

## ORDINANCE NO. 2802

### BOROUGH OF WILKINSBURG ALLEGHENY COUNTY, PENNSYLVANIA

**An ordinance of the Borough of Wilkinsburg, County of Allegheny, Commonwealth of Pennsylvania, amending the Code of the Borough of Wilkinsburg, Part II Chapter 237, Sections 46 and 56, providing for tax exemption and tax compromise, establishing eligibility requirements and establishing an administrative process for making, processing and approving said application.**

WHEREAS Article VIII, Section 2, subsection (b)(iii) of the Pennsylvania Constitution and the Local Economic Revitalization Tax Assistance Act, 72 P.S. §§ 4722, et seq. (hereinafter, "LERTA"), authorize local taxing authorities to exempt from taxation new construction in deteriorated areas of economically depressed communities and improvements to certain deteriorated industrial, commercial and other business property;

WHEREAS, pursuant to such authority, the Borough Council of the Borough of Wilkinsburg desires to provide for the temporary exemption from real estate taxation of such improvements to deteriorated business property located within its geographical boundaries;

WHEREAS, in conformity with the LERTA, the Borough Council of the Borough of Wilkinsburg, in conjunction with the Borough of Wilkinsburg, held a public hearing on November 5, 2008, for the purpose of discussion of the provisions of this ordinance, including the boundaries of deteriorated areas, the exemption period and the exemption schedule.

WHEREAS, the Tax Compromise Act (72 P.S. § 5551 et seq.), allows taxing authorities, on court approval, to accept less than the total bill due in full satisfaction of the tax debt where the amount owed exceeds either the amount which could be realized at tax sale or amount which could be obtained by enforced collection;

WHEREAS, The Borough of Wilkinsburg Borough Council recognizes its responsibility, when reasonable, to participate in community improvement and economic development activities, in accordance with the LERTA Act and the Tax Compromise Act, and in consideration of the substantial amount of deteriorated property within the Borough, the Borough Council has determined that it may contribute to the enhancement of economic growth and the rejuvenation of the community by providing Tax Base Expansion Tax Relief;

NOW, THEREFORE, in conformity with the LERTA Act and the Tax Compromise Act, the Borough Council for the Borough of Wilkinsburg resolves as follows:

**Section 1. Definitions:** For the purposes of the interpretation and administration of this Ordinance, the following definitions shall apply to the terms used in this Ordinance:

A. **"Business improvement"** means the repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought in compliance with laws, ordinances or regulations governing such standards of industrial, commercial, mixed-use or other business structures which results in a tax assessment increase from the Allegheny County Office of Property Assessments. Ordinary upkeep and maintenance shall not be deemed an improvement.

B. **"Deteriorated business property"** except for any real estate subject to an inter-governmental cooperation agreement, "deteriorated business property" shall mean any industrial, commercial, or other business property owned by an individual, association or corporation, and located in the deteriorated area, 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 of noncompliance with laws, ordinance or regulations.

C. **"Local taxing authority"** means a county, city, borough, incorporated town, township, school district or home rule municipality having authority to levy real property taxes.

D. **"Borough"** means the Borough of Wilkinsburg, located in Allegheny County.

E. **"School District"** means the Wilkinsburg School District, located in Allegheny County.

F. **"Deteriorated areas"** means the entire Borough of Wilkinsburg pursuant to Borough of Wilkinsburg Code, Part II, Chapter 237 - §§47 and 55.

G. **"Joint Committee"** means the Joint Committee on Administrative Process to Reclaim Vacant Properties comprised of the Wilkinsburg Borough Council President, the Wilkinsburg Borough Council Finance Chair, the Wilkinsburg Borough Manager, the Wilkinsburg School District Board President, the Wilkinsburg School District Board Finance Chair, the Wilkinsburg School District Director of Business Affairs and an appointee of Allegheny County, or their respective designees.

**Section 2. Purpose.** In consideration of the substantial amount of deteriorated business property located within its boundaries and its mutual desire to rejuvenate and enhance economic growth in the region, the Wilkinsburg Borough Council has determined that it is in the best interests of its communities that the boundaries within which tax exemption herein provided shall be available should be coterminous with the geographical boundaries of the Borough.

**Section 3. Conditions and Schedule of Temporary Exemption for Business Improvements.** The Borough of Wilkinsburg hereby temporarily exempts from real property taxation the assessment attributable to improvements to deteriorated business property located within the geographical boundaries of the Borough in accordance with the provisions set forth hereinafter. Said temporary exemption is automatically revocable in the event of one of the following: (1) Failure to pay any property tax due on any property within the Borough of Wilkinsburg, in full, within 60 days of becoming due, or (2) Failure to abate a building or housing code violation on any property within the Borough of Wilkinsburg as provided for in the notice of violation, or (3) Willfully or negligently failing to provide accurate information on the application form described in Section 4 herein. There shall be no tax relief of tax on the assessed valuation attributable to land. Temporary tax exemption for such improvements to deteriorated business properties will begin in the tax year following the completion of the improvement and will be provided in accordance with the following schedule:

Year One:	100% of the assessed value of the improvements
Year Two:	90% of the assessed value of the improvements
Year Three:	80% of the assessed value of the improvements
Year Four:	70% of the assessed value of the improvements
Year Five:	60% of the assessed value of the improvements
Year Six:	50% of the assessed value of the improvements
Year Seven:	40% of the assessed value of the improvements
Year Eight:	30% of the assessed value of the improvements
Year Nine:	20% of the assessed value of the improvements
Year Ten:	10% of the assessed value of the improvements
Year Eleven:	No tax exemption shall apply.

After the tenth (10<sup>th</sup>) year immediately following the year upon which the improvement becomes assessable, the exemption shall terminate. To be eligible for temporary tax exemption under this Ordinance, construction of the improvement must commence within one (1) year following the issuance of a building permit for the improvement and such construction must be completed within (2) years following the issuance of a building permit for the improvement. In the event the improvement does not require a building permit, the foregoing time periods shall be measured from the date of commencement of the construction of the improvement.

**Section 4. Temporary Tax Exemption Application Requirements.** Any person, organization, corporation, limited liability company, partnership or association desiring tax exemption pursuant to this Ordinance shall notify the Borough Manager or his/her designee in writing on a form prescribed by the Borough Manager or his/her designee submitted at the time such person, organization, corporation, limited liability company, partnership or association applies for a building permit for the construction of the improvement, or, if no building permit is required then, thirty (30) days prior to the commencement of construction of the improvement. The Borough Manager or his/her designee shall submit said applications to the Joint Committee who will either approve

or reject said application. Applications for temporary tax exemption not submitted to the Borough Manager or his/her designee at the time of applying for a building permit (or, where no permits are required, thirty (30) days prior to the commencement of construction of the improvement) will not be eligible for tax exemption hereunder. The Borough Council for the Borough of Wilkinsburg authorizes the Joint Committee to annually review the Application For Temporary Tax Exemption and make any changes to said Application consistent with the provisions of this Ordinance without a formal vote by Borough Council for the Borough of Wilkinsburg. The application for temporary tax exemption must set forth, at least, the following information:

A. The identity of the deteriorated business property that is to be improved by reference to the adjoining street, road or highway and the block and lot or tax parcel number of the property as designated by the Real Estate Division of Allegheny County;

B. A title report issued within 60 days of application with the identity of the current owner of record, or person or entity having an equitable interest in the deteriorated business property, and any person or entity having a financial interest in either the deteriorated business property or the planned improvement;

C. The date the building permit was issued for the planned improvement(s) or, where no permit is required, the date construction of the improvement commenced or will commence;

D. A summary of the plan of improvement and financing of the deteriorated business property;

E. An estimate of the cost of the planned improvement;

F. The date of the last assessment and documentation of the last assessed value; and

G. Such other and additional information as may be required to determine eligibility for the exemption by the Borough Manager or his/her designee or the Joint Committee.

**Section 5. Processing of Application for Temporary Tax Exemption.** If the application meets the requirements of this Ordinance and upon approval of the application by the Joint Committee, a copy of the application shall be forwarded to the Office of Property Assessment of Allegheny County and the applicant shall be notified of such action. Upon completion of the construction of the improvement, the applicant must promptly notify the Office of Property Assessment of Allegheny County so that an inspection of the improvement may be made. When the Office of Property Assessment has completed its inspection, such agency shall assess separately the improvement and the land, shall calculate the amounts of the assessment eligible for tax exemption in accordance with the limits of this Ordinance and shall notify the applicant and the

Wilkinsburg Borough Business Manager of the same. Abatement shall begin in the tax year following the completion of the improvement.

**Section 6. Exemption Upon Property.** The exemption from taxes authorized by this Ordinance shall be upon the property exempted and shall not terminate upon the sale, conveyance, bequest or other alienation of such property.

**Section 7. Tax Compromise Application Requirements.** Any person, organization, corporation, limited liability company, partnership or association desiring tax compromise shall notify the Borough Manager or his/her designee in writing via a form provided by the Borough Manager or his/her designee to be submitted 90 days prior to filing a petition for tax compromise. If the applicant for tax compromise fails to submit this form in compliance with the instructions herein then applicant will be ineligible for tax compromise. The Borough Manager or his/her designee shall submit this application to the Joint Committee who will either approve or reject this application. The petition for tax compromise will be automatically withdrawn in the event of one of the following: (1) Failure to pay any property tax due on any property within the Borough of Wilkinsburg, in full, within 60 days of becoming due, or (2) Failure to abate a building or housing code violation on any property within the Borough of Wilkinsburg as provided for in the notice of violation, or (3) Willfully or negligently failing to provide accurate information on the application form described in Section 7 herein. The Borough Council for the Borough of Wilkinsburg authorizes the Joint Committee to annually review the Application For Tax Compromise and make any changes to said Application consistent with the provisions of this Ordinance without a formal vote by Borough Council for the Borough of Wilkinsburg. The application for tax compromise must set forth, at least, the following information:

A. The identity of the property to be tax compromised, by reference to the adjoining street, road or highway and the block and lot or tax parcel identification number of the property as designated by the Real Estate Division of Allegheny County;

B. A title report issued within 60 days of application with the identity of the current owner of record, or person or entity having an equitable interest in the property, and any person or entity having any financial interest in either the property or the planned improvement;

C. The estimated date applicant will begin improvements;

D. A summary of the plan of improvement and financing of the property;

E. An estimate of the cost of the planned improvement;

F. The date of the last assessment and documentation of the last assessed value;

G. An affidavit of non-collusion on a form provided by the Borough;

H. An appraisal of the fair market value of the property(ies) to be tax compromised. The appraiser conducting such appraisal must be approved in advance and in writing by the Borough Manager or his/her designee;

I. A verifiable sales agreement with the notarized signature of the party authorized to convey the property(ies); and,

J. Such other and additional information as may be required to determine eligibility for the exemption by the Borough Manager or his/her designee or the Joint Committee.

**Section 8. Processing of Application for Tax Compromise.** If the application meets the requirements of all applicable laws and upon approval of the application by the Joint Committee, then the Borough Manager or his/her designee shall cause a petition for tax compromise to be filed on behalf of the property identified herein. **WILKINSBURG BOROUGH AND SCHOOL DISTRICT CANNOT PROMISE OR GUARANTEE THE OUTCOME OF SAID PETITION FOR TAX COMPROMISE BECAUSE SAID DECISIONS ARE CONTINGENT UPON THE APPROVAL OF THE ALLEGHENY COUNTY COURT OF COMMON PLEAS TO ACCEPT LESS THAN THE TOTAL TAXES AND/OR PENALTIES DUE IN FULL SATISFACTION OF THE TAX DEBT WHERE THE AMOUNT OWED EXCEEDS EITHER THE AMOUNT WHICH COULD BE REALIZED AT TAX SALE OR AMOUNT WHICH COULD BE OBTAINED BY ENFORCED COLLECTION.** The applicant shall pay with the submission of the application described herein, an application fee of \$2,500. This application fee must be paid in the form of a certified check, cashier's check or money order payable to The Borough Of Wilkinsburg. This application fee shall be applied toward all court, attorney and other fees associated with the tax compromise process requested herein. Applicant is responsible for all court, attorney and other fees associated with the tax compromise process requested herein. In the event the application fee does not cover all of these costs, the applicant shall be billed by the Borough accordingly.

**Section 9. Contingency.** This Ordinance shall become effective contingent upon the adoption of similar tax relief ordinance by the Borough of Wilkinsburg.

**Section 10. Term and Repeal.** The provisions of this Ordinance shall continue in full force and effect unless terminated by the Borough Council for the Borough of Wilkinsburg. The repeal of this Ordinance shall not affect any completed application for exemption received by the Wilkinsburg Borough Manager before the effective date of repeal, as to which the terms of this Ordinance shall continue to apply.

**Section 11. Repeal of Inconsistent Ordinances.** Any Borough of Wilkinsburg ordinance or part of a Borough of Wilkinsburg ordinance in conflict with this Ordinance is hereby repealed insofar as it is in conflict herewith.

**Section 12. Miscellaneous.** The following miscellaneous provisions shall be applicable:

A. The Borough Council for the Borough of Wilkinsburg may condition or restrict approval of any tax relief as permitted by law.

B. Where any such condition or restriction is imposed, the taxpayer receiving such tax relief shall comply with any such condition or restriction and shall provide documentation of compliance at least annually and upon such other reasonable request by the School District. Should the taxpayer fail to comply, the School District reserves the right to terminate the taxpayer's tax relief.

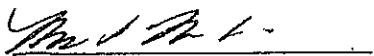
C. In the event of any local agency hearings before the Joint Committee, should the Applicant desire that a stenographic record be made of any proceedings, Applicant shall be responsible for the payment of any and all costs associated with the same. Where costs are anticipated to be incurred on behalf of Applicant, Applicant shall be required to deposit with the Borough Manager in advance an amount reasonably anticipated to be incurred. Should the deposit exceed the costs actually incurred, Borough Manager shall refund any excess. Should the deposit not be sufficient Borough Manager shall promptly notify Applicant and Applicant shall immediately pay the excess amount due in advance of any further proceedings.

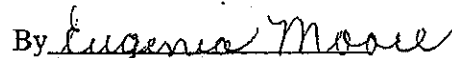
BE IT ORDAINED AND ADOPTED by the Borough Council of the Borough of Wilkinsburg and it is HEREBY ORDAINED AND ADOPTED by authority of the same:

ORDAINED BY THE BOROUGH COUNCIL ON THIS 4<sup>th</sup> DAY OF MARCH, 2009.

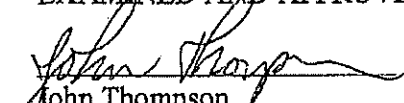
ATTEST:

BOROUGH OF WILKINSBURG

  
Marla P. Marcinko  
Borough Manager/Secretary

By   
Eugenia Moore  
Council President

EXAMINED AND APPROVED ON THIS 4<sup>th</sup> DAY OF MARCH, 2009.

  
John Thompson  
Mayor