

ORDINANCE NO. 1-2004

**LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE
ORDINANCE
(LERTA)
BY THE COUNTY OF WARREN, COMMONWEALTH OF
PENNSYLVANIA**

WHEREAS, the provisions of the Local Economic Revitalization Tax Assistance Act (hereinafter referred to as "LERTA"), Act of December 1, 1977, P.L. 237, No. 76, 72 P.S. § 4722, et seq., authorize a local taxing authority to exempt from real property taxation the assessed valuation of the improvements to deteriorated properties; and

WHEREAS, certain townships, boroughs, and city situated within Warren County have declared, and in the future may declare, certain areas of their respective jurisdictions as deteriorated properties within the meaning of LERTA; and

WHEREAS, the Warren County Commissioners, after study and review, have decided that it would be in the best interest of the County to provide tax relief as authorized by LERTA to lands situated within the political boundary of Warren County, and which lands are determined by its townships, boroughs, and city situated within the jurisdiction to be deteriorated areas as hereinafter defined.

NOW, THEREFORE, be it enacted and ordained by the Warren County Commissioners, and it is hereby **ENACTED AND ORDAINED** as follows:

SECTION 1 - DEFINITIONS:

Definitions used in this Ordinance shall be as follows:

- A. "Deteriorated Property: - Any industrial or commercial property owned by an

individual, association or corporation, and located in a deteriorating area, as hereinafter provided, 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 non-compliance with laws, ordinance or regulations.

B. "Deteriorating Areas" - All of those areas situate within the jurisdiction of Warren County, which areas are now or in the future determined to be deteriorating areas by the respective local municipalities (including townships of the Second Class, boroughs, and the city), and which said deteriorating areas have been set forth in resolutions or ordinances duly adopted by said local municipalities.

C. "Improvement" - Repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a Deteriorated Property so that it 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 an improvement.

D. "Industrial Property or Use" - A property or structure used primarily for the manufacture of a product for sale.

E. "Commercial Property or Use" - A property or structure used primarily for the offering of merchandise or services for sale.

F. "Local Taxing Authority" – Warren County.

SECTION 2 - EXEMPTIONS:

There is hereby exempted from real property taxation the assessed valuation of improvement to Deteriorated Properties in the amounts and in accordance with the provisions and limitations set forth in Sections 4 and 5.

SECTION 3 - ELIGIBILITY:

A. Consideration for exemption shall be limited to Deteriorated Property only. All other properties shall be deemed ineligible.

B. An improvement shall be eligible for the exemption only if the improvement is devoted to or useful in association with the industrial or commercial use of the property, and only if the principal use of the property (together with all improvements) exceeds fifty-one percent (51%) industrial usage in the case of industrial property, and fifty-one percent (51%) commercial use in the case of commercial property. In the event that a property is used for both commercial usage and industrial usage, then said property shall be eligible for the exemption provided that the combined industrial and commercial usage of the property exceeds fifty-one percent (51%) of the overall usage of the property.

C. In addition to all other provisions bearing on the eligibility of any particular property for exemption under this Ordinance, no such property shall be deemed eligible for exemption unless it is situated within a municipality with a valid Lerta Ordinance (including amendments thereto) that had been approved by resolution of the Board of County Commissioners.

D. The exemption from real estate taxes shall be limited to the portion of the additional assessment attributable to the actual cost of improvements to the Deteriorating Property.

E. In all cases, the exemption from taxes shall be limited to the portion of the additional assessment attributable to the improvements or construction, as the case may be, and for which a separate assessment has been made by the County Board of Assessment and for which an exemption has been separately requested.

F. After the effective date of this Ordinance, where Deteriorated 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 the said damage, destruction, or demolition, the exemption from real property taxation authorized by this Ordinance shall be limited to that portion of the new assessment attributable to the actual cost of improvement that is in excess of the original assessment that existed prior to damage, destruction, or demolition of the property.

G. No tax exemption shall be granted if:

1. The property owner does not secure the necessary and proper permits prior to improving the property; or
2. The property as completed does not comply with the minimum standards of applicable zoning or subdivision regulations; or
3. The property is in violation of any applicable law, regulation, or ordinance.

SECTION 4 - EXEMPTION SCHEDULE:

The schedule for exemption of taxes to be exempted shall be as follows: for the first five (5) years during which the improvement becomes assessable, 100% of the eligible assessment shall be exempted, thereafter 0% shall be exempted.

SECTION 5 - SALE OF PROPERTY:

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

SECTION 6 - PROCEDURE FOR OBTAINING EXEMPTION:

A. Application shall be made prior to the commencement of construction. The application must be in writing on an authorized form specified by the Municipality's building and/or zoning permitting agency or by the Municipality's designee, setting forth the following:

1. The date the building permit was issued for such improvement (if already issued) with projected completion date of improvement;
2. The location of the property to be improved;
3. The nature of the property to be improved;
4. The type of improvements;
5. The summary plan of improvements;
6. The cost of the improvements;

7. Whether the property has been condemned or the subject of any similar action by a governmental body for non-compliance with laws or regulations;

8. Whether the property has been inspected and verified with such additional information as the Municipality may require;

9. There shall be in the application form for a building and/or zoning permit Ordinance the following Notice:

“Notice to Taxpayer” - You may be entitled to exemption from tax on your contemplated improvement of new construction, as the case may be, by reassessment. An application for exemption may be secured from the (name of permitting agency) and must be filed at the time the building and/or zoning permit is issued.

A copy of the application form shall be forwarded to the Warren County Board of Assessment. Thereafter, the Warren County Board of Assessment shall, after completion of the improvement, assess the improvement separately, calculate the amounts of the assessment eligible for tax exemption and in accordance with the limits established in this Ordinance notify the taxpayer, the Municipality, and the Warren County Commissioners about the reassessment and the amounts of the assessment eligible for exemption. Appeals from the reassessment and the amounts eligible for exemption may be taken by the taxpayer, by the Municipality, or by the Warren County Commissioners, as provided by law.

B. If a LERTA exemption is granted pursuant to this Ordinance the exemption shall commence in the tax year immediately following the year in which the construction is completed.

C. The governing body of the Municipality may establish regulations providing for guidelines and procedures to implement this Ordinance.

SECTION 7 - CHANGE OF USE PROVISIONS:

When, following the reassessment and the determination of the amount of the assessment eligible for exemption, the use of the Deteriorated Property shall change such that the principal use of the property (together with the improvements) shall fall below fifty-one percent (51%) commercial or industrial usage, then the following shall occur:

A. The exemption shall cease to be effective for the tax year in which the use of the deteriorated property shall have so changed, and the difference between the assessment between the taxes paid or payable on the basis of the valuation with the exemption and the taxes that would have been paid or payable had the land been valued, assessed and taxed without the exemption, shall be hereinafter referred to as the "roll-back taxes".

B. The roll-back tax may be collected by the Local Taxing Authority, together with interest thereon at the rate of six percent (6%) per annum. Unpaid roll-back taxes shall be a lien upon the property collectible in the manner provided by law for the collection of delinquent taxes. Roll-back taxes shall become due on the date of change of use, and shall be paid by the owner of the land at the time of change in use to the County Treasurer or to the Tax Claim Bureau, as the case may be, whose responsibility it shall be to make proper distribution of the taxes and interest to the Local Taxing Authority wherein the property is located.

C. The property owner shall give written notice of the change of use to the Local Taxing Authority within twenty (20) days of said change of use.

D. Appeals from the imposition of the roll-back tax may be taken by the taxpayer, by the Municipality or by the Warren County Commissioners, as provided by law.

SECTION 8 - PENALTY:

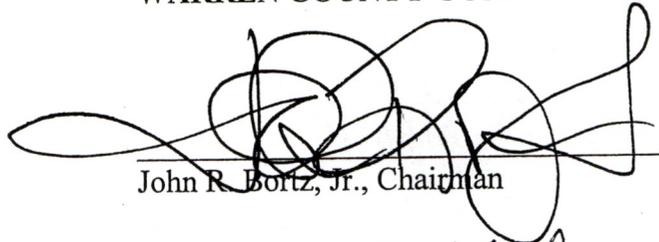
Any person violating any provision of this Ordinance shall, upon determination of the civil violation, be required to pay a fine of not less than THREE HUNDRED DOLLARS (\$300.00) and no more than SIX HUNDRED DOLLARS (\$600.00) for each violation. Any person who violates or permits the violation of this Ordinance shall, in addition to the payment of the fine, and where permitted by law, be obligated to pay all court costs, including reasonable attorneys' fees, incurred by the Local Taxing Authority. Each week that a violation exists shall constitute a separate violation.

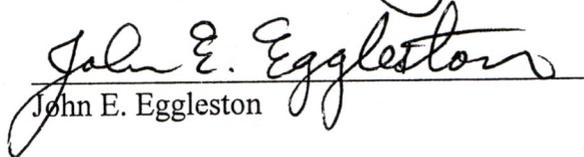
SECTION 9 - SEVERABILITY:

If any section, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ORDAINED AND ENACTED by the Warren County Commissioners, this 12th day of May, 2004.

WARREN COUNTY COMMISSIONERS


_____- (Seal)
John R. Bortz, Jr., Chairman


_____- (Seal)
John E. Eggleston


_____- (Seal)
David A. Bauer

ATTEST: (Seal)



Diane C. Bloomgren
Chief Clerk

