

Borough of Stroudsburg



ORDINANCE NO. - 2020

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF STROUDSBURG BY ADDING A PART 6, LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE, TO CHAPTER 24 TAXATION; PROVIDING FOR REAL ESTATE TAX EXEMPTION FOR NEW CONSTRUCTION AND IMPROVEMENTS TO DETERIORATED PROPERTY PURSUANT TO THE PENNSYLVANIA LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE ACT AND ESTABLISHING STANDARDS AND QUALIFICATIONS FOR OBTAINING SUCH EXEMPTION

Comment [r1]: Changed to Chapter 24 for Stroudsburg Ordinance Code.

WHEREAS, the Stroudsburg Borough Council (“Council”) adopted a comprehensive compilation of ordinances entitled the “Code of the Borough of Stroudsburg” (the “Code”); and

WHEREAS, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

WHEREAS, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

WHEREAS, Section 3301.1 (a) of the Pennsylvania Borough Code (Title 8 Pa. C.S.A. § 3301.1(a) authorizes the Council to make and adopt ordinances deemed beneficial to the Borough including, but not limited to Tax Ordinances, and ordinances intended to maintain the health and welfare of the Borough and its citizens; and

WHEREAS, the Pennsylvania Local Economic Revitalization Tax Assistance Act, Act of Dec. 1, 1977, P.L. 237, No. 76, as amended by the Act of July 13, 1988, P.L. 518, No. 90, found at 72 P.S. §4722 *et seq.*, referred to as “LERTA”, authorizes local taxing authorities to provide property tax exemptions for improvements to certain deteriorated industrial, commercial, and other business properties and for new construction in deteriorated areas of economically depressed communities; and

WHEREAS, Stroudsburg Borough is a local taxing authority and municipal governing body pursuant to LERTA; and

WHEREAS, the Council desires to encourage new residential, industrial, commercial, and business development in deteriorated areas through the use of tax exemptions; and

WHEREAS, the United States Treasury Department, through the Treasury Department's Bureau of Internal Revenue designated all census tracts within the Borough of Stroudsburg as a Qualified Opportunity Zone for purposes of establishing a basis for taxpayer investment and exclusion of certain gain from an investment as set forth in greater detail under the Internal Revenue Code at §1400Z and certain rule making by the IRS; and

WHEREAS, the Borough of Stroudsburg, for purposes of this Qualified Opportunity Zone investment election is considered "Economically Distressed;" that is experiencing economic decline or difficulty; and

WHEREAS, the Council finds that the Borough's designation is a Qualified Opportunity Zone, combined with the Borough's authority to enact this LERTA Ordinance can stimulate investment in the Borough and benefit the Borough and its citizens; and

WHEREAS, the Council conducted a public hearing, after due advertisement, for purposes of determining the boundaries of the area(s) to be designated a "deteriorated area", in which such tax exemptions may be granted by local taxing authorities; and

WHEREAS, based upon testimony elicited at the public hearing, the Council finds that there are eligible deteriorated areas within the Borough and the Borough itself which will benefit from exemptions afforded by LERTA; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Stroudsburg Borough Council, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1: AMENDMENT TO THE STROUDSBURG BOROUGH CODE

The Stroudsburg Borough Code is hereby amended by adding Part 6 to Chapter 24, Local Economic Revitalization Tax Assistance, to Chapter 24, Taxation, as stated in its entirety in Exhibit "A" attached hereto, which Exhibit "A" is incorporated by reference, as though more fully set forth.

Comment [r2]: Needs to be changed – no Articles were added. Part 2 of Chapter 24 of Borough of Stroudsburg Code was amended.

Comment [r3]: Changed to Sburg Borough Tax Chapter.

SECTION 2: SEVERABILITY.

The provisions of this Ordinance are severable, and in the event that any provision is held invalid, void, illegal, unconstitutional or unenforceable, it is the intent of the Council that such determination by the Court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Council that this Ordinance would have been enacted if any provision subsequently declared to be void, invalid, illegal, unconstitutional, or unenforceable had not been included at the time of enactment.

SECTION 3: REPEALER.

All ordinances or parts of ordinances and all resolutions or parts of resolutions that are inconsistent with this Ordinance are hereby repealed; provided, however, nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Borough, or to affect any cause of action, existing prior to the enactment of this Ordinance.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall become effective immediately in accordance with the Pennsylvania Borough Code.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Council of Stroudsburg Borough, Monroe County, Pennsylvania this _____ day of _____, 2020.

BOROUGH OF STROUDSBURG

ATTEST:

By: _____
Anthony Lanfrank, President of Council

Brian Ace, Borough Manager

By: _____
Tara Probst
Mayor

EXHIBIT “A” TO ORDINANCE
(SEE ATTACHED)

DRAFT

ARTICLE IV

Local Economic Revitalization Tax Assistance

§24-610. Short Title.

This article shall be known as, and may be cited as, the “Stroudsburg Borough LERTA Ordinance,” as amended from time to time.

Comment [r4]: Changed – new section under Part 2 of Chpt. 24

§24-611. Authority.

This article is enacted under the authority of the Pennsylvania Local Economic Revitalization Tax Assistance Act (“LERTA”), Act No. 1977-76, as amended. It is declared that enactment of this article, and the provisions hereof, are necessary for the protection, benefit and preservation of the health, safety, and welfare of the inhabitants of Stroudsburg Borough.

Comment [r5]: Changed – new section under Part 2 of Chpt. 24

§24-612. Definitions.

The following words and phrases, when used in this article, shall have the meanings described to them in this section, except where the context of language clearly indicates or requires a different meaning.

Comment [r6]: Changed – new section under Part 2 of Chpt. 24

“ACT” OR “LERTA” – shall mean Local Economic Revitalization Tax Assistance Act of the Commonwealth, Act No. 1977-76, as amended and supplemented.

COMMONWEALTH – The Commonwealth of Pennsylvania.

COUNTY – The County of Monroe, Pennsylvania, acting by and through its Council of County Commissioners, or, in appropriate cases, acting by and through its authorized representatives.

DETERIORATED AREA – The area or areas within the Borough of Stroudsburg identified in §24-613 of this Article.

Comment [r7]: Changed – new section under Chpt. 24 part 2 defined below.

ELIGIBLE PROPERTY – Any property located in the Deteriorated Area(s), as hereinafter provided.

IMPROVEMENT – Repair, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating an Eligible Property so that 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. Ordinary upkeep and maintenance shall not be deemed improvement.

LOCAL TAXING AUTHORITIES – The Borough of Stroudsburg, Stroudsburg Area School District, and Monroe County.

SCHOOL DISTRICT – Stroudsburg Area School District, Monroe County, Pennsylvania, acting by and through its Council of School Directors, or, in appropriate cases, acting by and through its authorized representatives.

BOROUGH – Borough of Stroudsburg, Monroe County, Pennsylvania, acting by and through its Council of Supervisors or, in appropriate cases, acting by and through its authorized representatives.

§24-613. Designation of Deteriorated Area(s).

Comment [r8]: Changed – new section under Chpt. 24 Part 2.

A. This Borough hereby designates all parcels of land within the Borough boundary, not otherwise exempt from real estate taxation as a “Deteriorated Area”, within the meaning of LERTA, and one in which the Local Taxing Authorities may grant a tax exemption pursuant to the provisions of the Act and this Ordinance.

B. Persons undertaking new construction or making improvements to Eligible Properties in the Deteriorated Area may apply for, and the Monroe County Assessment Office may grant real estate tax exemption upon such new construction and improvements in the amount and in the manner hereinafter provided.

§24-614. Exemptions.

Comment [r9]: Changed – new section under Chpt. 24 Part 2.

A. There is hereby exempted from all real property taxation of this Local Taxing Authority that portion of the additional assessment attributable to the actual cost of new construction upon, or improvements to, Eligible Property for which proper Application has been made in accordance with this Ordinance, subject to the limitations hereinafter set forth.

B. The exemption authorized by this Ordinance shall be in accordance with the provisions and limitations hereinafter set forth.

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

D. The length of the schedule for taxes exempted shall not exceed ten (10) years.

E. The schedule of real property taxes to be exempted shall be in accordance with the following percentage of the assessed valuation of new construction or improvements to the Eligible Property:

Tax Year(s) Following Completion	Exempt Portion of Assessed Valuation
1	100%
2	90%
3	80%
4	70%
5	60%
6	50%
7	40%

8	30%
9	20%
10	10%

F. The exemption for new construction or improvements to an Eligible Property shall commence in the tax year immediately following the year in which the new construction or improvement is completed.

G. Any person who desires an exemption, as allowed by this Ordinance, shall notify the Local Taxing Authorities in writing on a form provided by the Local Taxing Authorities. This notification must be submitted at the time of securing the building permit, or if no building permit or other notification of improvement is required, then at the time of commencing construction. A copy of the exemption request shall be forwarded to the Monroe County Assessment Office. The said Assessment Office shall, after completion of the new construction or improvement, assess separately the new construction or improvement and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by the Local Taxing Authorities and notify the taxpayer and the Local Taxing Authorities of the re-assessment and amounts of the assessment eligible for exemption.

H. Appeals from the reassessment and the amounts eligible for exemption may be taken by the taxpayer or the Local Taxing Authorities, as provided by law.

I. 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 the ordinance, if any, shall not apply to requests initiated prior to their adoption.

§24-615. Exclusions and Revocation.

A. This Ordinance and the tax exemptions granted herein shall not apply and shall not be available where any of the following occur:

- (1) the property owner does not secure the necessary and proper permits prior to improving, or undertaking new construction to, the property; or
- (2) the property, as completed, does not comply with the minimum standards of the law, ordinances, regulations, resolutions, and codes of the Borough; or
- (3) according to the laws, ordinances, regulations, resolutions, and codes of the Borough, the use for which the property is made is a non-conforming use, or the property contains a non-conforming use; or
- (4) the property owner fails to comply with the provisions of this Ordinance.

B. The exemption from real estate taxes provided herein shall be forfeited by the Applicant and/or any subsequent owner of the real estate for failure to pay any nonexempt real estate taxes on any property under the jurisdiction of the Local Taxing Authorities by the last

Comment [r10]: Changed – new section under Chpt. 24 Part 2.

day of the time period to pay such taxes in the penalty period pursuant to law. Upon receipt of notice of nonpayment of nonexempt real estate taxes, the Borough shall discontinue the LERTA exemption and shall notify the Monroe County Assessment Office of such discontinuance.

C. In any case, after the effective date of this article, where an Eligible Property 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 article shall be limited to that portion of new assessment attributable to the actual cost of improvements or construction that is in excess of the original assessment that existed prior to damage, destruction, or demolition of the property.