



Text File

Introduced: 7/13/2018

Bill No: 2018-0702, Version: 2

Committee: Committee on Finance and Law

Status: Passed Finally

Ordinance amending and supplementing the Pittsburgh City Code, Title Two: Fiscal, Article IX: Property Taxes, Chapter 267 - Exemptions for Industrial and Commercial Improvements.
(Public Hearing held 10/10/18)

Whereas the Council of the City of Pittsburgh finds as follows:

1. Pittsburgh has provided tax abatements in recent years to spur industrial and commercial real estate development and investment throughout the City. These abatements have always been structured to respond to current needs, however, those needs change over time.
2. Pittsburgh today needs increased investment in affordable housing and continued investment in the creation, retention, and attraction of employment opportunities within the City.
3. As evidenced by the work of this Council and the Affordable Housing Task Force, there is an identified need for increased investment in the production and preservation of rental housing that is affordable to low and very-low incomes throughout the City, as illustrated by the fact that over half of low-income Pittsburgh households pay more than 30 percent of their income on housing costs.
4. Current conditions in the City require the use of public assistance to construct new housing, or improve deteriorated property, for the purposes of providing commercial residential accommodations affordable to households with low incomes and, furthermore, the Inclusionary Housing Working Group identified tax abatements as one of the most important tools the City can leverage to increase investment in affordable housing.
5. The City can use the tax abatement structure to increase the production of quality affordable and mixed-income housing, to spur redevelopment in areas of low investment, to ensure housing that is affordable to households with low, very-low, and extremely-low incomes in areas of high opportunity throughout the city, and to increase available employment opportunities within the city.
6. Creating a revised structure for tax abatements will allow for the City to provide greater oversight and accountability for the public.

Now, therefore, be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

Section 1.

CHAPTER 267: - EXEMPTIONS FOR INDUSTRIAL AND COMMERCIAL IMPROVEMENTS

§ 267.01 - DEFINITIONS.

As used in this Chapter, the following words and phrases shall have the meanings set forth below:

- (a) **BOARD.** The Office of Property Assessments of Allegheny County, Pennsylvania or its successor(s), if any, responsible for assessing properties in the city.
- (b) **DETERIORATED AREAS.** Those locations in the City which Council, after public hearings, has determined to be physically impaired on the basis of one (1) or more standards including, but not limited to, the following:
- (1) The buildings, by reason of age, obsolescence, inadequate or outmoded design or physical deterioration have become economic or social liabilities.
 - (2) The buildings are substandard, unsanitary, unhealthy or unsafe.
 - (3) The buildings are overcrowded, poorly spaced or so lacking in light, space and air as to be unwholesome.
 - (4) The buildings are faultily arranged, cover the land to an excessive extent, show a deleterious use of land, or exhibit any combination of the above which is detrimental to health, safety or welfare.
 - (5) A significant percentage of buildings is more than twenty (20) years of age.
 - (6) A substantial amount of unimproved, overgrown and unsightly vacant land exists which has remained so for a period of five (5) years or more indicating a growing or total lack of utilization of land for economically desirable purposes.
 - (7) A disproportionate number of tax delinquent properties exists.
 - (8) The area is impoverished as certified by the Department of Community Affairs, now the Department of Community and Economic Development, and approved by the Governor under the Act of November 29, 1967, P.L. 636, No. 292, as amended, (Neighborhood Assistance Act) or blighted under criteria set forth in the Act of May 24, 1945, P.L. 991, No. 385 (Urban Redevelopment Law).
- (c) **CONSTRUCTION.** The erection of a building or buildings on formerly unoccupied land or airspace or on land or airspace in or on which undesirable buildings which formerly existed have been demolished or razed, which erection consists of industrial, commercial or other business units designed to bring about higher standards of safety, health, economic or sociological growth or amenity.
- (d) **IMPROVEMENT.** Repair or construction (as defined in subsection (c) hereof) including alterations and additions, having the effect of rehabilitating an existing structure so that it allows higher standards of safety, health, economic or social amenity or the bringing into compliance of the structure with laws, ordinances or regulations governing building standards. Ordinary upkeep and maintenance shall not be deemed an improvement. The conversion of deteriorated property (as defined in subsection (g) hereof) to commercial residential use or to residential use shall qualify as an improvement for purposes of this Chapter.
- (e) **LOCAL TAXING AUTHORITY.** Any county, city, borough, incorporated town, township, institution district or school district having authority to levy real property taxes.
- (f) **MUNICIPAL GOVERNING BODY.** A city, borough, incorporated town or township.
- (g) **DETERIORATED PROPERTY.** Any industrial, commercial or other business property owned by an

- individual, partnership, association or corporation which is located in a deteriorating area; or any property which has been the subject of an order of a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.
- (h) **ASSESSED VALUATION.** The worth assigned to a building as certified to the City by the Board. The term ASSESSED VALUATION shall not apply to the worth assigned to land exclusive of buildings.
- (i) **COMMERCIAL RESIDENTIAL USE.** Space is used for a commercial residential use if it is suitable for and is generally to be used by the occupants for personal residence purposes and is not occupied by the owner (or a relative of the owner). Examples of space used for a commercial residential use include (but are not limited to) apartment buildings.
- (j) **PROJECT.** The improvement of a building carried out during a single continuous period of time according to a common plan.
- (k) **QUALIFIED CONVERSION TO COMMERCIAL RESIDENTIAL USE.** Improvements having the effect of converting all or a portion of deteriorated property to commercial residential use, so that it becomes habitable. Neither new construction nor ordinary upkeep and maintenance shall be deemed a qualified improvement for this purpose.
- (l) **CONVERTED RESIDENTIAL PORTION.** That portion of a building which in a "qualified conversion to commercial residential use" or a "qualified conversion to residential use", as the case may be, is converted to commercial residential use or residential use, measured by floor area between ground level and the roof together with any area of the property or a property in close proximity to be used for parking by residents or guests only and not by the public.
- (m) **TAX DELINQUENCY.** All City of Pittsburgh taxes, charges, fees, rents or claims due and unpaid by the owner of the deteriorated property or with respect to the deteriorated property as of the time of the application for a exemption or at any time thereafter during the term of the exemption. The term includes all penalties, additions, interest, attorneys' fees and costs due on such delinquent taxes, charges, rents or claims. (Ord. 19-1980, eff. 4-1-80; Am. Ord. 51-1985, eff. 12-27-84; Am. Ord. 10-2000, eff. 6-7-00)
- (n) **NEW CONSTRUCTION FOR COMMERCIAL RESIDENTIAL USE.** Construction of property for commercial residential use, provided that at least fifty (50) percent of the total building area, measured by floor area between ground level and the roof, together with any area of the property or a property in close proximity to be used for parking by residents or guests only, and not by the public, is used for commercial residential use.
- (o) **RESIDENTIAL USE.** Space is used for residential use if it is suitable for and is generally to be used by the occupants for personal residence purposes and is occupied by an owner and/or primary resident.
- (p) **QUALIFIED CONVERSION TO RESIDENTIAL USE.** Improvements having the effect of converting all or a portion of deteriorated property to residential use, so that it becomes habitable. Neither new construction nor ordinary upkeep and maintenance shall be deemed a qualified improvement for this purpose.
- (q) **LOWER HILL DISTRICT.** The area within the City that begins at Chatham Square and Centre Avenue and continues east on Centre Avenue until reaching Crawford Street where it then travels northward (on Crawford Street) until reaching Bedford Avenue. The boundary line then turns westward on Bedford

Avenue, continuing west until the intersection of Bedford Avenue and Washington Place. The boundary line then continues westward on Bigelow Boulevard to Chatham Square. The boundary line turns southward on Chatham Square and runs down Chatham Square until reaching Centre Avenue.

§ 267.02 - BOUNDARIES.

Council has determined as a fact that Wards numbered 1 through 32, of the City of Pittsburgh, respectively, constitute "deteriorated areas" as described above within the purview of Act 76 of 1977.

§ 267.03 - EXEMPTION SCHEDULE.

Any person making improvements to deteriorated property or constructing or improving commercial residential, industrial, commercial or other business structures in deteriorated areas apply for and receive a tax exemption upon the improvements or construction as provided in the following schedule:

- (a) With respect to improvements to deteriorated property or construction or improvements of industrial, commercial or other business structures in deteriorated areas, including improvements constituting a qualified conversion to commercial residential use or new construction for commercial residential use:
 - (1) The exemption is granted to eligible properties located anywhere in deteriorated areas;
 - (2) The exemption ~~from~~ ~~from~~ City real property tax shall be applicable only to that portion of the assessed valuation attributable to the construction or improvement that exceeds one hundred (100) percent of the assessed valuation prior to the issuance of the building permit.
 - (3) The exemption granted is limited to a period of three (3) years, and the exemption from City real property tax shall not exceed one hundred twenty-five thousand dollars (\$125,000.00) in any single year;
 - (4) The exemption granted is one hundred (100) percent for the three (3) years. No exemption applies in the fourth year or thereafter.
- (b) With respect to applications filed on or after ~~September 1, 2018~~ **January 1, 2020**, on improvements to deteriorated property or construction or improvement of industrial, commercial or other business structures in deteriorated areas, including improvements constituting a qualified conversion to commercial residential use or new construction for commercial residential use that adhere to the Program Enhancement Guidelines, as defined in Section 267.05(e):
 - (1) The exemption is granted to eligible properties located anywhere in deteriorated areas.
 - (2) The exemption from City real property tax shall be applicable only to that portion of the assessed valuation attributable to the construction or improvements that exceeds one hundred (100) percent of the assessed valuation prior to the issuance of the building permit and is limited to ten (10) years.
 - (3) The exemption from City real property tax shall not exceed two hundred fifty thousand dollars

(\$250,000.00) in any single year.

- (4) The exemption is one hundred (100) percent for ten (10). No exemption applies in the eleventh year or thereafter.

A project may choose to file for an abatement under any of the preceding subsections (a) through (b) if applicable.

- (c) With respect to improvements to deteriorated property or constructing or improving industrial, commercial or other business structures in the Lower Hill District:
- (1) The exemption is granted for a period of ten (10) years; and
 - (2) One hundred (100) percent of real estate taxes attributable to the cost of new construction or improvements shall be exempted, provided, however, that the amount exempted from real estate taxes per property shall not exceed two hundred fifty thousand dollars (\$250,000.00) in any single year.

§ 267.04 - EXEMPTION CONDITIONS.

- (a) If tax exemption is granted pursuant to this Chapter, the improvement or construction shall not, during the exemption period, be considered as a factor in assessing other properties.
- (b) Exemption from taxation on the eligible amount of assessed valuation attributable to improvements to deteriorated property or construction of industrial, commercial or other business property in deteriorated areas will commence the year after the completion of the eligible new construction or improvement.
- (c) Limits on Act 76 of 1977 exemptions from county or school district real property tax may differ as set forth in the applicable county or school district authorizing ordinance or resolution. There is no exemption granted on the assessed valuation attributable to land. There is no exemption granted if the construction or improvements are not completed by the end of the third calendar year following the year the initial building permit was issued.
- (d) The City may join with co-existing local taxing authorities for the purpose of setting up procedures that will implement the intention of this Chapter, and the City may cooperate with the co-existing taxing bodies to encourage the improvement or construction in deteriorated areas of the City which this Chapter is intended to bring about, except as restricted by this or any other ordinance, act of legislature, or law of the federal government.
- (e) There is no exemption granted and any existing exemption shall be revoked if and for so long as there exists any tax delinquency, any code violations, or non-compliance with agreed upon conditions for receiving the exemption, pursuant to the Program Enhancement Guidelines, with respect to the property or property owner. An exemption for qualified conversion to commercial residential use shall be revoked if and to the extent the property does not continue to be commercial residential use property. Likewise, an exemption for qualified conversion to residential use shall be revoked if and to the extent the property does not continue to be residential use property. Any revocation shall not extend the exemption period set forth in Section 267.03. The Director of the Department of Finance ("Finance Director") may set an annual administrative fee, payable by grantees of the tax exemptions, for the purposes of the Finance Director, or

his/her designee, monitoring compliance of the conditions set forth in this paragraph.

- (f) No more than one (1) exemption shall be granted for each project. A new project shall be deemed to occur in the same building after construction work has been discontinued, interrupted, postponed or abandoned for a period of two (2) years or more, or when ownership of the property has been transferred, excluding those transfers described in § 255.03 and the new owner modifies the plans of the previous owner substantially, so as to require an additional building permit.
- (g) Property within the Lower Hill District that is the subject of an application for exemption pursuant to this legislation shall not be eligible for any other real estate tax exemption or abatement programs that may be available from the City during the ten-year term of abatement.
- (h) No applicant for exemption shall structure the purchase or sale of any property within the Lower Hill District in a manner which attempts to avoid paying realty transfer taxes to the City. Exceptions from this requirement will be granted in the case of (a) sheriff or tax claim sales; (b) corrective deeds; and (c) a transfer to the holder of a bona fide mortgage in default in lieu of foreclosure, or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage.

§ 267.05 - PROCEDURES FOR OBTAINING EXEMPTION.

A person making improvements to or for the construction of industrial or commercial structures in deteriorated areas for which that person intends to request exemption, may apply to the City for exemption of the taxes that would otherwise be imposed on the increase in the assessed valuation of that property attributable to the cost of construction or improvement, in the following manner:

- (a) At the time the building permit is obtained, an application form prescribed by the Finance Director, and approved as to form by the Board, should be obtained from the Department of Finance or Department of Permits, Licenses, and Inspections and submitted to the Finance Director, or his/her designee.
- (b) The application for exemption must set forth the following information, along with payment of an application fee, as determined by the Finance Director:
 - (1) The date the building permit was issued for the construction or improvement.
 - (2) The type of industrial, commercial or other business construction for which exemption is requested.
 - (3) Evidence of zoning compliance and any required historic designation/preservation approvals.
 - (4) The summary of the plan of the improvements and construction, including copies of the plans and specifications for the project of the construction.
 - (5) The actual cost of the improvements or the actual cost of the construction.
 - (6) Evidence of sufficient financing for the project.
 - (7) Such additional information as the Finance Director may require.
- (d) The property owner shall submit the application for exemption to the Finance Director, or his/her designee, on behalf of each appropriate local taxing authority, no later than one hundred eighty (180) days after the

date when the initial building permit for the project is issued.

(1) The tax exemption and schedule of taxes exempted shall be consistent with the applicable tax exemption and schedule of taxes exempted in effect at the time that the building permit for the project is issued.

- (e) For purposes of determining eligibility for the enhanced exemptions in Section 267.03(b) the Finance Director will use the following Program Enhancement Guidelines:
- (1) Inclusion of at least ten percent (10%) of the total residential units that are affordable to and occupied by households earning at or below fifty percent (50%) of the area median income, as determined annually by the U.S. Department of Housing and Urban Development, for commercial residential developments (i.e. developments where greater than fifty percent (50%) of the building gross square footage is for commercial residential use); or
 - (2) Inclusion of at least sixty percent (60%) of the total residential units that are affordable to and occupied by households earning at or below eighty percent (80%) of the area median income, as determined annually by the U.S. Department of Housing and Urban Development, for commercial residential developments (i.e. developments where greater than fifty percent (50%) of the building gross square footage is for commercial residential use); or
 - (3) Increasing the net number of full-time equivalent positions (“FTEs”) by no less than fifty (50) FTEs, for commercial and industrial developments (i.e. developments where greater than fifty percent (50%) of the building gross square footage is for commercial or industrial use).
- (f) The Finance Director, or his/her designee, will determine approval based upon the criteria in this chapter and provide notification to each applicant and Local Taxing Authority of the determination.
- (g) When the improvement or construction has been completed, the property owner must notify the Department of Permits, Licenses, and Inspections, so that an inspection of the improvements or construction may be made. When the Department of Permits, Licenses, and Inspections has completed its inspection and issued an occupancy permit, the Board will assess the property in question for purposes of calculating the amount of the assessment eligible for tax exemption under this Chapter.
- (h) The Board shall certify to the Finance Director each appropriate local taxing authority and the property owner the amount of the increase in assessment attributable to the improvement or to the construction. The Finance Director shall then exonerate that portion of the increase and refund the amount of the taxes attributable to the exemption, up to the eligible maximum amount.
- (i) Appeals from the assessment may be taken by the taxpayer or by the City as provided by law.
- (j) Property owners seeking exemption for projects which include both industrial, commercial or other business properties and also residential properties shall file such form of application as is then prescribed by the City.
- (k) The Director of the Department of Permits, Licenses, and Inspections is hereby authorized and directed to make available to all persons applying for a building permit for improvements to or the construction of industrial, commercial or other business structures the following information which shall be prescribed by

the Finance Director.

- (1) An application form for the exemption.
- (2) Instruction to complete the application, written in a form easily understood by the general public.
- (3) General information, written in a form easily understood by the general public, that details the benefits to be derived from this exemption.

§ 267.06 - PROPERTY EXEMPTION.

The exemption from taxes authorized by this Chapter shall be upon the property exempted and shall not terminate upon the sale, exchange or other alienation of such property.

§ 267.07 - EFFECTIVE DATE AND TERMINATION.

The provisions of this Chapter, as amended, shall apply to all applications filed from and after the effective date hereof and through the tenth anniversary of such effective date, other than applications for exemption of properties within the Lower Hill District pursuant to Section 267.03(f), which may be filed at any time prior to April 1, 2040. The cost of new construction or improvements 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 Chapter, if any, shall not **be applied retroactively, and no improvements or construction for which a building permit has already been issued shall be eligible for an exemption not codified at such a time.** The revisions to the Chapter through Ordinance Number [XXX-2018 ~~2019~~], as assigned by the City Clerk, shall become effective ~~September 1, 2018~~ **January 1, 2020**, and remain in effect from year to year thereafter.

§ 267.08 - REPORTS TO COUNCIL

Reports containing information relative to the amount of each exemption and the property owner receiving each exemption shall be presented by the Finance Director to Council on an annual basis each calendar year in which this Chapter is in effect.

§ 267.09 - PARTICIPATION BY ALLEGHENY COUNTY AND PITTSBURGH BOARD OF EDUCATION.

- (a) Prior to implementation of this Chapter, the City shall enter into the appropriate cooperation agreements with the County of Allegheny and the Pittsburgh Board of Education so as to require these taxing bodies to participate with the City of Pittsburgh in the LERTA Program as enumerated in this Chapter. Except as otherwise expressly stated, the City of Pittsburgh cannot unilaterally implement the amendments to this Chapter without the full participation by the County of Allegheny and the Pittsburgh Board of Education.

This requirement shall not apply to any applications for exemption filed on or after March 31, 2018, pursuant to any amendments to this Chapter which have been adopted and are applicable solely to applications filed during said period.

- (b) To help ensure the Local Taxing Authorities are able to meet the objectives outlined above and encourage better alignment among the respective bodies, the Mayor shall appoint a three-member committee, made up of one (1) representative from each of the Local Taxing Authorities. This committee will meet monthly to review the efficacy of the programs in this chapter, issue annual reports to City Council on the same, and make recommendations, as necessary, to ensure better alignment and coordination among the taxing bodies.

§ 267.10 - AUDIT BY CITY CONTROLLER.

(a) The City Controller shall perform a yearly audit of the administering agencies, departments, authorities, and entities within the Controller's jurisdiction to do so, pursuant to the powers outlined in the Home Rule Charter.

(b) The scope of this audit should include an accounting of all the projected and catalogued value of all assessment reductions, tax credits, and tax abatements issued through this Chapter, as well as projections of incoming revenue upon expiration of any assessment reductions, tax credits, and tax abatements issued through these programs in the most recent calendar year prior to the commencement of the audit.

(c) This audit shall document the total production, conversion, and removal of residential, commercial, and industrial units that result from projects or properties granted tax abatements described herein, including those associated with program compliance for the purposes of determining eligibility for exemptions, as delineated on a per-project basis.

(d) This audit shall be submitted to City Council and filed with the City Clerk.

§ 267.10 - SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this chapter.