

**HARDING TOWNSHIP
ORDINANCE #07-2020**

**AN ORDINANCE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS, STATE OF
NEW JERSEY, PROVIDING FOR THE IMPLEMENTATION IN THE TOWNSHIP OF
HARDING 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 dwellings, multiple dwellings, mixed use structures and industrial and commercial structures; and

WHEREAS, the Township of Harding desires to provide real estate tax incentives for dwellings, multiple dwellings, mixed use structures and industrial and commercial structures on certain lands designated as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-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 new construction for a five-year period following completion of the project as defined in the Law.

BE IT ORDAINED, by the Mayor and Township Committee of the Township of Harding as follows:

1. **Short Title.**

This article 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:12A-21, et seq.*, authorized by Article 8, § 1, Paragraph 6, of the New Jersey Constitution, permitting municipalities to grant five-year periods of exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of residential, commercial and industrial structures in such areas. It is the purpose of this article to permit the Township of Harding 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 Township, 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 multiple dwellings and commercial Projects, or Projects combining both uses.

4. **Definitions.**

- A. AGREEMENT – A tax agreement entered into between a developer and the Township under the Five-Year Exemption and Abatement Law, including all amendments and supplements thereto.
- B. APPLICATION – The information required to be submitted by a developer seeking an exemption and/or abatement and conforming to the requirements of Section 6 hereof.
- C. ASSESSOR – The Tax Assessor of the Township.
- D. DEVELOPER – The person or entity who or which is seeking or receiving an exemption, including an assignee in any case where the Township Committee has approved the assignment thereof.
- E. LAW – The Five-Year Exemption and Abatement Law (*N.J.S.A. 40A:21-1, et seq.*), as amended and supplemented.
- F. 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.
- G. PROPERTY – The real property and the improvements subject to an Agreement.
- H. TOWNSHIP – The Township of Harding, in the County of Morris, New Jersey.
- I. TOWNSHIP ADMINISTRATOR – The Business Administrator of the Township.
- J. TOWNSHIP CLERK – The Clerk of the Township.
- K. TOWNSHIP COMMITTEE – The Township Committee of the Township.

5. **Eligible Property.**

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

- A. Written application to the Township Assessor.
- B. Payment of all municipal taxes and charges must be current.
- C. Approval of the Township by resolution.

6. **Application for Exemption and Abatement.**

No exemption or abatement shall be granted nor any agreement considered unless the developer shall first have submitted an original and three copies of an Application with the Assessor in accordance with the requirements set forth in *N.J.S.A. 40A-21-1, et seq.* Every Application shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion, alteration or construction. Every Application for exemption, or exemption and abatement, shall be approved and allowed by the Assessor for review to the degree that the Application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the improvement, conversion

alteration or construction for which the Application is made qualifies as an improvement, a conversion alteration or construction pursuant to the provisions of *N.J.S.A. 40A:21-1, et seq.*, and the tax agreement, if required. 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.

7. **Consideration and Approval.**

All exemptions and abatements shall be approved by resolution of the Township Committee authorizing an agreement for tax exemption and/or tax abatement for a particular property for a period of five years.

8. **Tax Agreement.**

Each Project which has been approved by the Township Committee for an exemption or abatement shall be evidenced by a tax agreement between the Township and the developer. The agreement shall be in a form approved by the Township Committee 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 Township 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-21-10(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 Township 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 Township by ordinance.
- B. Formula for payments under tax agreements. The agreement shall provide for the applicant to pay to the Town in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the formulas set forth in *N.J.S.A. 40A:21-10*.
- 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 Township Clerk by his/her signature and the affixing of the Township Seal.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

16. **Inspection.**

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

17. **Amendment.**

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

18. **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.

ATTEST:

TOWNSHIP OF HARDING

Lisa A. Sharp
Municipal Clerk

Christopher M. Yates
Mayor

INTRODUCED: April 13, 2020

ADVERTISED: April 16, 2020

PUBLIC HEARING: May 11, 2020

ADOPTED: May 11, 2020

ADVERTISED: May 14, 2020

Vote on Adoption:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN
Ms. DiTosto		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Jones	1st	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Modi		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Platt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Yates	2nd	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>