

ORDINANCE NO. 2010 -

AN ORDINANCE OF THE TOWNSHIP OF HARBORCREEK, ERIE COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NO. 84-100, AN ORDINANCE GRANTING REAL ESTATE TAX RELIEF FOR PROPERTIES IN DETERIORATED AREAS/NEIGHBORHOODS PURSUANT TO 72 P.S. § 4711-101, ET SEQ. AND 72 P.S. §4722, ET SEQ., AND ITS VARIOUS AMENDMENTS, AND PROVIDING FOR REAL ESTATE TAX ABATEMENT FOR COMMERCIAL, BUSINESS AND INDUSTRIAL PROPERTIES IN CERTAIN AREAS AND PROVIDING FOR REAL ESTATE TAX ABATEMENT FOR RESIDENTIAL CONSTRUCTION AND IMPROVEMENTS IN CERTAIN AREAS.

Whereas, the Commonwealth of Pennsylvania adopted an Act known as the “Improvement of Deteriorating Real Property or Areas Tax Exemption Act”, 72 P.S. § 4711-101, et seq., authorizing local taxing authorities to exempt improvement to certain deteriorated residential property for a term not to exceed ten years; and

Whereas, the Commonwealth of Pennsylvania had adopted an Act known as the “Local Economic Revitalization Tax Assistance Act,” 72 P.S. § 4722, et seq., authorizing local taxing authorities to exempt new construction in deteriorated areas of economically depressed communities and improvements to certain deteriorated industrial, commercial, and other business property, not to exceed ten years; and

Whereas, in 1984, Harborcreek Township (hereafter “The Township”) adopted Ordinance No. 84-100, which implemented the provisions of 72 P.S. §4711-101, et seq., and 72 P.S. § 4722, et seq.; and

Whereas, the Township amended the provisions of Ordinance 84-100 three times previously to increase the geographical area to be considered eligible for Real Property Tax abatement, Ordinance No. 84-100-1, passed in 1994, and Ordinance No. 84-100-2, passed in 1998, and Ordinance No. 84-100-3, passed in 2008; and

Whereas, The Board of Supervisors of Harborcreek Township recognizes that the conditions which existed at the time of the passage of the original ordinance have continued to evolve insofar as certain areas need incentives to spur construction and development of certain residential housing; and

Whereas, the Board of Supervisors of Harborcreek Township notes that development of areas of the Township zoned “Industrial” has not increased significantly since the passage of the original ordinance, No. 84-100, in 1984, and is still in need of incentives to spur growth and development in those areas; and

Whereas, the Board of Supervisors recognizes that certain properties, zoned other than for “Industrial” use, previously included in the area eligible for tax relief, and subsequently limited, should again be included to promote growth; and

Whereas, the Board of Supervisors is aware that the Pennsylvania Commonwealth Court has held that the plain language of the state statutes allowing local taxing authorities to grant tax relief to certain properties in deteriorated neighborhoods/areas contemplates that whether the exemption is available and how it is to be obtained is left to the determination of the local taxing authorities, as stated in *Northwood Nursing Care and Convalescent Home, Inc. vs. City of Philadelphia, Board of Revision of Taxes*, 98 Pa. Cmwlth. 401, 403, 511 A.2d 281, 282 (1986); and

Whereas, the Board of Supervisors desires to repeal Ordinance 84-100, Ordinance No. 84-100-1, passed in 1994, and Ordinance No. 84-100-2, passed in 1998, and Ordinance No. 84-100-3, passed in 2008, and create and designate, through the passage of this Ordinance No. 2010-___ three different zones in which to spur residential and/or commercial, industrial and business improvements and new construction; and

Whereas, the Board of Supervisors recognizes that any real property tax relief offered in this Ordinance No. 2010 - ___ must also be approved by the governing bodies of the Harbor Creek School District and the County of Erie.

NOW THEREFORE, be it enacted by the Harborcreek Township Board of Supervisors of the County of Erie, that Ordinance No. 2010 - ___ shall provide as follows:

Section One. Title

This Ordinance shall be known as the “Harborcreek Township Comprehensive Real Property Tax Abatement Ordinance”.

Section Two. Definitions

(a) “Growth Boundary Area” refers to a geographical area within the Township, specifically described hereafter, affording real estate tax abatement for new Residential Construction and Improvements, and new Non-Residential Construction and Improvements, and being one of the Investment Opportunity Zones defined hereafter.

(b) “Deteriorated Property Non-Residential” means any industrial, commercial, or other business property owned by an individual, association or corporation and is located in an Investment Opportunity Zone, as hereinafter defined, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned, or demolished by reason on noncompliance with laws, ordinances, or regulation.

(c) “Deteriorated Property Residential” means a Dwelling Unit located in an Investment Opportunity Zone, as hereinafter defined, or a Dwelling Unit which has been or upon request is certified by a health, housing or building inspection agency as unfit for human habitation for rent withholding, or other health or welfare purposes, or has been the subject of an

order by such an agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.

(d) “Dwelling Unit” means a house, double house or duplex, townhouse or row house, apartment, condominium or any building intended for occupancy as living quarters by an individual, a family or families or other groups of persons, which living quarters contain a kitchen or other cooking equipment for the exclusive use of the occupant or occupants.

(e) “Improvement” means repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitation of a deteriorated property, either commercial, business, industrial or residential so that its assessed value increases more than \$25,000, and one of the following: it becomes habitable or attains higher standards of safety, health, economic use or amenity; or is brought into compliance with laws, ordinances or regulations governing such standards; or is new residential construction in an Investment Opportunity Zone. Ordinary upkeep and maintenance shall not be deemed an Improvement.

(f) “Residential Construction” means the building or erection of Dwelling Units, as defined above, upon vacant land or land specifically prepared to receive such structures.

(g) “Non-Residential Construction” means the building or erection of structures other than Residential or Dwelling Units upon vacant land or land specifically prepared to receive such structures.

(h) “Investment Opportunity Zone” means the areas described herein which are determined by Harborcreek Township to be deteriorated and eligible for tax exemption under Act 76 of 1977 (“Local Economic Revitalization Tax Assistance Act”) 72 P.S. Section 4722, et seq, and Act 42 of 1977 (“Improvement of Deteriorating Real Property or Areas Tax Exemption Act) 72 P.S. Section 4711-101, et seq, as further described in Section 6.

Section Three. Exemption

(a) There is hereby exempted from real property taxation, the assessed valuation of real property, the increase of which is directly attributable to:

1. Improvements to Deteriorated Property Residential.
2. Improvements to any commercial, business, or industrial property, without regard to whether such properties qualify as “Deteriorated Property Non-Residential”, anywhere in the Township.
3. New Residential Construction built in the Investment Opportunity Zone designated as the “Growth Boundary Area”.
4. New Construction on Non-Residential properties, without regard to whether such properties qualify as “Deteriorated Property Non-Residential”, provided said improvements are constructed within the Investment Opportunity Zones, designated as either the “Growth Boundary Area” or “The LERTA District”.

(b) The exemption authorized by Subsection A.1, A.2, A.3 and A.4 of this Section 3 shall be in the amounts, and in accordance with, the provisions and limitations herein provided.

Section Four. Maximum Exemption

(a) The exemption from real property taxes assessed by Harborcreek Township shall be as follows:

1. To all of the additional assessed value, if the additional assessed value is increased at least \$25,000, attributable to the actual cost of Improvement to Deteriorated Property Non-Residential within an Investment Opportunity Zone.

2. To all of the additional assessed value, if the additional assessed value is increased at least \$25,000, attributable to the actual cost of Improvement to Deteriorated Property Residential within an Investment Opportunity Zone.

3. To all of the assessed value, attributable to the actual cost of new Non-Residential Construction, if the assessed value increase is at least \$25,000, within an Investment Opportunity Zone.

4. To all of the assessed value, if at least \$25,000, attributable to the actual cost of new Residential Construction, if the assessed value increase is at least \$25,000,, within an Investment Opportunity Zone.

(b) The date of Improvement shall be the date of issuance of the building permit, improvement record, or other required notification of construction.

(c) In all cases the exemption from taxes shall be limited to that portion of the additional assessment attributable to the Improvement or new Construction, as the case may be, and for which a separate assessment has been made by the County Board of Assessment Appeals and for which an exemption has been separately requested. No tax exemption shall be granted if the property owner does not secure the necessary and proper permits prior to making an Improvement of, or new Construction on, the property. No tax exemption shall be granted if the property, as completed, does not comply with the minimum standards of the Housing and Building Codes of the Township of Harborcreek.

(d) In any case, after the effective date of this Ordinance, where Deteriorated Property Non-Residential or Deteriorated Property Residential is damaged, destroyed or demolished, by any cause or for any reason, and the assessed valuation of the property affected has been reduced as a result of said damage, destruction or demolition, the exemption from real property taxation authorized by this Ordinance shall be limited to that portion of new assessment attributable to the actual cost of Improvement or Residential Construction that is in excess of the original assessment that existed prior to damage, destruction or demolition of the property.

Section Five. Exemption Schedule

(a) The Real Property Tax exemption for Improvements to Deteriorated Property Residential and Deteriorated Property Non-Residential in the Investment Opportunity Zone referred to in Section 6a hereafter, but not located in a LERTA District or Growth Boundary Area, shall be in accordance with the following schedule:

Length / Portion

1st year 50%

2nd year 40%

3rd year 30%

4th year 20%

5th year 10%

After the fifth year the exemption shall terminate.

(b) The Real Property Tax exemption for New Construction Non-Residential and/or Improvement to Deteriorated Property Non-Residential, and/or New Construction Residential, and/or Improvements To Deteriorated Property Residential in the Investment Opportunity Zone referred to as the “Growth Boundary Area” shall be in accordance with the following schedule:

Length / Portion

1st year 100%

2nd year 80%

3rd year 60%

4th year 40%

5th year 20%

After the fifth year the exemption shall terminate.

(c) The Real Property Tax exemption for New Non-Residential Construction or Improvement to Deteriorated Property Non-Residential in the Investment Opportunity Zone referred to as the “The LERTA District” shall be in accordance with the following schedule:

Length / Portion

1st year 100%

2nd year 100%

3rd year 100%

4th year 100%

5th year 100%

After the fifth year the exemption shall terminate.

Section 6. Investment Opportunity Zone Descriptions

(a) The Investment Opportunity Zone wherein Real Property Tax abatement is available for improvements to Deteriorated Property Residential and Deteriorated Property Non-Residential shall consist of the entire Township.

(b) The Investment Opportunity Zone wherein Real Property Tax abatement is available for new Residential Construction, new Non-Residential Construction and/or Improvements to Deteriorated Property Non-Residential and/or Improvements to Deteriorated Property Residential which shall be referred to as the “Growth Boundary Area”, is described as follows:

On the North, by the Lake Erie Shoreline;

On the East, by Shade’s Beach Park Road, Bartlett Road, and the current Village District Boundary, and by Depot Road;

On the South, by Interstate #90 and the current Interchange Business District Boundaries identified in Zoning Ordinance # 2010 - 200;

On the West, by the boundary lines with Wesleyville Borough, Lawrence Park Township, the City of Erie, and Millcreek Township.

(c) The Investment Opportunity Zone wherein Real Property Tax abatement is available for New Non-Residential Construction or Improvements to Deteriorated Property Non-Residential, which shall be referred to as “The LERTA District”, is described as follows:

Beginning at the Lawrence Park Township and Harborcreek Township boundary line 1,200 feet north of Iroquois Avenue; and

Thence, east, parallel with Iroquois Avenue to a point in the center of Six Mile Creek; and

Thence, south, along the center line of Six Mile Creek to a point 800 feet south of Buffalo Road; and

Thence, west parallel with Buffalo Road to a point at the Wesleyville Borough Boundary line; and

Thence, north, along the Wesleyville Borough and Lawrence Park Township boundary line to the place of beginning.

Section 7. Sunset Provisions

The provisions of this Comprehensive Tax Abatement Ordinance shall expire on the 31st Day of December, 2012, unless extended by ordinance duly adopted. Any applicant for tax abatement must have a building permit to be eligible for tax abatement treatment hereunder, with that permit having been issued on, or before, the 31st day of December, 2012.

Section 8. Miscellaneous Provisions

(a) The exemption from taxes granted under this Ordinance shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.

(b) The exemption from taxes hereunder shall be forfeited by the applicant and/or subsequent owner of the real estate for failure to pay nonexempt real estate taxes by their due date, i.e. the last date upon which taxes may be paid without penalty. Upon receipt of notice of nonpayment of nonexempt real estate taxes, the Township's designated Building Code Official shall direct the County Assessment Officer to discontinue the exemption provided for hereunder.

(c) If an eligible property is granted tax exemption pursuant to this Ordinance, the Improvement shall not, during the exemption period, be considered as a factor in assessing other properties.

Section 9. Procedure for Obtaining Exemption

(a) Any person desiring tax exemption pursuant to this Ordinance should apply to the Township of Harborcreek at the time that a building permit is secured for construction of the Improvement or new construction, as the case may be. The application must be in writing upon forms specified by the Township setting forth the following information:

1. The date the Building Permit was issued for said Improvement or new construction;
2. The location of the property to be Improved or constructed, including the Investment Opportunity Zone in which the property is located;
3. The type of Improvement or construction (commercial, mixed use, or residential);
4. The summary of the plan of Improvement or construction;
5. The cost of the Improvement or construction;
6. Whether the property has been condemned by any governmental body for non-compliance with laws or Ordinances.
7. Verification that the property has been inspected and verified by the Township's designated Code Official, or its successor, and such additional information as the Township may require.

(b) There shall be on the application form for a building permit, the following notice:

"Notice to Taxpayer." By Ordinance No. ____ of 2010 you may be entitled to exemption from tax on your contemplated improvement or new construction by reassessment. An application for

exemption may be secured from the designated official at the Township of Harborcreek and must be filed at the time the building permit is secured.”

(c) A copy of the exemption request shall be forwarded to the County Board of Assessment Appeals by the Township’s designated Building Code Official. The Board shall determine whether the exemption shall be granted and shall, upon completion of the Improvement and new residential construction, and notification from the Township’s designated Building Code Official that the Improvement and new residential construction comply with all applicable Building and Housing Codes, assess separately the Improvement and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by this Ordinance and notify the taxpayer and the local taxing authorities of the reassessment and amounts of the assessment eligible for exemption. In the case of new residential Construction, the Board shall assess separately the Dwelling Unit and the land upon which the new Residential Construction stands and shall otherwise perform its duties as above provided for construction of Improvement to residential, mixed use and commercial properties.

(d) The cost of Improvement to commercial properties and mixed use properties or costs of Improvement or construction per Dwelling Unit of residential properties, as the case may be, to be exempted and the schedule of taxes exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request, and subsequent amendment to this Ordinance, if any, shall not apply to requests initiated prior to their adoption.

Section 10. Excluded Properties

This Ordinance and the exemptions granted herein, shall not be available to properties which are, according to the Township Board of Supervisors, non-conforming uses.

Section 11. Effective Date

The effective date of this Ordinance shall be 5 days from the date of final passage of related Ordinances or Resolutions by the Harbor Creek School District and the County of Erie.

Section 12. Repealer

All ordinances or parts thereof conflicting herewith, specifically including Ordinance No. 84-100, Ordinance No. 84-100-1, passed in 1994, and Ordinance No. 84-100-2, passed in 1998, and Ordinance No. 84-100-3, passed in 2008 are hereby repealed.