local Government Services.

The Clerk of the Township of Washington, pursuant to N.J.S.A. 40A:21-11, shall forward a copy of all tax agreements entered into pursuant to this article to the Director of the Division of Local Government Services in the Department of Community affairs within 30 days of the date of execution.

§ 229-9. Disqualification of property owner.

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 for the abatement, the local property taxes due for all the prior year's subject to abatement and for the current year shall be payable as if no exemption has been granted. The Tax Collector of the Township of Washington shall notify the property owner within 15 days of the date of disqualification of the amount of taxes due. In the event that the subject property has been transferred to a new owner, and it is determined that the new owner will continue to use the property pursuant to the qualifying conditions, no tax shall be due, the exemption and abatement shall continue and the agreement shall remain in effect.

§ 229-10. Additional exemption or abatement.

The Township of Washington hereby determines that an additional improvement, conversion or construction completed on a property already granted a previous exemption or abatement pursuant to this article during the period in which the previous exemption or abatement is in effect shall qualify for an additional exemption or abatement. The additional improvement, conversion or construction shall be considered as separate for purposes of calculating the exemption and abatement, 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 value of the property for which any additional abatement is to be subtracted.

§ 229-11. Delinquent taxes.

No exemption or abatement shall be granted or tax agreement entered into pursuant to this article for any property for which property taxes and/or other municipal charges are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

§ 229-12. Application form.

Every application submitted pursuant to this article shall be on a form prescribed by the Director of the Division of Taxation and shall be filed with the Tax Collector of the

Township of Washington, as a condition to approval, within 30 days, including Saturdays and Sundays, following the completion of the improvements, conversion or construction.

§ 229-13. Termination of agreement.

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

SECTION 2: Except is set forth in Section 1 above, the balance of Chapter 229, Article 1, and the balance of the Code of the Township of Washington, shall not be affected by this Ordinance.

SECTION 3: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent they are inconsistent herewith.

SECTION 4: If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 5: This Ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.


Introduced: June 26, 2019

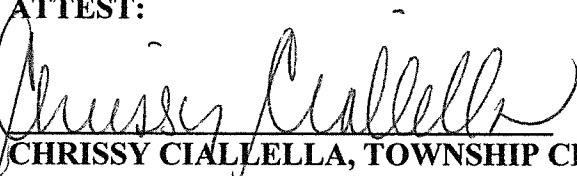
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Adopted: July 17, 2019

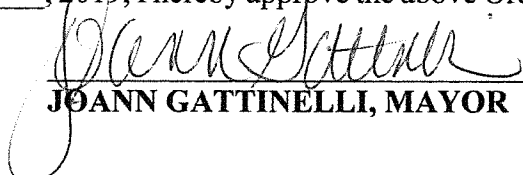
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TOWNSHIP OF WASHINGTON

BY: 
JOSEPH PERRY,
COUNCIL PRESIDENT

ATTEST:

CHRISSY CIALLELLA, TOWNSHIP CLERK

On this 22nd day of July, 2019, I hereby approve the above Ordinance.


JOANN GATTINELLI, MAYOR