

BOROUGH OF NORTH CALDWELL  
ORDINANCE # O-12-16

AN ORDINANCE ADDING CHAPTER 92-10  
OF THE CODE OF THE BOROUGH OF NORTH  
CALDWELL REGARDING RETROACTIVE  
REFUNDS OF PROPERTY TAXES FOR  
VETERANS DETERMINED TO BE TOTALLY  
DISABLED

WHEREAS, pursuant to N.J.S.A. 54:4-3.30, the dwelling house and the lot whereupon the same is erected, of any citizen and resident of this State, honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100 percent permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation on proper claim made therefor; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.31, upon review and approval of the required documentation by the municipal tax assessor, the assessor shall allow said exemption from taxation for the tax year in which the claim was filed; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.32, the governing body of each municipality, by appropriate resolution, may return all taxes collected on property from prior years which would have been exempt had proper claim been made in writing; and

WHEREAS, the statutory intent to grant discretion to the governing body of every municipality has been affirmed by the New Jersey Superior Court in *Del Priore v. Edison Township*, 26 N.J. Tax 502 (Law Div. 2012), and subsequently affirmed by New Jersey Superior Court, Appellate Division, 2013 WL 2217325 (App. Div. May 22, 2013), that it is a constitutionally permissible exercise of statutorily granted discretion for a municipality to grant or deny a taxpayer a retroactive refund of property taxes that has been paid from the effective date of the disability as determined by the United States Department of Veterans Affairs as set forth in N.J.S.A. 54:4-3.32; and

WHEREAS, the Borough of North Caldwell wishes to honor veterans who have suffered disability as a result of their service in the United States Armed Forces; and

WHEREAS, retroactive refunds have a significantly adverse financial impact on the Borough and its taxpayers and such refunds are not reimbursed to the Borough by the State of New Jersey; and

WHEREAS, the Governing Body of the Borough of North Caldwell desires to establish a formal policy providing that a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3.32 shall be limited to only the most recent four quarters of the fiscal year prior to the submission of a proper claim to the tax assessor, as required by N.J.S.A. 54:4-3.30, but in no event shall a retroactive refund be provided for property taxes paid prior to the United States Veterans Administration's date of determination of total disability.

NOW, THEREFORE, BE IT ORDAINED By the Mayor and Council of the Borough of North Caldwell, County of Essex, State of New Jersey as follows:

1. "Chapter 92-10. Retroactive Refund of Property Taxes for Veterans Determined to be Totally Disabled." of the Code of the Borough of North Caldwell be and is hereby added to provide the following:

§ 92-10. Retroactive Refund of Property Taxes for Veterans Determined to be Totally Disabled. For a veteran, or his or her surviving spouse or domestic partner, entitled to exemption under N.J.S.A. 54:4-3.30, after a formal written request for a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3, submitted to the Borough of North Caldwell's Tax Assessor with all required documentation from the United States Veterans Administration, the Borough Council, by appropriate resolution, shall refund the property taxes paid only for the most recent four quarters of the fiscal year. Retroactive refunds shall not be granted for property taxes paid prior to the United States Veterans Administration's date of determination of total disability.


2. The Borough Tax Assessor, together with all other appropriate officers and employees, are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Ordinance.
3. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
4. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.
5. This Ordinance shall take effect immediately upon passage and publication in accordance with law.

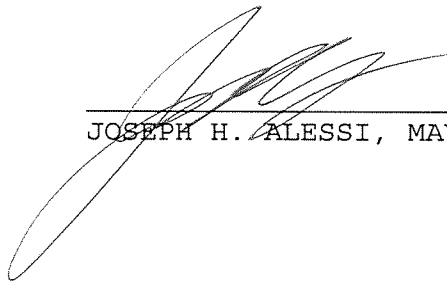
INTRODUCED: September 27, 2016

APPROVED: October 13, 2016

ATTEST:

APPROVED:

  
\_\_\_\_\_  
NANCY A. BRETZGER, BOROUGH CLERK

  
\_\_\_\_\_  
JOSEPH H. ALESSI, MAYOR