



Legislation Text

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AN ORDINANCE AMENDING TITLE X, FINANCE AND TAXATION, CHAPTER 23, FIVE-YEAR TAX EXEMPTION AND ABATEMENT, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING MULTIPLE SECTIONS AND REINSTATING THE GRANTING OF FIVE YEAR TAX EXEMPTIONS AND ABATEMENTS FOR MULTIPLE DWELLINGS, COMMERCIAL, AND INDUSTRIAL STRUCTURES.

WHEREAS, the Municipal Council adopted Ordinance 6PSF-I(S) on June 21, 2022 (the "Repealing Ordinance), repealing the granting of Five Year Tax Exemptions and Abatements for Multiple Dwellings, Commercial and Industrial Structures; and

WHEREAS, after further review and consideration, the Repealing Ordinance had unintended consequences to residents, property owners, and business owners of the City of Newark (the "City"); and

WHEREAS, the Administration and the Municipal Council finds it in the best interest of the City to reinstate the Five Year Exemptions and Abatements for Multiple Dwellings, Commercial and Industrial Structures.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY THAT:

Note: Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~.

SECTION 1. Title X, Finance and Taxation, Chapter 23, Five-Year Tax Exemption and Abatement, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is hereby amended regarding multiple sections and reinstating the granting of five-year tax exemptions and abatements for multiple dwellings, commercial and industrial structures as follows:

CHAPTER 23, Five-Year Tax Exemption and Abatement

§ 10:23-1 STATEMENT OF INTENTION.

The City of Newark pursuant to N.J.S.A. 40A:21-1 et seq., makes known its intention to utilize the tax exemption and abatement provision authorized by the State legislature to provide five year exemptions and abatements for residential structures, **and commercial projects** as defined herein.

§ 10:23-2 DEFINITIONS.

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

CONSTRUCTION

Shall mean the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

COST

Shall mean when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the Tax Assessor of the City of Newark by an independent and qualified architect, following the completion of the project.

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. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, 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 30%. 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-year period immediately preceding the filing of an application pursuant to this act.

MULTIPLE DWELLING

Shall mean a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," N.J.S.A. 55:13A-1 et seq., and means for the purpose of improvement or construction of the "general common elements".

NEW CONSTRUCTION

Shall mean any construction or development of residential, commercial, or industrial building on vacant land, or the demolition of existing structures on real property and the construction or development of a new structure on the previously developed real property.

§10:23-3 ELIGIBLE PROPERTY.

Properties outside of non-applicable areas where the owner(s) seek to newly construct dwellings, **multiple dwellings, commercial, or industrial structures**, and properties outside of non-applicable areas where the owner(s) seek to construct improvements to dwellings, **multiple dwellings, commercial, or industrial structures** that are located outside of the non-applicable areas of City of Newark are entitled to avail themselves of the opportunity to receive a five-year tax exemption and/or tax abatement as provided in this chapter when the qualifications are met as follows:

- a. All real estate taxes must be current;
- b. Written application to the Tax Assessor shall be filed within 30 days, including Saturdays and Sundays, following completion of the improvements, and the form of the application shall contain requirements set forth in N.J.S.A. 40A:21-9;
- c. **The application must include that the project complies with equitable opportunity and equitable development policies including but not limited to,**
 1. **Verification and certification by the Office of Affirmative Action that the applicant complied with Affirmative Action; Contracting and Workforce Requirements During Construction. The Applicant agrees that it shall be subject to the terms and conditions of the City Affirmative Action Plan for Construction and to the City's Revised Ordinance 2:2-28 et seq., as amended and supplemented, concerning affirmative action requirements and;**
 2. **Verification and certification by the Office of Affordability and Sustainable Housing within the Department of Economic and Housing Development that the project complied with Inclusionary Zoning Ordinance (City Ordinance No. 6PSF-b, duly adopted October 4, 2017, as amended by Ordinance No. 6PSF-G, duly adopted on August 8, 2023 as codified in the City's Municipal Code under Title 41:21-1, et seq., and as may be further amended from time to time), such that 20% onsite affordable housing per the Inclusionary Zoning Ordinance is provided or applicant contributed the \$180,000 per unit, payment in lieu of fee. Failure by Applicant to maintain compliance of the Inclusionary Zoning Ordinance shall constitute a Default of the Financial Agreement; and**
 3. **Verification that a job fair was held in Newark and for Newark residents and that the applicant agrees that it shall be subject to the terms and conditions of Ordinance 6PSF-g, adopted by the Municipal Council on March 15, 2023, Codified in the City of Newark Municipal Code 10:24-1, et seq. (the "Job Fair Ordinance"). Applicant agrees that at the time of execution of this tax incentive that the entity shall be required to show proof to the City that it has fully complied with and satisfied the Best Efforts requirements as set forth in the Job Fair Ordinance. If the Project has already commenced construction, the Entity agrees that it shall show proof to the City that prior to commencement and during the period of that construction Entity fully complied with the Best Efforts requirements as set forth in the Job Fair Ordinance.**

- d. Approval by the Assessor in accordance with the requirements set forth in this ordinance; and;
- e. Submission by applicant of a Certificate of Occupancy; and.
- f. **A Five Year Financial Agreement between the City and the Applicant is executed.**

§10:23-4 APPLICATION FEE.

No application for Tax Exemption and Abatement submitted pursuant to this chapter shall be accepted unless it is accompanied by full payment of the required application fee. Such fees shall be in the amount of \$250 for dwellings; **and for multiple dwellings and commercial projects the fee shall be \$2,500 for all projects whose total project cost is less than \$1,000,000 and \$5,000 for all projects whose total project cost is greater than \$1,000,000 but less than \$5,000,000 and \$7,500 for all other projects.** These fees shall be received as compensation for the legal review and related work of the City's departments and agencies. All checks shall be certified and payable to the City. This application fee shall be nonrefundable.

§10:23-5A EXEMPTIONS AND ABATEMENTS FOR PROJECTS CONSISTING OF NEW MULTIPLE DWELLING CONDOMINIUM HOUSING UNITS.

In the case of construction of a **multiple dwelling** projects consisting of ~~condominium~~ housing units, or of conversions of other buildings and structures, including unutilized public buildings, to ~~condominium~~ housing use, or both, the owner of such property may apply for an exemption and abatement in respect of such project. ~~stating separately (i) the "common elements" of such condominium as defined pursuant to the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.) and (ii) each proposed condominium housing unit which is intended to be subsequently conveyed by the applicant to an individual owner thereof (each, an "Eligible Property").~~ Such application shall be made in accordance with the provisions of N.J.S.A. 40A:21-9, and upon approval by the Assessor authorizing the tax abatement and/or exemption for the project, the applicant (or, if an Eligible Property shall have been conveyed to an individual owner thereof and the requirements of the following paragraph have been satisfied, such owner) shall, in lieu of full property tax payments on the Eligible Property, pay to the municipality an amount annually equal to the following percentage of taxes otherwise due:

- a. In the first full tax year after completion, no payment in lieu of taxes otherwise due on the Eligible Property;
- b. In the second tax year, an amount not less than 20% of taxes otherwise due on the Eligible Property;
- c. In the third tax year, an amount not less than 40% of taxes, otherwise due on the Eligible Property;
- d. In the fourth tax year, an amount not less than 60% of taxes, otherwise due on the Eligible Property; and

e. In the fifth tax year, an amount not less than 80% of taxes otherwise due on the Eligible Property.

If the applicant shall transfer ownership of an Eligible Property during the term of the applicable the tax abatement and/or exemption, or if any transferee shall thereafter again transfer such ownership, the Municipal Council hereby determines that, in the absence of information to the contrary, each such subsequent owner shall continue to use the property pursuant to conditions which qualified the property for its abatement and/or exemption, and the tax abatement and/or exemption relating thereto shall be deemed to be assigned to and assumed by each such subsequent owner. Accordingly, the abatement and/or exemption shall continue notwithstanding such transfer and shall remain in effect during the original term thereof.

No exemption or abatement shall be granted under this Section **10:23-5A** more than ten years following the date of final adoption of this amendment to Section **10:23-5A** of this chapter.

All other provisions of N.J.S.A. 40A:21-8 through N.J.S.A. 40A:21-13 shall be applicable to any exemption and abatement granted pursuant to this Section **10:23-5A**.

Any applications on file for such abatements or exemptions, **as of June 21, 2022** ~~on January 4, 2019, to the date of enactment of this section (Ord. No. 6PSF-M, 11-18-2020)~~, shall be eligible for consideration. However, the abatement or exemption shall not obligate the City to pay a refund of any taxes paid. Any adjustments to the assessment for each property shall be made by the Tax Assessor **from the date of the enactment of this Ordinance**, and credits applied to the account for the applicable property.

§10:23-5B EXEMPTIONS AND ABATEMENTS FOR MULTIPLE DWELLINGS.

Exemptions and abatements from taxation shall be permitted within the City other than the Non-Applicable Areas for improvements to Multiple Dwellings.

Categories of improvements eligible for the abatement or exemption shall be approved on an individual basis after review, evaluation, and approval of each application by the Assessor.

Applicants shall provide a completed application containing information set forth in N.J.S.A. 40A:21-9 for the applicant to pay to the City in lieu of full property tax payments an amount annually to be computed as set forth in N.J.S.A. 40A:21A-6.

Notwithstanding that the value of the property to which the improvements or conversion alterations are made is increased, in determining the value of the real property, the City shall regard the Tax Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years (0% increase to the value of the property for the improvements or alterations for a period of five years). The assessment on any property granted an exemption pursuant to this Section shall not be less than the assessment on the property existing immediately prior to the improvements or conversion.

Any adjustments to the assessment for each property shall be made by the Tax Assessor and credits applied to the account for the applicable property.

§10:23-5C EXEMPTIONS AND ABATEMENTS FOR COMMERCIAL AND INDUSTRIAL STRUCTURES.

Exemptions and abatements from taxation shall be permitted within the City other than the Non-Applicable Areas for improvements to Commercial and Industrial structures.

Categories of improvements eligible for the abatement or exemption shall be approved on an individual basis after review, evaluation, and approval of each application by the Tax Assessor.

Applicants shall provide a completed application containing information set forth in N.J.S.A. 40A:21-9 for the applicant to pay to the City in lieu of full property tax payments an amount annually to be computed as set forth in N.J.S.A. 40A:21A-7.

Notwithstanding that the value of the property to which the improvements or conversion alterations are made is increased, in determining the value of the real property, the City shall regard the Tax Assessor's full and true value of the improvements as not increasing the value of the property for a period of five year (0% increase to the value of the property for the improvements or alterations for a period of five years). The assessment on any property granted an exemption pursuant to this section shall not be less than the assessment on the property existing immediately prior to the improvements or conversion.

Any adjustments to the assessment for each property shall be made by the Tax Assessor and credits applied to the account for the applicable property.

§ 10:23-5D EXEMPTIONS AND ABATEMENTS FOR NEW CONSTRUCTION OF DWELLINGS, MULTIPLE DWELLINGS, COMMERCIAL, AND INDUSTRIAL STRUCTURES.

Exemptions and abatements from taxation shall be permitted within the City other than the Non-Applicable Areas for New Construction of Dwellings, and Projects **Multiple Dwellings, Commercial and Industrial structures.**

Categories of improvements eligible for the abatement or exemption shall be approved on an individual basis after review, evaluation, and approval of each application by the Tax Assessor.

Applicants shall provide a completed application containing information set forth in N.J.S.A. 40A:21-10 for the applicant to pay to the City in lieu of full property tax payments an amount annually to be computed by the following formula:

- a. Tax Phase-in Basis (0% payment in lieu of taxes in year one, 20% payment in lieu of taxes in year two, 40% payment in lieu of taxes in year three, 60% payment in lieu of taxes in year four, 80% payment in lieu of taxes in year five) as set forth in N.J.S.A. 40A:21A-10.

Any applications on file for such abatements or exemptions, **as of June 21, 2022** ~~on January 1, 2019, to the date of enactment of this section (Ord. No. 6PSF-M, 11-18-2020)~~, shall be eligible for consideration. However, the abatement or exemption shall not obligate the City to pay a refund of any taxes paid. Any adjustments to the assessment for each property shall be made by the Tax Assessor **from the date of the enactment of this Ordinance.** and credits applied to the account for the applicable ~~property.~~

§10:23-6 APPLICATION PROCEDURES.

Applicants for tax exemption and abatement shall provide the Department of Finance, Office of the

Tax Assessor with an application setting forth:

- i. **If the project is a commercial or industrial structure, a description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses.**

FINANCIAL AGREEMENT.

Each approved tax exemption and/or abatement pursuant to Chapter 10:23, Five-Year Tax Exemption and Abatement, shall be evidenced by a Financial Agreement between the City of Newark and the applicant. The Financial Agreement shall contain the representations that are required by this chapter, together with such other information required by the Corporation Counsel. The form of the Financial Agreement shall be approved by the Corporation Counsel and shall be on file in the Office of the City Clerk. The Financial Agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by the formulas as set forth in N.J.S.A. 40A:21-10.

SECTION 2. All City ordinances or portions of ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

SECTION 3. Severability. If any provision of this amendment shall be deemed unenforceable by a Court of competent jurisdiction, the remainder of the amendment shall remain in full force and effect.

SECTION 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 5. Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

STATEMENT

This Ordinance amends Title X, Finance and Taxation, Chapter 23, Five-Year Tax Exemption and Abatement restoring statutory authority of approvals of Five-Year Tax Abatements to the Assessor and repealing Five-Year Tax Abatements eligibility for multiple dwelling, commercial and industrial projects.