

BILL NO. ____ - 2022

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, ENACTING ARTICLE 343 OF THE CODIFIED ORDINANCES ENTITLED LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE – SOUTHSIDE LERTA DISTRICT II

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Article 343 of the Codified Ordinances is hereby enacted as follows:

ARTICLE 343

Local Economic Revitalization Tax Assistance –
Southside LERTA District II

- 343.01 Definitions.
- 343.02 Affordable Housing.
- 343.03 Eligible Exemption Amount.
- 343.04 Exemption Schedule.
- 343.05 Notice to Taxpayers.
- 343.06 Procedure for Obtaining Exemption.
- 343.07 Termination.
- 343.08 Hearing Board.
- 343.09 Rules and Regulations.
- 343.10 Severability.
- 343.11 ~~Contingency~~ Other Local Taxing Authorities.
- 343.12 Default.
- 343.13 Appeal of Default.

CROSS REFERENCE

Article 342 of the Codified Ordinances titled “Local Economic Revitalization Tax Assistance”
Local Economic Revitalization Tax Assistance Act - *See 72 P.S. § 4722 et seq.*

343.01 DEFINITIONS.

(a) As used in this Article, the following words and phrases shall have the meaning set forth below:

- (1) "Affordable housing" means housing in which each and every occupant is paying no more than 30 percent of gross income for housing costs, including utilities.
- (2) "Becomes assessable" means immediately following issuance of the state and local occupancy permits.
- (3) "Deteriorated area" means that area of the City which City Council has so designated in Resolution No. 2022-xxxx, enacted on _____ 2022, (known as the "Southside LERTA District II"), as meeting the criteria of a "designated area" set forth in Section 4(a) of the Local Economic Revitalization Tax Assistance Act, 72 P.S. § 4725(a).
- (4) "Deteriorated property" means any industrial, commercial or other business property owned by an individual, association or corporation, and located in the deteriorating area, as provided by Resolution No. 2022-xxxx, or any such property which has been the subject of an order by the City requiring the unit to be vacated, condemned or demolished by reason of noncompliance with applicable laws, ordinance or regulations. Buildings wherein at least 30% of the usable gross floor area is utilized for industrial, commercial, or business use shall, if otherwise qualified, be considered a "deteriorated property" within this Article.
- (5) "Improvement" means 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 into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.
- (6) "Dwelling unit" means a single habitable living unit occupied by only one "family" (see definition). To be considered a dwelling unit, each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping or cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. A dwelling unit shall not include two or more separate living areas that are completely separated by interior walls so as to prevent interior access from one living area to another.
- (7) "Family" shall mean one or more individuals who are related to each other by blood, marriage or adoption (including persons receiving formal foster care) or up to 5 unrelated individuals who maintain a common household with common cooking facilities and certain rooms in common, and who live within one dwelling unit.
- (8) "Local taxing authority" means the City of Bethlehem, the Bethlehem Area

School District, the County of Northampton, or any other governmental entity having the authority to levy real property taxes within the City of Bethlehem.

- (9) "Municipal governing body" or "the City" means the City of Bethlehem.
- (10) "LERTA" means the Local Economic Revitalization Tax Assistance Act, 72 P.S. § 4722 *et seq.*
- (11) "Delinquent property owner" means a person, whose taxes on any real property with the City are delinquent and in whose name the property is last registered, if registered according to law or, if not registered according to law, the person whose name last appears as an owner of record on a deed or instrument of conveyance recorded in the county office designated for recording. In all other cases, the term means a person in open, peaceable and notorious possession of property as apparent owner or reputed owner of the property.

343.02 AFFORDABLE HOUSING

(a) New construction or improvements made for commercial purposes on a deteriorated property within the deteriorated area consisting of 10 or more dwelling units made solely available for use as dwelling units shall only qualify for tax exemption under this Article where 10% of those dwelling units so-created are set aside and reserved exclusively for affordable housing by qualified persons meeting the requirements of subsection (b) below.

(b) Units set aside for affordable housing by qualified persons shall satisfy the following criteria throughout the exemption period established pursuant to the Exemption Scheduled in Section 343.04:

- (1) Each and every occupant of a designated affordable housing unit shall qualify as a person of low, very low, and extremely low income, or a dependent thereof, as may be determined by the poverty guidelines of the United States Department of Housing and Urban Development then-prevailing.
- (2) Occupants of any affordable housing unit governed by this Article are required to report to the property owner any increases in income or changes in income sources known to them or about which they, upon information received, become aware relating to an occupant of the affordable housing unit within which he or she resides.
- (3) Owners of any affordable housing unit are required take all reasonable measures to ensure any affordable housing unit governed by this Article is

occupied only by individuals who qualify as persons of low, very low, and extremely low income, or a dependent thereof and to report to the Director of the Department of Community and Economic Development any increases in income or changes in income sources known to them or about which they, upon information received, become aware relating to an occupant of the affordable housing unit.

343.03 ELIGIBLE EXEMPTION AMOUNT.

(a) The real estate tax exemption under this Article shall be limited to that new construction or improvement for which an exemption has been requested in the manner set forth below, and for which a separate assessment has been made by the Northampton County Board of Assessment Appeals.

(b) Subject to subsection (c) below, the amount eligible to be exempted from real property taxes on a deteriorated property shall be 100% of the additional assessment attributable to the actual cost of new construction or improvements.

(c) For new construction or improvements subject to Section 343.02 above wherein (1) 10 or more dwelling units are made solely available for use as dwelling units; and (2) 10% of those dwelling units so-created are set aside and reserved exclusively for affordable housing by qualified persons meeting the requirements of Section 343.02(b) above, the amount eligible to be exempted shall equal 100% of the assessment attributable to the actual cost of qualifying new construction or improvements, provided that in the event compliance with the requirements of clauses (1) or (2) of this subsection (c) ceases at any time during the period in which a property is subject to the Exemption Schedule set forth in Section 343.04, the property shall be disqualified from the exemption allowed by this Article retroactive to the date the application for such new construction or improvements shall have been filed with the City of Bethlehem. As a result of such noncompliance, the record owner of the property at the time of such noncompliance shall be liable for payment of 100% of the assessment attributable to the actual cost of the new construction or improvements retroactive to the date that the application for such new construction or improvements shall have been filed with the City of Bethlehem, which amount shall also constitute an immediate lien on said property, together with all charges, expenses, and fees incurred in the collection of any delinquent account, including reasonable attorney fees, and be collectible in the manner provided by law for municipal liens.

(d) The record owner of a property seeking an exemption pursuant to subsection (c) above shall have the option to make a minimum contribution of \$26,350.00 for each unit required to be designated for affordable housing under this Article if such record owner elects not to actually set such unit aside for affordable housing but still desires the exemption allowed by this Article. The record owner shall have the right to exercise this option and pay this contribution only at the time of filing the application for a building permit for the new construction or improvements and shall only be required to pay this contribution one time. The contribution authorized by this subsection (d) shall be held by the City Business Administrator in a segregated interest-bearing fund account designated solely for the purposes of advancing affordable housing throughout the City through a program of low interest loans or forgiveness grants to persons of low, very low, and extremely low income as

may be determined by the poverty guidelines of the United States Department of Housing and Urban Development then-prevailing at the time of distribution of such loans or grants. Money so-collected must be accounted for and expended solely for such purposes within the territorial boundaries of the City of Bethlehem. Such fund shall also be subject to an annual administrative charge of the City associated with the management of the Southside LERTA District II and distributions from the fund, but such annual administrative charges shall not exceed 1% of the contribution made under this subsection (d).

(e) In addition to the provisions of Section 343.09, the Director of the Department of Community and Economic Development is hereby authorized and empowered to promulgate and enforce rules and regulations to implement and/or supplement the prevailing poverty guidelines of the United States Department of Housing and Urban Development to ensure the occupancy of any affordable housing unit by persons of low, very low, and extremely low income, or a dependent thereof.

343.04 EXEMPTION SCHEDULE.

Subject to the conditions, requirements, and limitations set forth in this Article, taxpayers making assessable improvements, including new construction, to a deteriorated property may apply for and may be granted a real estate tax exemption limited to the eligible amount specified in Section 343.03 above subject to the following schedule:

- (a) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (b) For the second year immediately following the date upon which the improvement becomes assessable, 90% of the eligible assessment shall be exempted.
- (c) For the third year immediately following the date upon which the improvement becomes assessable, 80% of the eligible assessment shall be exempted.
- (d) For the fourth year immediately following the date upon which the improvement becomes assessable, 70% of the eligible assessment shall be exempted.
- (e) For the fifth year immediately following the date upon which the improvement becomes assessable, 60% of the eligible assessment shall be exempted.
- (f) For the sixth year immediately following the date upon which the improvement becomes assessable, 50% of the eligible assessment shall be exempted.
- (g) For the seventh year immediately following the date upon which the improvement becomes assessable, 40% of the eligible assessment shall be exempted.
- (h) For the eighth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.
- (i) For the ninth year immediately following the date upon which the improvement

becomes assessable, 20% of the eligible assessment shall be exempted.

- (j) For the tenth year immediately following the date upon which the improvement becomes assessable, 10% of the eligible assessment shall be exempted.
- (k) After the tenth year the exemption shall terminate.
- (l) The exemption from taxes granted under this Article shall be upon the property and shall not terminate upon the sale or exchange of the property.

343.05 NOTICE TO TAXPAYERS.

- (a) There shall be placed on the form application for building, zoning and alteration permits the following:

NOTICE TO TAXPAYERS

Under the provisions of Article 343 of the Codified Ordinances of the City of Bethlehem, you may be entitled to a property tax exemption on your contemplated new construction. An application for exemption may be secured from the City of Bethlehem and must be filed with the City at the time a building permit is secured.

No property is eligible, and no property will remain eligible in the event that an exemption was previously approved, for a property tax exemption under Article 343 if the owner of the property is delinquent on the payment of taxes due on any real estate in the City of Bethlehem.

- (b) At the time a building permit is secured for construction upon a deteriorated property for which an exemption is requested, the taxpayer shall apply to the City for the exemption provided for in this Article. The taxpayer shall be permitted to apply for the exemption provided in this Article up to a period of sixty (60) days from the date a final executed building permit is secured. Request for the exemption must be in writing setting forth the following information:

- (1) The date a final executed building permit was issued for said improvement.
- (2) The type of improvement.
- (3) The summary of the plan of the improvement.
- (4) The cost of the improvement.
- (5) That the property has been inspected and verified by the City of Bethlehem, Bureau of Inspections.
- (6) Any or all such additional information as the City may require.

(c) A taxpayer whose property is subject to the LERTA exemption under this Article shall furnish a copy of this Article to any prospective purchaser of the property by attaching it as an addendum to any offer to purchase or agreement of sale.

343.06 PROCEDURE FOR OBTAINING EXEMPTION.

A copy of the request for exemption shall be forwarded by the City to the Northampton County Board of Assessment Appeals (the “Assessment Appeals Board”) and the Bethlehem Area School District. Upon completion of the new construction or improvement, the taxpayer shall notify the City and the Assessment Appeals Board, so that the Assessment Appeals Board may assess the new construction or improvement separately for the purpose of calculating the amount of assessment eligible for tax exemption in accordance with the limits established in this Article. Upon receipt of notice from the Assessment Appeals Board of the reassessment and the amount of the assessment eligible for exemption, the City shall forward such notice the taxpayer. The City Treasurer is authorized to make refunds, if applicable, only after the Assessment Appeals Board has notified the City Treasurer of its separate assessment upon the new construction or improvement for which an exemption is requested. Appeals from the reassessment and the amount eligible for the exemption may be taken by the taxpayer or the City as provided by law.

343.07 TERMINATION.

(a) No tax exemptions under this Article may be obtained for new construction or improvements for which a building permit application was submitted after December 31, 2027.

(b) No later than the date set forth in subsection (a), the Mayor of the City of Bethlehem shall submit a written report to the Council of the City of Bethlehem which shall inform the Council as to how this Article has been administered, the effects of this Article on the Southside LERTA District II and include any suggestions or recommendations for this Article’s reenactment, modification or repeal.

(c) Nothing contained herein shall act to prohibit the Council of the City of Bethlehem from modifying or repealing this Article or enacting a similar ordinance in the future.

(d) Except in the case of default by a taxpayer in paying all real estate taxes imposed by local taxing authorities by the end of the fiscal year in which such taxes are due on a property qualifying for an exemption under this Article, any property tax exemptions granted under the provisions of this Article shall be permitted to continue according to the Exemption Schedule found in Section 343.04, even if this Article expires or is repealed.

~~In the event a taxpayer fails to pay all such real estate taxes by the end of the fiscal year in which such taxes are due, the taxpayer shall be disqualified from the benefits of this Article beginning in the year during which the default occurred through the end of the applicable Exemption Schedule set forth in 343.04.~~

343.08 HEARING BOARD.

A LERTA Hearing Board (“Hearing Board”) is hereby created and shall consist of the Business Administrator of the City of Bethlehem, the Director of the Department of Community and Economic Development of the City of Bethlehem, the Director of Fiscal Affairs of the County of Northampton, and the Assistant to the Superintendent for Finance and Business Administration of the Bethlehem Area School District for resolution of differences between any local taxing authority and the owner-taxpayer of the deteriorated property on matters concerning interpretation and execution of the provisions of this Article.

The Hearing Board shall have the following powers:

- (1) To affirm, revoke or modify the decision of the City of Bethlehem as to the eligibility of a particular property for the property tax exemption as provided for in this Article. An appeal shall be taken within thirty (30) days from the aggrieved taxpayer’s receipt of the decision of the City that is the subject of the appeal.
- (2) The Hearing Board shall meet upon notice of the Chairperson within thirty (30) days of the filing of an appeal and shall render its decision within thirty (30) days after the appeal hearing.
- (3) Every decision of the Hearing Board shall be by resolution and copies furnished to the parties involved.
- (4) All hearings shall be public and the appellant or any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard.
- (5) For the purposes of this Article, every action of the Hearing Board shall require a simple majority of the members in attendance. Attendance at the hearing by three (3) members of the Hearing Board shall be required to constitute a quorum for a meeting and for action on an appeal.

343.09 RULES AND REGULATIONS

The Director of the Department of Community and Economic Development is hereby authorized and empowered to prepare, promulgate and enforce rules and regulations made pursuant to the provisions of this Article. Such rules and regulations shall have the full force and effect of law unless modified, revoked or repealed by City Council.

343.10 SEVERABILITY.

The provisions of this Article are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of City Council that this Article would have been adopted if such illegal, invalid or unconstitutional section, clause or sentence had not been included herein.

343.11 ~~CONTINGENCY~~OTHER LOCAL TAXING AUTHORITIES.

~~Notwithstanding any other provisions of this Article, this Article shall remain in full force and effect conditioned upon t~~The Bethlehem Area School District and the County of Northampton, as local taxing authorities, may enact -enacting similar-ordinances or resolutions similar to this Article, which shall include the identical deteriorated area as that designated by the Council of the City of Bethlehem in Resolution No. 2022-xxx.

343.12 DEFAULT.

(a) It is the finding of the Council of the City of Bethlehem that, consistent with LERTA's expressed objective of improving deteriorated areas containing unsafe, unsanitary and overcrowded buildings; vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties, excessive land coverage, defective design or arrangement of buildings, street or lot layouts; and economically and socially undesirable land uses, the receipt of LERTA exemptions should be limited to those property owners who make full and timely payment of their property taxes, as delinquent property owners are more likely to be financially overextended and thereby less capable of maintaining the sustained investment in properties in economically depressed communities that is vital to their improvement.

(b) ———Tax exemptions under this Article shall be available only for those properties for which real estate taxes are promptly paid and discharged by the end of the fiscal year in which such taxes are due.

(c) In the event a taxpayer fails to pay all real estate taxes imposed by any local taxing authority by the end of the fiscal year in which such taxes are due on a property qualifying for an exemption under this Article, the property shall be disqualified from the benefits of this Article beginning in the year during which the delinquency occurred through the end of the applicable Exemption Schedule set forth in 343.04, and any and all currently due and future taxes on the property shall be due and payable at the full unabated assessment and tax rate.

~~Any property that is declared delinquent as established by the statutes of the Commonwealth of Pennsylvania shall lose LERTA benefits under this Article and any and all currently due and future taxes shall be due and payable at the full unabated assessment and tax rate.~~

(d) No property shall be eligible for the tax exemptions under this Article if the owner thereof owns any property in the City that is declared delinquent as established by the statutes of the Commonwealth of Pennsylvania. In the event that a property receiving LERTA benefits under this Article is purchased by a delinquent property owner, the purchased property shall lose LERTA benefits under this Article and any and all currently due and future taxes shall be due and payable at the full unabated assessment and tax rate.

(e) Where a property's LERTA benefits have been terminated due to tax delinquency pursuant to this Section 343.12, the delinquent property owner's subsequent payment of delinquent taxes shall not result in the reinstatement of LERTA benefits.

343.13 APPEAL OF DEFAULT.

Properties that have been declared delinquent may appeal the rescission of LERTA benefits by providing a written request to the Hearing Board providing a basis for the appeal and the justification for the waiver of the requirements of Section 343.12.

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are, hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2022.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2022.

Mayor