WHEREAS, pursuant to the Five Year Exemption and Abatement Law, N.J.S.A. 40A:21-1, et seq., a municipality having areas in need of redevelopment may, by ordinance, provide for the abatement of real property taxes, to encourage and provide incentives for the construction and redevelopment of property; and

WHEREAS, the Borough of Hopatcong desires to provide real estate tax incentives for multi-family, commercial and industrial structures within areas designated as in need of redevelopment (“Redevelopment Area”); and

WHEREAS, N.J.S.A. 40A:21-1, et seq. provides for the abatement of property taxes for improvements made in a redevelopment area;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hopatcong as follows:

SECTION 1. The municipal Code of the Borough of Hopatcong is amended to add the following:

Article II: Short-Term Real Property Tax Abatement

§ 215-4 Definitions.

As used in this article, the terms will have the meanings as defined in N.J.S.A. 40A:21-3.
§ 215-5 Procedures governing all tax agreements.

The following procedures shall govern agreements for tax exemption pursuant to this Article with property owners as may be authorized by the Borough Council:

A. Application. No exemption shall be granted except upon written application filed with and approved by the Borough Council of the Borough of Hopatcong.

B. Form. Every application shall be on a form prescribed by the Director of the Division of Taxation in the New Jersey, Department of the Treasury and shall be filed with the Borough Clerk within 30 calendar days following the completion of the improvement, conversion, alteration or construction.

C. Eligibility. Only commercial or industrial property shall be eligible to apply for a tax abatement pursuant to this Article. Multi-family residential structures with three (3) separate dwelling units or more shall also be eligible.

D. Recordation. The granting of an exemption or approval of a tax agreement shall be recorded in the Tax Collector’s office and made a permanent part of the official tax records of the Borough of Hopatcong, which record shall contain a notice of the termination date thereof.

E. Redevelopment areas only. Applications may be received and granted only with respect to property which is located in an area which has been designated and remains within an area in need of Redevelopment in accordance with applicable law and, for this article, which are the subject of the application and which conform to the provisions of the Borough’s Zoning Ordinance as to the area where the structure is located.

F. Prior tax abatements. This Ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the adoption of this article.

G. Effective date. Exemptions granted pursuant to this article shall be effective for the first full tax year commencing after the tax year in which this article is adopted and for tax years thereafter as set forth N.J.S.A. 40A:21-1 et seq. No application for exemption shall be filed for an exemption to take effect for the tax year 2029 or any tax year occurring thereafter, unless this ordinance codified is readopted by the Borough Council in accordance with applicable law.

H. Taxes affected. The exemption of real property taxes provided pursuant to this chapter shall apply to property taxes levied for municipal purposes, school purposes, county government purposes.

I. Additional improvement. Any additional improvement, conversion or construction, completed on a property granted a previous exemption pursuant to this article during the
period in which such previous exemption is in effect, shall be qualified for an exemption, just as if such property had not received a previous exemption. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions pursuant to this article, 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 alteration or construction for the purpose of determining the assessed valuation of the property on which any additional exemption is to be calculated.

J. Ineligibility. No exemption shall be granted, or tax agreement entered into, pursuant to this chapter, with respect to any property for which property taxes are delinquent or remain unpaid or for which penalties for nonpayment of taxes are due.

K. Tax on land: credit. Any exemption approved pursuant to this article shall affect only the tax on improvements. The tax on land shall not be affected by any such approval.

§ 215-6 Ordinance required to authorize tax agreement. Applicants approved for projects pursuant to this Article shall enter a tax agreement with the Borough. The tax agreement shall be approved by ordinance authorizing execution of a tax agreement for the abatement of the particular project from local real property taxes. All tax exemption agreements hereunder shall be in effect for a period of not more than five years starting with the date of completion of the project as evidenced by the issuance of a temporary or permanent certificate of occupancy.

§ 215-7 Exemptions for improvements to existing three or more unit dwellings.

A. In order to be eligible for an exemption, the owner of a multi-family residential property of three (3) or more units must invest an amount equal to or greater than 50% of the assessed value of the dwelling unit primarily and directly affected. In determining the value of real property on which there is three or more residential units for which exemption is granted, the Borough shall regard the first $50,000, in Assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old, as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

§ 215-8 Application procedures for new construction of commercial, industrial and multiple-dwelling structures.
The following procedures are applicable to all applications for exemption affecting construction of industrial and commercial structures or multiple dwellings, or both.

A. Applicants for tax exemption for new construction of commercial or industrial structures or multiple dwellings pursuant to this chapter shall provide the Borough Clerk with an application setting forth:

(1) A general description of a project for which exemption is sought;

(2) A legal description of all real estate necessary for the project;

(3) Plans, drawings and other documents as may be required by the Borough Council to demonstrate the structure and design of the project;

(4) If the project is a commercial or industrial structure or a mixed-use project containing commercial or industrial elements, a description of the estimated number, classes and type of employees to be employed at the project site within two years of completion of the project;

(5) A statement of the reasons for seeking tax exemption on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted;

(6) Estimates of the cost of completing such project; and

(7) A statement showing:

(a) The real property taxes currently being assessed at the project site;

(b) Estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and

(c) Estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;

(8) 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;

(9) If the project is a multiple dwelling, a description of the number and types of dwelling units to be provided, a description of the common elements or general common elements, and a statement of the proposed initial rentals or sales prices of the dwelling units according to type and of any rental lease or resale restrictions to apply to the dwellings' units respecting low- or moderate-income housing; and

(10) Such other pertinent information as the governing body may require.
The application fee is to be paid at the time that an application is submitted for tax exemption and/or exemption and abatement. The application fee shall be calculated as a percentage of the estimated cost of the improvements and shall be equal to 0.25% of the estimated cost of the improvements. The minimum application fee shall be not less than $1,500.00 or more than $25,000.00.

B. Upon adoption of an ordinance authorizing a tax agreement or agreements for a particular project or projects, the Borough Council shall enter into written tax agreement with the applicant for the exemption of local real property taxes. Such 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 one as follows:

Tax phase-in basis. The agreement may provide for the applicant to 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 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.

C. The following shall apply to all tax agreements entered into pursuant to this chapter:

1. Any tax agreement entered into by the Borough pursuant to this section shall be in effect for no more than the five full tax years next following the date of completion of the project.
2. Any project subject to tax agreement 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.
3. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption and abatement not been granted for the property under the tax 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 Borough for determining equalization for county tax apportionment and school aid during the term of the tax agreement covering the property, and at the termination of an
agreement for a property, the reduced valuation procedure required under this section shall no longer apply.

(4) Within 30 days after the execution of a tax agreement, the Borough Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs.

D. As to any tax payment due upon termination of an agreement or upon disqualification of a property owner prior to termination of an agreement, the following shall be applicable:

(1) 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 exemption had been granted. The Borough Council shall notify the property owner and Tax Collector forthwith, and the Tax Collector shall, within 15 days thereof, notify the owner of the property of the amount of taxes due.

(2) However, with respect to the 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 shall continue, and the tax agreement shall remain in effect. The property owner shall furnish such information as the Borough may require in order to determine whether such exemption shall continue.

(3) At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by state law and regulation and local ordinance, 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.

§ 215-9 Project completion.

Determination of tax due upon completion of improvement, conversion or construction; Assessor's responsibilities; administrative provisions.

A. The Assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to tax agreement incorporating one of the formulas contained in Ordinance, the amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this article. Subject to the provisions of the adopting ordinance, the property shall continue to be treated in the appropriate manner for each of the five full tax years subsequent to the original determination by the Assessor.
B. The Tax Assessor and/or the Tax Collector shall, during the first year following adoption of the ordinance codified in this chapter, include an appropriate notice in the mailing of annual property tax bills to each owner of a dwelling located in an area in which exemptions may be allowed pursuant to this chapter.

C. Report.

(1) The Borough Council shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs and to the Director of the Division of Taxation in the New Jersey Department of the Treasury, the total amount of real property taxes exempted and the total amount abated within the Borough in the current tax year for each of the following:

(a) Improvements of dwelling;

(b) Construction of dwellings;

(c) Improvements and conversions of multiple dwellings;

(d) Improvements of commercial or industrial structures;

(e) Construction of multiple dwellings under tax agreements; and

(f) Construction of commercial or industrial structures under tax agreements.

§ 215-10 Notice.

The Borough shall include a notice in the mailing of annual property tax bills to each owner of a dwelling located in an area in which exemptions, or exemptions and abatements, may be allowed pursuant to the ordinance during the first year following the adoption of the ordinance.

§ 215-11 Expiration of ordinance; readoption.

Pursuant to N.J.S.A. 40A:21-4, this article shall be effective for a period of 10 years from the date of adoption, and no application for an exemption shall be filed for an exemption to take initial effect for any year thereafter, until and unless this article is readopted by the Borough in accordance with applicable law.


A. On or before October 1 of each year, the Borough shall report to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury the total amount of
real property taxes exempted and the total amount abated within the Borough in the current tax year for each of the following:

(1) Improvements of dwellings;
(2) Construction of dwellings;
(3) Improvements and conversions of multiple dwellings;
(4) Improvements of commercial or industrial structures;
(5) Construction of multiple dwellings under tax agreements; and
(6) Construction of commercial or industrial structures under tax agreements.

Section 2. All ordinances of the Borough of Hopatcong which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any provision of this ordinance is declared to be invalid by a court of competent jurisdiction, this declaration shall not affect the remainder of the ordinance.

Section 4. This ordinance shall take effect upon final passage and publication as provided by law.

____________________________
Michael Francis, Mayor

ATTEST:

____________________________
Catherine Schultz, Borough Clerk
NOTICE

TAKE NOTICE that the above entitled Ordinance # 11-2018 was introduced at a regular meeting of the Borough Council of the Borough of Hopatcong on April 18, 2018 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Hopatcong be held on May 2, 2018 at 7:30 p.m. in the Municipal Building, 111 River Styx Road, Hopatcong, New Jersey.

________________________________________
Catherine Schultz, Borough Clerk