

**BOROUGH OF BERLIN**

**ORDINANCE NO. 2015-08  
AN ORDINANCE AMENDING TAX ABATEMENT PROCEDURES AND  
REQUIREMENTS**

**WHEREAS**, the Borough of Berlin is a municipal entity organized and existing under the laws of the State of New Jersey and located in Camden County; and

**WHEREAS**, the Borough currently has an ordinance regulating tax abatement procedures and requirements that it wishes to amend to provide for a more efficient and effective process; and

**WHEREAS**, it is determined that said action is in the best interest of the taxpayers, citizens and residents of the Borough of Berlin.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Borough of the Borough of Berlin, County of Camden, State of New Jersey, that Chapter 299, Article IV of the Code of the Borough of Berlin shall hereby be amended as follows:

**Section 1: Article IV. Tax Abatement**

**§ 299-10. General authorization.**

The Borough of Berlin may enter into agreements with applicants for tax abatement on commercial and industrial projects which satisfy the chapter requirements hereinafter set forth. The agreement shall provide for an abatement from real property taxation on these projects for a period of not more than five (5) years. During such five (5) year period, the agreement shall provide for payments to the Borough of Berlin in lieu of full property taxes, which payment shall be calculated as set forth hereinafter in this chapter. Applications for abatement from taxation may be filed to take effect for the first full year commencing after the tax year in which the authorizing ordinance is adopted, and upon completion of the project for tax years thereafter as set forth in P.L. 1991, c. 441 (N.J.S.A. 40A:21-1 et seq.), but no application for tax abatement shall be filed for an abatement to take initial effect for the eleventh (11th) full tax year or any tax year occurring thereafter unless this chapter is readopted by the governing body of the Borough of Berlin.

**§ 299-11. Specific requirements.**

To be considered for tax abatement a new commercial or industrial structure must contain a minimum of five thousand (5,000) square feet of floor space for use. An enlargement of an existing commercial or industrial structure must be more than thirty percent (30%) of the existing volume of the structure as defined in N.J.S.A. 40A:21-3g.

**§ 299-12. Application procedure.**

- A. A preliminary application is required to be filed with the Borough Tax Assessor, with a copy to the Borough governing body, prior to the issuance of a construction permit for the project. No construction permit shall be issued to an applicant seeking tax abatement until such time as the preliminary application has been filed in accordance with the borough ordinance requirements and the Construction Office advised of same in writing by the Borough Tax Assessor. If a preliminary application is not filed, said property will not be eligible for tax abatement.
- B. In the event a construction permit is not issued within one (1) year from the date the preliminary application is filed, the preliminary application shall be deemed null and void.
- C. Upon the filing of a preliminary application, the Borough Tax Assessor will review said application to determine if it meets the requirements of the borough ordinance for abatement and a tax abatement agreement. The Tax Assessor shall provide this determination to the borough governing body within sixty (60) days of receipt of a properly completed preliminary application. In the event the Tax Assessor determines that the application meets the chapter requirements, then the Governing Body shall adopt an ordinance authorizing a tax abatement agreement with the applicant, subject to the following conditions:
  - (1) That the applicant shall file a final application for tax abatement with the Tax Assessor in the form prescribed, within thirty (30) days, including Saturdays and Sundays, following completion of construction. A copy of the final application shall also be filed with the governing body of the borough.
  - (2) The completed construction shall be in accordance with the original borough approvals on which the tax abatement agreement was initially authorized based on the preliminary application.
  - (3) The applicant has continued to meet the requirements of the borough chapter for tax abatement.

Every properly completed final application for abatement shall be evaluated for approval by the Borough Tax Assessor within thirty (30) days of filing. The Tax Assessor shall notify the governing body in writing of the approval determination. Upon receipt of the written approval from the Borough Tax Assessor the appropriate Borough officials shall then proceed to execute the tax abatement agreement previously authorized by the specific ordinance adopted as part of the preliminary application approval process. The applicant shall be required to sign this tax abatement agreement prior to the Borough signatories.
- D. Separate applications must be filed for each building involved in Phased Projects.
- E. In the event the use listed on the preliminary application is changed subsequent to the issuance of the construction permit for the project, the Governing Body shall adopt an ordinance authorizing a tax abatement with the applicant provided that the new use is of a type listed in Section 299-14 as a qualifying project, that the applicant has submitted a revised preliminary application listing the new use, and that the Borough Tax Assessor determines that the revised preliminary application meets the requirements of this chapter.

**§ 299-13. Form of preliminary and final application.**

The preliminary and final application must be on a form prescribed by the Borough Tax Assessor and by the Director of the Division of Taxation in the Department of Treasury, and shall provide the following information:

- A. A general description of this project for which abatement is sought;
- B. A legal description of all real estate necessary for the project;
- C. Plans and drawings including a site layout on the total lot area, and other documents as may be required by the governing body to demonstrate the structure and design of the project;
- D. A description of the number, classes, types of employees and average estimated wages and salaries by employee class, to be employed at the project site within two (2) years of the completion of the project;
- E. A statement of the reasons for seeking tax abatement on the project, and a description of the benefits to be realized by the applicant if tax abatement is granted;
- F. Estimates of the cost of completing such project;
- G. 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 tax abatement; and (3) estimated tax payments that would be made by the applicant on the project during the first year following the termination of the tax abatement agreement;
- H. 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;
- I. Proof of payment of taxes through the current quarter;
- J. Other pertinent data regarding the relationship, agreements and status of other properties owned by the applicant within the Borough of Berlin; and
- K. Such other pertinent information as the governing body may require.

**§ 299-14. Projects qualifying for borough tax abatement program.**

The following type projects/uses will be considered for tax abatement by the Borough of Berlin:

- A. Light industrial, light manufacturing, and indoor warehousing facilities which are non-polluting and non-noxious;
- B. Scientific or industrial research engineering laboratory, testing or experimental laboratory or similar establishment for research or product development;
- C. Administrative offices;
- D. Wholesale distributorships;
- E. Experimental, research testing, dental or medical laboratories;
- F. Carpet or rug cleaning: laundry and dry cleaning;

- G. Job printing and newspaper or book publishing;
- H. Baking and food and dairy processing;
- I. Corporate and professional offices;
- J. General service and repair shops, including carpenter, cabinet making, furniture repair, plumbing or similar shop;
- K. Office of a builder, carpenter, caterer, cleaner, contractor, decorator, electrician, furrier, mason, painter, plumber, roofer, upholsterer, and similar non-nuisance businesses, excluding open storage of materials and excluding open storage of motor vehicles;
- L. Veterinary hospital, provided that all animals are kept in a permanent enclosed structure and are not within one hundred fifty (150) feet of any existing residential use or zone;
- M. Businesses and instructional school, including trade school;
- N. Nursing homes, homes for the aged and assisted living facilities;
- O. General commercial establishments permitted by zoning;
- P. Accessory uses on the same lot with and customarily incidental to any of the above permitted uses.
- Q. Charter schools.

**§ 299-15 Payments in lieu of full property taxes.**

- A. All tax abatement agreements must be authorized by a separate ordinance for each application.
- B. A tax abatement agreement shall provide for the applicant to pay to the Borough in lieu of full property tax payments an amount annually to be computed by the following formula:  
 Tax phase-in basis — The applicant must pay to the Borough 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 from date of completion, no payment in lieu of taxes unless otherwise due;
  - (2) In the second tax year from date of completion, an amount not less than twenty percent (20%) of taxes otherwise due;
  - (3) In the third tax year from date of completion, an amount not less than forty percent (40%) of taxes otherwise due;
  - (4) In the fourth tax year from date of completion, an amount not less than sixty percent (60%) of taxes otherwise due;
  - (5) In the fifth tax year from date of completion, an amount not less than eighty percent (80%) of taxes otherwise due.
- C. All tax agreements entered into by virtue of this chapter shall be in effect for no more than five (5) full tax years from the date of completion of the project. Within thirty (30) days of the execution of a tax abatement agreement, the Borough shall forward a copy of said

agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

- D. 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.
- E. 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, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no abatement had been granted. The Borough governing body shall notify the property owner and the Tax Collector of the disqualification, and upon such notice, the Tax Collector shall within fifteen (15) days thereof notify the owner of the property of the taxes due and payable to the Borough. With respect to the disposal of 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 for tax abatement, no tax shall be due, the abatement shall continue and the agreement shall remain in effect.

At termination of the tax abatement agreement, the property shall be subject to all applicable real property taxes as provided by law; but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

**§ 299-16. Definitions.**

As used in this chapter, the following definitions shall apply:

- A. ASSESSOR — The officer of the Borough of Berlin charged with the duty of assessing real property for the purpose of general taxation.
- B. COMMERCIAL OR INDUSTRIAL STRUCTURE — 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 unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least ten percent (10%), and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of two hundred fifty thousand dollars (\$250,000.) performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection.

- C. COMPLETION — Substantially ready for the intended use for which a building or structure is constructed, improved or converted.
- D. CONSTRUCTION — The development of a commercial or industrial structure or the enlargement of the volume of an existing commercial or industrial structure by more than thirty percent (30%), but shall not mean the conversion of an existing building or structure to another use.
- E. PHASED PROJECTS — Commercial or industrial construction involving multiple structures that are built separately.

**§ 299-17. Application fee.**

An application filing fee of three hundred dollars (\$300) shall be paid by the applicant at the time of filing the preliminary application. The application fee will provide for the administrative services to be undertaken by the Borough Tax Assessor, and any other Borough official, in order to render a determination on the applicant's eligibility for a tax abatement. The filing fee shall cover the cost for both the preliminary application and final application review and determination process.

**ARTICLE II Escrow for 5-Year Tax Abatement Agreements**

**§ 299-18. Escrow.**

- A. Every tax abatement agreement required by this chapter shall be subject to payment of a nonrefundable escrow in the amount of one thousand dollars (\$1,000) to be paid by the applicant at the time the applicant submits a preliminary application to the Tax Assessor in accordance with Section 299-12 of this chapter. The required escrow shall be used to pay the cost of professional review by the Borough Solicitor, Engineer, and other professionals employed by the Borough to review and make recommendations regarding the tax abatement agreement.
- B. At the time of submission of an application to the Borough Tax Assessor, the applicant shall be required to execute an escrow agreement with the Borough to cover all necessary and reasonable costs incurred for the technical and professional review of the tax abatement agreement. The amounts specified for escrow are estimates which shall be paid prior to the Borough's review of the tax abatement application. In the event an additional amount is required for more than the amount specified in the escrow agreement, the applicant shall pay all additional sums required prior to the Borough's execution of the tax abatement agreement.
- C. To the extent not otherwise inconsistent with this section, the escrow fee required by this chapter shall be administered by the Chief Financial Officer of the Borough.
- D. The Borough Clerk or his/her designee shall maintain an itemized account of the escrow on deposit for each application and shall, upon the request of the applicant, supply a copy of said account.

**Section 2:** All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

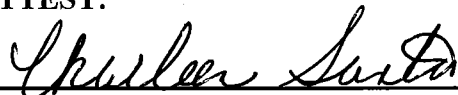
**Section 3:** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

**Section 4:** This Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF BERLIN

  
By: John Armano, Mayor

ATTEST:

  
Charleen Santora, RMC, Borough Clerk

I, Charleen Santora, Clerk of the Borough of Berlin, hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Mayor and Borough Council at their meeting of \_\_\_\_\_, 2015 held in the Municipal Building, 59 South White Horse Pike, Berlin, New Jersey.

  
Charleen Santora, RMC, Borough Clerk

INTRODUCED: 4-16-15

ADOPTED: 5-14-15