

**RESOLUTION R-2022-71
LUZERNE COUNTY COUNCIL**

***A Resolution of the Luzerne County Council Providing Tax Exemption for New Construction
in Deteriorated Areas under the Local Economic Revitalization Tax Assistance Act***

WHEREAS, under the Local Economic Revitalization Tax Assistance Act (“LERTA”), 72 P.S. §4722 et seq., Luzerne County is a local taxing authority that has the power to provide tax exemption for new construction in “Deteriorated Areas”; and

WHEREAS, The Luzerne County Council (“The Council”) has the authority to levy, establish, alter, and/or abolish taxes and assessments except as may be limited by applicable law; and

WHEREAS, The Council believes that providing tax exemptions under LERTA will encourage new industrial, commercial, and business development in the Deteriorated Areas, and in turn lead to additional tax revenue for Wilkes-Barre Township, the Wilkes-Barre Area School District, and Luzerne County.

WHEREAS, on November 1, 2021, the Wilkes-Barre Township Council held a public hearing for the purpose of designating certain property within Wilkes-Barre Township as a Deteriorated Area; and

WHEREAS, subsequent to the public hearing, the Wilkes-Barre Township Council enacted Resolution 11 of 2021, dated November 1, 2021, designating real estate consisting of seventy (70) acres of land located on the west side of Pennsylvania State Road 309 situate in Wilkes-Barre Township, Luzerne County, Pennsylvania covering lands incorporating all or part of Parcel Tax ID 69I9 00B03A000, 69I10 00A07F000, and 69I10 00A10A000 within Wilkes-Barre Township, the “LERTA Qualified Property” as a Deteriorated Area for the purpose of providing a LERTA exemption to Blue Cup Ventures Wilkes-Barre, LLC (“Blue Cup”)

WHEREAS, A copy of the Wilkes-Barre Township LERTA Application and resulting designation Resolution specifying the Applicant and the location of the LERTA Qualified Property; and

WHEREAS, The Council also believes that providing a partial tax exemption under LERTA will encourage new industrial, commercial, and business development in the Deteriorated Areas of the LERTA Qualified Property, and in turn lead to additional tax revenue for Wilkes-Barre Township, the Wilkes-Barre Area School District, and Luzerne County.

NOW, THEREFORE BE IT RESOLVED BY THE LUZERNE COUNTY COUNCIL, as follows:

SECTION ONE. Incorporation of Preamble.

The provisions set forth above in the preamble to this Resolution are incorporated herein by reference in their entirety.

SECTION TWO. Definitions.

The below terms will be defined as follows for the purposes of this Resolution.

- 2.1 “*Deteriorated Property*” means any industrial, commercial or other business property located in an eligible deteriorating area as defined hereinafter, or any such property which has been the subject of an order of a governmental agency requiring the property to be vacated, condemned or demolished by reason of non-compliance with laws, ordinances or regulations.
- 2.2 “*Improvement*” means repair, new construction or reconstruction, building alterations or additions, having the effect of rehabilitating 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 or maintenance shall not be deemed an improvement.
- 2.3 “*Deteriorated Area*” means the real estate located in Wilkes-Barre Township that the Board of Supervisors designated as a Deteriorated Area in Resolution # 11 of 2021, dated November 1, 2021.
- 2.4 “Property Owner” means Blue Cup Ventures Wilkes-Barre, LLC, its successors and assigns.

SECTION THREE. Exemptions.

- 3.1 The amount to be exempted from real estate taxes is specifically defined in sub-paragraph 3.3 based upon a percentage of the actual cost of new construction in the Deteriorated Area or improvements to the LERTA Qualified Property. The applicant is responsible for paying all applicable Luzerne County taxes not associated with the new improvements.
- 3.2 The partial exemption from real estate taxes is limited to improvements or new constructions for which an exemption has been requested in the manner set forth in this Resolution. All other applicable Luzerne County property taxes are not exempt and must be paid.

3.3 The exemption commences on the date that the improvement or new construction is assessed by the Luzerne County Assessor's Office. At that time, the said improvements will be in part exempt according to the following schedule:

Year 1 through year 10: **35% of all real estate taxes to be paid by the Property Owner during the 10-year term of the LERTA tax exempt period and the balance, 65% of such real estate taxes to be exempt during the 10-year period of the LERTA tax exempt period.**

In no way shall, the property tax exemption under LERTA continue beyond the 10th tax year following the final assessment of eligible real property Improvements.

3.4 The exemption from taxes granted under this Resolution does not terminate upon the sale or exchange of the LERTA Qualified Property.

SECTION FOUR. Procedure for Obtaining Exemption.

4.1 Any person desiring tax exemption under this Resolution ("Applicant") shall submit an application with the Luzerne County Tax Assessor's Office. The Applicant shall submit the application within forty-five (45) days of receiving the building permit for the improvement or new construction. If the improvement or new construction does not require a building permit, the Applicant shall submit the application within forty-five (45) days of commencing the construction. The application must be in writing and must provide the following information:

- 4.1.1 the name of the owner or owners of the deteriorated area;
- 4.1.2 the date the building permit was issued for the improvement or new construction (if applicable); and
- 4.1.3 the date when the Applicant commenced the construction for the improvement or new construction (if applicable); and
- 4.1.4 the location of the property including tax parcel identification numbers; and
- 4.1.5 a brief description of the proposed improvement or new construction; and
- 4.1.6 estimated costs of the improvement or new construction; and
- 4.1.7 any other information that Luzerne County may require.

4.2 Upon completion of the improvement or new construction, the Applicant shall notify the Luzerne County Tax Assessor's Office by writing that the improvement or new construction is complete. The Luzerne County Tax Assessor's Office shall then separately assess the new construction or improvement and calculate the amount of the assessment eligible for tax exemption in accordance with the limits established by this Resolution. The Luzerne County Tax Assessor's Office shall then notify the Applicant, Wilkes-Barre Township, Luzerne County, and the Wilkes-Barre Area School District of the reassessment and the amount of the assessment eligible for the exemption.

4.3 Any Local Taxing Authorities may appeal the reassessment as provided by law. Applicant waives the right to appeal any property tax assessment during the LERTA period unless the assessment exceeds \$20 Million Dollars of the eligible new construction. Applicant's tax assessment appeal rights shall be fully restored after the LERTA period has expired.

4.4 The cost of the 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 this Resolution, if any, shall not apply to the adoption of any such amendment.

SECTION FIVE. Termination Date.

An application for exemption may be made at any time within three years from the Effective Date of this Resolution. All qualified applications under this Resolution are eligible for the entire ten (10) year exemption schedule.

SECTION SIX. Extension.

The Luzerne County Tax Assessor may extend the time for filing an application for exemption for a period of 30 days in the event the application is not filed within the 45-day period as set forth herein provided Applicant is able to establish good cause for any delay preventing the timely filing as provided for here in. Good Cause shall mean (a) acts of God; (b) flood, fire, earthquake or other catastrophes such as epidemics, pandemics, or quarantines, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or action; (e) embargoes, or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; (i) any other similar events or circumstances beyond the reasonable control of the Property Owner.

SECTION SEVEN. Revocation of LERTA Exemption.

The exemption from real estate taxes provided for herein shall be forfeited by the Applicant and/or any subsequent owner of the real estate for the failure to pay any nonexempt real estate taxes by the last day of the time period to pay such taxes in the penalty period. Upon receipt of the notice of nonpayment of nonexempt real estate taxes, and after expiration of a thirty (30) day cure period, Luzerne County may discontinue the LERTA exemption granted hereby.

SECTION EIGHT. Amendments.

No amendments to this Resolution are effective unless Property Owner, its successor and assigned and the Council consents to the amendment by Resolution.

SECTION NINE. Repealer.

This Resolution repeals any other resolution or ordinance inconsistent with this Resolution.

SECTION TEN. Severability.

If any part of this Resolution is unenforceable to any extent for any reason, the rest of the Resolution will remain fully enforceable.

SECTION ELEVEN. Effective Date.

This Resolution shall become effective six (6) days from the date of enactment.

SECTION TWELVE. Further Authorization.

The administration and officials for Luzerne County are directed and authorized to take any action needed to carry out the intent of this Resolution.

ADOPTED at a meeting of the Luzerne County Council held on the 22nd day of March, 2022.

ROLL CALL VOTE (11-0)

YES: Bienias, Lescavage, Lombardo, McDermott, McGinley, Perry, Radle, Schnee, Thornton, SJ Urban and Wolovich

LUZERNE COUNTY COUNCIL

By: Kendra Radle
Kendra Radle, Chair

Attest: Sharon Lawrence
Sharon Lawrence, Clerk of Council

LUZERNE COUNTY MANAGER

By: Romilda P. Crocama
Romilda P. Crocama, Esq.
Acting County Manager