

**COUNTY OF LEHIGH, PENNSYLVANIA
COMMISSIONERS BILL 2016-09
SPONSORED BY COMMISSIONER NOTHSTEIN
REQUESTED DATE: MAY 16, 2016
ORDINANCE NO. 2016 -**

**RENEWING THE MILLAGE FREEZE FOR ELIGIBLE OPEN SPACE
PROPERTY**

WHEREAS, the Pennsylvania General Assembly passed Act 4 of 2006, which amended the Open Space Lands legislation, P.L. 992 of 1967, 32 P.S. §5001 et seq.; and

WHEREAS, Act 4 permits local governments to exempt certain categories of open space or preserved real property from future millage increases; and

WHEREAS, by Ordinance 2006-164 the County of Lehigh enacted this millage freeze for real property eligible under Act 4; and

WHEREAS, the provisions of Ordinance 2006-164 automatically expire after a period of ten (10) years, unless specifically renewed; and

WHEREAS, in order for the millage freeze to take effect, all municipalities in the taxing district must impose the freeze; and

WHEREAS, because the County of Lehigh has always recognized the importance of preserving open space, including farmland preservation, it wishes to extend the millage freeze for an additional ten (10) years.

**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED
BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH,
PENNSYLVANIA, THAT:**

1. The following categories of real property are hereby exempted from

further millage increases:

- a. Real property in which the open space property interests have been acquired by a local government unit in accordance with the Open Space Lands legislation, 32 P.S. §5001 et seq.;
- b. Real property that is subject to an easement acquired in accordance with the Act of June 30, 1981 (P.L. 128, No.43), known as the "Agricultural Area Security Law" 3 P.S. §901 et seq.; and
- c. Real property from which the transferable development rights (TDR's) have been transferred and retired by a local government unit without their development potential having occurred on other lands.

2. This exemption from further millage increases shall apply to a taxing district only if all municipalities and school districts in the taxing district impose a millage freeze, and shall be authorized only for real property qualifying for such exemption under the provisions of section 2(b) (1) of Article VIII of the Constitution of Pennsylvania.

3. This millage freeze shall apply to all eligible real property, whether the real property met the criteria of this Ordinance prior to or subsequent to the date of the ordinances and resolutions imposing the millage freeze. For prior acquisitions, the date on which the millage rate shall be frozen is the date that the last of the required ordinances and resolutions becomes effective. For subsequent acquisitions, the date on which the millage rate shall be frozen is the date the local government unit, including Lehigh County, completes the acquisition.

4. The governing body of each taxing district shall give prompt written notice to the County of Lehigh of the exact amount of the millage, the date it was frozen and each parcel to which the freeze applies.

5. This millage freeze shall not affect the rates of taxation for Lehigh County property taxes for 2016.

6. This Ordinance shall become effective only if the governing body of each taxing district that imposes a tax on real property approves the exemption either by ordinance in the case of a municipal corporation or resolution in the case of a school district, and then the effective date shall be the later of either the effective date of the resolutions or ordinances, or ten (10) days after enactment of this Ordinance.

7. If a landowner changes the use of any tract of land subject to the millage freeze under this Ordinance to one which is inconsistent with the provisions of the Agriculture Area Security Law, or for any other reason the land is removed from a land use category under paragraph 1, except for a condemnation of the land, the land so removed and the entire tract of which it was a part shall be subject to roll-back taxes plus interest at the rate of six percent (6%) per annum. Roll-back taxes shall be calculated by the County Fiscal Officer, based on an amount equal to the difference between the taxes paid or payable on the basis of the millage as frozen and the taxes that would have been paid or payable during the period of the millage freeze or since the tax year of the date of acquisition, whichever is less, had the millage not been frozen. The unpaid taxes required to be repaid under this section shall act as a lien upon the property, collectible in the manner provided by law for the collection of delinquent taxes.

8. The provisions of this Ordinance shall remain in effect for a period of ten (10) years, after which they shall expire unless specifically renewed. Upon expiration, any property subject to the millage freeze will be subject to the millage rate then in effect

for Lehigh County.

9. Nothing contained herein shall be interpreted to preclude a decrease in the applicable millage rate for property subject to the millage freeze in the event that the millage rate County-wide is decreased.

10. The provisions of this Ordinance are severable. If any provisions of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or application of this Ordinance.

11. The proper officers and other personnel of Lehigh County are hereby authorized and empowered to take all such further action, including any necessary transfers of funds, and execute additional documents as they may deem appropriate to carry out the purpose of this Ordinance.

12. The County Executive shall distribute copies of this Ordinance to the proper officers and other personnel of Lehigh County whose further action is required to achieve the purpose of this Ordinance.

13. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

ADOPTED this _____ day of _____, 2016 by the
following vote:

Commissioners

AYE

NAY

Geoff Brace
Thomas C. Creighton, III
Percy H. Dougherty
Dan Hartzell
Amanda Holt
David S. Jones, Sr.
Marty Nothstein
Brad Osborne
Michael P. Schware

ATTEST: _____
Clerk to the Board of Commissioners

APPROVED this _____ day of _____, 2016.

Thomas S. Muller
Lehigh County Executive

ENACTED this _____ day of _____, 2016.