

**BEFORE THE BOROUGH COUNCIL OF THE BOROUGH OF EMMAUS
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1267

**AN ORDINANCE OF THE BOROUGH OF EMMAUS, LEHIGH COUNTY, PENNSYLVANIA,
AMENDING CHAPTER 24 OF THE CODE OF THE BOROUGH OF EMMAUS, BY ADDING A PART 6:
LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE; 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**

WHEREAS, the Emmaus Borough Council ("Council") adopted a comprehensive compilation of ordinances entitled the "Code of Ordinances, Borough of Emmaus" (the "Code") for the usage of the Borough of Emmaus (the "Borough"); 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 use properties and for new construction in deteriorated areas of economically depressed communities; and

WHEREAS, Emmaus 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 use 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 Emmaus 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 Emmaus, 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 hereby **ORDAINED and ENACTED** that the Council of the Borough of Emmaus hereby amends Chapter 24: Special Taxation of the Borough of Emmaus Consolidated Code of Ordinances to establish and add Part 6: Local Economic Revitalization Tax Assistance with the following provisions:

SECTION 1: AMENDMENT TO THE EMMAUS BOROUGH CODE

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

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.

LOCAL TAXING AUTHORITIES – The Borough of Emmaus, East Penn School District, and, Lehigh County.

SCHOOL DISTRICT – East Penn School District, Lehigh County, Pennsylvania, acting by and through its Board of School Directors, or, in appropriate cases, acting by and through its authorized representatives.

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

§24-604. Designation of Deteriorated Area(s).

A. The Borough hereby designates any industrial, commercial, or other business use property owned by an individual, association, or corporation, as Deteriorated Area and subject to LERTA, including, without limitation, 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, ordinances, or regulations. "Deteriorated Property" is not intended to include any residential property, whether single-family or multifamily or whether used for that purpose.

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

§24-605. Exemptions.

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, except as hereinafter designated.

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	80%
3	60%
4	40%
5	20%

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 Lehigh County Assessment Office by the Local Taxing Authorities. 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.

§ 24-606 Procedure for Obtaining Exemption.

A. An application for exemption may be secured from the Borough, 28 S. 4th Street Emmaus, PA 18049, and must be filed with the Borough at the time a building or alteration permit is secured or, if no building or alteration permit is required, then at the time that construction commences.

B. The Application will be reviewed by Borough Staff, submitted for review to the Planning Commission within thirty (30) days of the receipt, and upon recommendation of the Planning Commission of such application it shall then be submitted to Borough Council for approval at the next applicable meeting. Approval shall be determined based upon the Applicant showing that the proposed Eligible Property complies with the requirements of this Ordinance.

C. At the time a building or alteration permit is secured for the construction of an improvement for which an exemption is requested or at the time construction commences if no permit is required, the taxpayer shall apply to the Borough for the exemption provided for in this Part. Request for the exemption must be in writing certified in full setting forth the following information:

1. The date the building permit or alteration permit was issued for said improvements.
2. The location of the property to be improved.
3. The nature of the property to be improved.
4. The type of improvement.
5. The summary of the plan of the improvement.
6. The cost of the improvement incurred by the owner.
7. Any and all additional information the Borough may require.

D. A copy of the application for exemption shall be forwarded to the Lehigh County Board of Assessment Appeals (the Lehigh County Tax Assessor) by the Borough. Upon completion of the improvements, the taxpayer shall notify the Borough and the Lehigh County Tax Assessor, so that the Lehigh County Tax Assessor can assess the improvements separately for the purpose of calculating the amount of assessment eligible for tax exemption in accordance with the limits established in this Part. The Borough will then obtain from the Lehigh County Tax Assessor the amount of the assessment eligible for exemption and will notify the taxpayer. Appeals from the assessments and the amount eligible for the exemption may be taken by the taxpayer or the Borough as provided by law. However, after the initial assessment, the applicant waives the right to appeal the assessment for the term of the program or exemption.

E. The Borough may, by ordinance adopted from time to time, extend the time for filing an application for exemption. However, in no event shall any one extension period exceed three years.

F. No tax exemption shall be granted if the property owner does not secure the necessary and proper permits prior to making an improvement to the property.

G. No tax exemption shall be granted for any property which has outstanding any notice of violation, citation, or similar notice of violation of any Borough Building Code unless such violation is to be remedied in connection with the work constituting the improvement.

§24-607. 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 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 Lehigh 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.

EXHIBIT "A"

Local Economic Revitalization Tax Assistance

§24-601. Short Title.

This article shall be known as, and may be cited as, the "Emmaus Borough LERTA Ordinance," as amended from time to time.

§24-602. Authority.

This article is enacted under the authority of the Pennsylvania Local Economic Revitalization Tax Assistance Act ("LERTA"), Act 76 of 1977, 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 Emmaus Borough.

§24-603. 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.

"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 Lehigh, 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 Emmaus identified in §24-604 of this Article.

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

IMPROVEMENT – Repair, construction or reconstruction, including alterations and additions, and including new construction, having the effect of rehabilitating a deteriorated property and one of the following: 1) it attains higher standards of safety, health, economic use, or amenity; or 2) is brought into compliance with laws, ordinances, or regulations governing such standards. In connection with any property used in part for an industrial, commercial, or other business use and, in part, for a residential use, only the improvement of the industrial, commercial, or other business use portion of the property shall be eligible for the benefits of this Part.


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 and shall be in effect for a period of five (5) years from the Effective Date.

DULY ADOPTED this 16th day of September, 2024, in lawful session duly assembled.



SHANE M. PEPE
Borough Manager



CHAD BALLIET
Council President

AND NOW, this 16th day of September, 2024, the above Ordinance is hereby **APPROVED** by the Mayor of the Borough of Emmaus in due course.



LEE ANN GILBERT, MAYOR
Borough of Emmaus