

**WEATHERLY BOROUGH COUNCIL
REGULAR MEETING
September 23, 2024
5:00 P.M.**

The Regular Meeting of Weatherly Borough Council was held on September 23, 2024, at 5:00 p.m. in the Municipal Building.

Mayor Paul Hadzick called the meeting to order, followed by the invocation and pledge of allegiance.

Council Members attending: Vincent Cuddeford II (via phone), Joseph Cyburt, Theresa D'Andrea, Jeffery Miller, Norman Richie, Paul Hadzick and absent: Michael Bellizia.

Also attending: Borough Manager, Harold Pudliner; Borough Solicitor, James Nanovic; Borough Secretary, Lori O'Donnell; Deputy Borough Manager, Tracy Grover; Police Chief, Brian Markovchick; Blue Ridge Cable Channel 13 Cameraperson, Drew Snowberger; Journal Newspaper reporter, Jim Dino; Cathy Kurtz, Donna Kost, Bill Beattie and Beth Parker.

MINUTES:

The minutes of the Special Meeting of August 13, 2024 were approved on a motion by Joseph Cyburt, seconded by Theresa D'Andrea and approved by general acclaim of Council. The minutes of the Regular Meeting of August 27, 2024, were approved on a motion by Norman Richie, seconded by Jeffery Miller, and approved by general acclaim of Council.

TREASURER'S REPORT:

The Treasurer's Report for August, 2024, was presented and reflected a balance of \$144,989.28.

The Treasurer's Report for August, 2024, was approved on a motion by Joseph Cyburt, seconded by Norman Richie and approved by general acclaim of Council.

BILLS:

The bills for August, 2024, totaling \$313,736.73 were presented to Council.

A motion to approve all of the bills was made by Norman Richie, seconded by Joseph Cyburt and approved by general acclaim of Council.

OTHER ITEMS OF CONCERN:

Norman Richie stated that as the Packer Township Fire Agreement Committee he and Vincent Cuddeford II and Michael Bellizia contacted the Packer Township Supervisors on September 11, 2024; to discuss the new agreement and they did not receive a return phone call and they only have three months left to formulate an agreement.

BUSINESS:

1. LERTA Ordinance has been Published, Open for Discussion and Approval.

Mr. Pudliner informed Council that the LERTA ordinance has been revised and reviewed by Alliance for Building Communities and accepted. The ordinance has been published.

ORDINANCE NO. 2024 -
AN ORDINANCE OF THE BOROUGH OF
WEATHERLY, CARBON COUNTY, PENNSYLVANIA
PROVIDING FOR TAX EXEMPTION FOR
IMPROVEMENTS TO CERTAIN PROPERTY
LOCATED WITHIN THE BOROUGH OF WEATHERLY
PURSUANT TO PENNSYLVANIA ACT 76 OF 1977,
DEFINING THE LERTA DESIGNATED AREA;
PROVIDING FOR AN EXEMPTION PERIOD;
PROVIDING A PROCEDURE FOR SECURING AN
EXEMPTION.

WHEREAS, on December 1, 1977, the General Assembly of Pennsylvania passed act 76 of 1977, known as the Local Economic Revitalization Tax Assistance Act of 1971 (72 P.S. §§4722, et seq.) (LERTA) authorizing local taxing authorities to provide for exemption from taxes for certain deteriorated commercial, industrial, or other business property; and

WHEREAS there are deteriorated commercial, industrial, or other business buildings located within the Borough of Weatherly; and

WHEREAS the Council of the Borough of Weatherly, in accordance with said Act, held a public hearing on June 24, 2024, to determine the boundaries of the designated area; and

NOW THEREFORE, be it ordained by the Council of the Borough of Weatherly, Pennsylvania, and it is hereby ordained by the authority of the same as follows:

SECTION 1. DEFINITIONS:

As used in this ordinance, the following words and phrases shall have the meaning set

forth below:

- A. "LERTA Designated Area" refers to the boundaries of the Borough of Weatherly.
- B. "Non-Residential" means any industrial, commercial, non-residential use building, or other business property located in the LERTA Designated Area.
- C. "Residential" as hereinafter defined, shall mean single family dwellings, duplexes, short-term rentals and Bed and Breakfasts.
- D. "Improvement" means repair, construction, or reconstruction, including

alterations and additions, having the effect, or rehabilitating a building with a minimum actual cost of the improvement being \$75,000.00, verified by a PA registered design professional. The purpose of the improvement is for the following: the building becomes habitable or attains higher standards of safety, health, economic use, or amenity; it is adaptively re-used; or is brought into compliance with laws, ordinances, or regulations governing such standards; or is new construction in the LERTA.

SECTION II. LERTA DESIGNATED AREA/ELIGIBLE PROPERTIES:

The following area is hereby designated as the LERTA area subject to exclusions. Properties/uses specifically excluded from the LERTA program are single-family, duplexes, Short- term rental units, Bed and Breakfast establishments, and Residential Properties. The LERTA area designated is as follows:

The area bounded by Spring Street, East Main Street, and Chestnut Alley.

SECTION III. ALLOWABLE EXEMPTION:

A. The actual costs of the new construction or improvements to a building to qualify for the exemption must be in excess of \$75,000.00 in order for the property to be eligible for the LERTA tax abatement.

B. Ordinary upkeep and maintenance-painting, roof replacement, landscaping, deteriorated materials replacement-shall not be deemed an improvement. If this work is included in a project, it shall not be counted toward meeting the minimum investment for program eligibility.

C. In all cases, the exemption from taxes shall be limited to that portion of the additional assessment attributable to the improvement or new construction, as the case may be, and for which a separate assessment has been made by the County Board of Assessment. No tax exemption shall be granted if the property owner does not secure the necessary and proper permits prior to improving the property, including zoning, building codes, and borough council (if Applicable). No tax exemption shall be granted if the property, as completed, does not comply with the minimum standards of all applicable Borough Ordinances, Zoning, and Building Codes.

D. Should there have been any reduction to the assessed value to the property within the two years prior to the application date for exemption, the application shall be denied.

E. The new assessment value will not be applied to the property until occupancy of the building is granted in accordance with applicable building codes or a fully signed and completed building permit copy is received.

F. The exemption from taxes hereunder shall be forfeited by the applicant and/or any subsequent owner of the real estate for failure to pay nonexempt real estate taxes by their due date that may be paid without penalty. Upon receipt of notice of nonpayment of nonexempt real estate taxes, the Borough Manager shall direct the County Assessment Office, and the Borough Treasurer to discontinue the exemption.

G. In any case, after the effective date of this ordinance, where a property in the LERTA program property is damaged or destroyed, and where the assessed valuation of the property affected has been reduced as a result of said damage, the exemption from real property taxation authorized 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.

H. In any case, after the effective date of this Ordinance, where a building or structure is razed or demolished, and a new building or structure is placed on the property, the exemption from real property taxation authorized shall be limited so that the Tax Assessment on the new structure shall not be less than the structure which had been razed or demolished.

SECTION IV: EXEMPTION SCHEDULE:

A. For the ten years immediately following the year in which the LERTA application is approved, the following real estate tax exemption schedule shall be in effect.

Length	Portion Exemption
Year 1 through 10	100%

After the tenth year, the exemption shall terminate.

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

C. If an eligible property is granted tax exemption pursuant to the ordinance, the exemption shall not, during the exemption period, be considered as a factor in assessing other properties.

D. If the use of the property at the time the exemption is granted is modified, terminated or changed during the ten year exemption period in any way which would have affected the exemption if the property had been so used when the exemption was granted, then, at the election of the Borough Council, the exemption shall terminate as of the date the use was modified or terminated if the Council determines that continuation of the exemption would be inconsistent with the purposes of the ordinance.

SECTION V: PROCEDURE FOR OBTAINING EXEMPTION:

A. Any person or entity desiring tax exemption pursuant to the LERTA Program must apply to the Borough of Weatherly prior to or at the time of obtaining a building permit for a new construction or improvement. Applicants shall also provide a copy of the exemption request to the Carbon County Assessment Office on the same day it is submitted to the Borough. Applicants shall also file a copy of the exemption request with the Business District of the Weatherly Area School District and the Carbon County Office of Commissioners.

B. Appeals from the reassessment and the amount eligible for the exemption may be taken by the taxpayer or the local taxing authority as provided by law.

C. The application must be in writing utilizing the LERTA Program application form, setting forth the following information:

- (1) The date the building permit was issued for said improvement.
- (2) The location of the property.
- (3) The current use(s) and proposed use(s) of the property.
- (4) The type of improvements or new construction.
- (5) The summary of the plan of the improvements or new construction.

The actual cost of the improvements or new construction is verified by a Pennsylvania registered design professional. Improvement costs must exceed \$75,000 with ordinary maintenance expenses not being counted in the \$75,000 minimum.

Whether or not the property has been condemned or cited by any governmental body for noncompliance with laws, regulations, and/or ordinances.

The property has been inspected and examined by a Pennsylvania registered design professional acting on behalf of the Borough. The cost of such inspection shall be reimbursed to the Borough by the applicant, regardless of whether or not the application is approved.

Such additional information as the Borough may require.

Such fees set by Borough Council by resolution for the administration of the application and the LERTA program.

The cost of improvements or new construction to be exempted.

Each applicant for and receiving an exemption under the LERTA Program agrees, that upon completion of the ten-year exemption schedule, not to take any appeals for reassessment for a period of an additional five years unless the property is reassessed by the County of Carbon during that five-year period, with the exception of a request for a payment in lieu of taxes.

D. No person or entity, or such person's or entity's subsidiaries, affiliates or other associated holdings, will be eligible for exemption under the LERTA Program unless all property taxes are current, there are no outstanding municipal liens against the property, and all fees for municipal services (including, but not limited to, electric, water, sewer and trash services) are current for all properties such

person's or entity's or such person's or entity's subsidiaries, affiliates or other associated holdings owned in the Borough.

E. No assessment appeal reducing the property assessment has been granted within two years prior to the filing of a LERTA application.

F. A copy of the exemption request will be forwarded to the County Board of Assessment Appeals by the Borough Manager. Within 60 days, the Board will, after completion of construction, assess separately the improvements and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by the LERTA Program and notify the taxpayer and the local taxing authorities of the reassessment and amounts of the assessment eligible for exemption. This reassessment is required by the application of the LERTA abatement, and any applicant applying for the abatement explicitly agrees that it does not constitute a spot reassessment. Reassessment will be applied to the improvement that has been made as part of the LERTA application.

SECTION VI. TERMINATION DATE:

An application for exemption from Borough real estate taxes may be made at any time within five years from the effective date of this Ordinance.

SECTION VII. EXTENSION:

The Borough may, by ordinance enacted from time to time, extend the time for filing an application from exemption from Borough real estate taxes. However, in no event shall anyone's extension period exceed five years.

SECTION VIII. REVOCATION OF EXEMPTION:

The Exemption from the Borough real property taxes provided for in this Article shall be forfeited by the application and/or any subsequent owner of the Property and such Exemption shall be revoked by the Borough upon the occurrence of any of the following:

A. The failure to pay in full any non-exempt real estate taxes by the last day of the time period to pay such taxes in the penalty period. Upon receipt of this notice of nonpayment of non-exempt real property taxes, the Borough Treasurer shall immediately terminate the Exemption.

B. The failure to pay when due any amount due and owing to the Borough. Upon receipt of notice of nonpayment of any such amount, the Borough Treasurer shall immediately terminate the Exemption.

C. The failure to obtain and pay in full all fees for all necessary and proper permits, licenses, and certificates prior to commencement of construction of the Improvements to, or occupancy of, the Property.

D. The failure to comply with the minimum standards established by all applicable laws, ordinances, codes, rules, and regulations.

E. The failure to comply with the provisions of this Article.

SECTION IX. ANNUAL CAP:

Weatherly Borough will accept a maximum of five applications per year for the entire LERTA Designated Area. The date of the application approval will be used to determine when the annual cap has been reached. The Borough may, by Resolution and concurrence with Weatherly Area School District and Carbon County Commissioners, increase the number of LERTA applications accepted on an annual basis.

SECTION X. SEVERABILITY:

If any provision of this Ordinance shall be determined to be unlawful, invalid, void, or unenforceable, then that provision shall be considered severable from the remaining provisions of this Part, which shall be in full force and effect.

SECTION XI: EFFECTIVE DATE:

This ordinance shall become effective five days after enactment. For LERTA program applications, a period of retroactively starting on July 1, 2024, is allowed for a property owner who has obtained a building permit and has not started the improvement. The applicant must otherwise met all other program eligibility requirements.

SECTION XIII: AMENDMENTS:

No amendment to this ordinance shall be effective unless consented to by resolution or ordinance at each local taxing authority which has consented to bound by the terms of this ordinance.

This Ordinance was enacted the _____ day of _____ 2024 in lawful session duly assembled.

A motion to approve the LERTA ordinance was made by Joseph Cyburt, seconded by Jeffery Miller and approved by roll call vote:

Jeffery Miller	Yes	Norman Richie	Yes
Joseph Cyburt	Yes	Vincent Cuddeford II	Yes
Theresa D’Andrea	Yes	Paul Hadzick	Yes

2. Camping Ordinance has been Published, Open for Discussion and Approval.

Mr. Pudliner informed Council that the ordinance had been published and is ready for approval.

ORDINANCE NO. 2024 -
AN ORDINANCE OF THE BOROUGH OF WEATHERLY, CARBON
COUNTY, PENNSYLVANIA REGULATING CAMPING AND

STORAGE OF PERSONAL PROPERTY ON PUBLICALLY OWNED PROPERTY WITHIN THE BOROUGH.

SECTION 1. PURPOSE:

It is the purpose of this chapter to prevent harm to the health and safety of the public and to promote the public health, safety and general welfare by keeping public streets, sidewalks, parking lots, and other public property within the Borough readily accessible to the public, and to prevent use of public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for the purposes for which they were intended.

SECTION 2. DEFINITIONS:

The following definitions are applicable in this chapter unless the context otherwise requires:

Camp means to pitch, erect or occupy camp facilities, or to use camp paraphernalia or both for the purpose of, or in such a way as will facilitate, remaining overnight, or parking a camper, recreational vehicle, trailer, or other vehicle for the purpose of remaining overnight.

Camp Facilities include, but are not limited to, tents, huts, temporary shelters, campers, recreational vehicles, and trailers.

Camp Paraphernalia includes, but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

Contraband means any property that is unlawful to produce or possess.

Litter shall mean garbage, refuse, and rubbish and all other waste materials, which, owner deposited as prohibited in this Ordinance intends to create a danger to the public health, safety, and welfare.

Park or Park Facility means any real property, building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, or other physical property owned or controlled by the Borough. "Park" or "Park Facility" includes all associated areas, including but not limited to parking lots for parks and pools.

Personal Property means an item that is:

1. Reasonably recognizable as belonging to a person;
2. In its present condition has apparent utility and/or value; and

3. Is not hazardous or unsanitary.

Right of Way shall mean any street or alley within the Borough.

Solid Waste shall mean any ashes, garbage, or rubbish as defined in Chapter 38 of the Weatherly Borough Code.

Store means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

Trail means a public path constructed for the primary purpose of allowing recreational nonmotorized transportation.

Unauthorized Encampment means two or more camp facilities in an identifiable area which appear to be used for unlawful camping. For purposes of this chapter an identifiable area includes areas where the camp facilities are in sight of each other and/or areas where each camp facility is located within 300 feet of another structure.

SECTION 3. UNLAWFUL CAMPING:

It is unlawful for any person to camp in the following areas, except as otherwise provided by this code or where specifically designated by the owner of such property.

A. Right of Way

B. Any trail, park, or park facility

C. Any publicly owned parking lot or publicly owned area, improved or unimproved; or

D. Any public area where storage of personal property obstructs or interferes with the intended public use of the property.

SECTION 4. UNAUTHORIZED ENCAMPMENTS:

Upon a determination by law enforcement that an area constitutes an unauthorized encampment, the personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed subject to the following provisions.

A. If the unauthorized encampment is at a location which results in a significant risk of harm to any person, then police may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste, which shall be stored in the same manner as set forth in subsection (B) of this section.

B. Prior to removing property from an unauthorized encampment on public property, the following shall occur;

1. The Borough shall post at least a 48-hour advanced notice, which shall include the following:

- a. The address or location of the unauthorized encampment;
- b. A statement that camping in the area is prohibited by this chapter;
- c. A statement that any individual continuing to use the area for unlawful camping may be subject to criminal penalties pursuant to this Ordinance.
- d. A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste remaining at the encampment after the notice period is subject to removal by the Borough.

2. At the end of the 48-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, and solid waste may be removed by Borough personnel or agents thereof.

3. Any personal property that is removed shall be stored by the Borough for at least 30 days prior to being disposed.

4. Notice of where personal property removed from the encampment may be claimed shall be posted at the location.

5. If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the Borough shall attempt to contact the identified owner and provide notice that the item has been removed and how to claim the item.

6. Any contraband located at the encampment shall be seized and properly disposed or retained as evidence of criminal activity.

7. Any litter or solid waste found at the encampment shall be properly disposed.

8. Any individual who receives a notice under this section, or whose property is removed from an encampment, has a right to meet with the Borough Manager or designee to raise any concerns, objections, or extenuating circumstances. At the conclusion of the meeting, the Borough representative shall prepare a written decision detailing the individual's concerns, as well as the Borough's response. Notice and procedure to set up a meeting shall be posted at or near the encampment site.

SECTION 5. PENALTY FOR VIOLATIONS.

Violation of any of the provisions of this Chapter is a misdemeanor and shall be punished upon conviction of such violation by a fine of not more than \$1,000.00 or by confinement not to exceed 30 days, or by both such fine and confinement.

SECTION 6. ENFORCEMENT SUSPENDED.

Except as otherwise provided in this section, enforcement of provisions of this chapter shall be suspended for persons who are indigent and homeless any time there is no space or beds available in reasonably accessible homeless shelters, to the extent such available space is required by law.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective five (5) days after enactment. This Ordinance was enacted the __ day of _____ session duly assembled.

Jeffery Miller asked when the ordinance would be enforced and Mr. Pudliner stated five days after enactment.

A motion to approve the Camping Ordinance as published was made by Joseph Cyburt, seconded by Jeffery Miller and approved by roll call vote:

Norman Richie	Yes	Jeffery Miller	Yes
Theresa D’Andrea	Yes	Vincent Cuddeford II	Yes
Joseph Cyburt	Yes	Paul Hadzick	Yes

3. Request to make Chestnut Alley One Way from Spring to East Main Street.

Mr. Pudliner explained that he had a request from a resident that lives on Spring Street next to the Schwab School that Council consider making Chestnut Alley one way from Spring Street to East Main Street. The reason is that the alley is narrow and there is no way to get two vehicles side by side on the portion behind the school and to have it changed to one way before the apartments are occupied.

Norman Richie stated that the PA Vehicle Code 6109 stated that to change a street from two way to one way the police must conduct a study and research the number accidents incurred. Atty. Nanovic also stated that an ordinance is needed.

Beth Parker added that Church Street is a one-way and cars go both ways. She also asked if the one-way will cause a problem for the new Schwab School apartments. Mr. Pudliner said no.

Joseph Cyburt asked Police Chief Brian Markovchick if there were any incidents involving Chestnut Alley and he said there were not any that he recalled.

Mr. Pudliner said that when it comes to traffic changes, we allow for one month for the public to beware of the change.

No action was taken on this item.

4. Approve the MMO for Non-Uniform and Police Pension Plans.

Mr. Pudliner explained that this needs to be approved every year by the end of September. He also added that State Assistance usually covers our amounts on the MMO’s, but future assistance may not cover them.

**WEATHERLY BOROUGH POLICE PENSION PLAN FINANCIAL
REQUIREMENT AND MINIMUM MUNICIPAL OBLIGATION
FOR 2025 MUNICIPAL BUDGET**

A. <u>Normal Cost</u>		
1. Normal Cost as a Percent of Payroll		26.292%
2. Estimated 2024 Payroll for Active Participants	\$	<u>464,723</u>
3. Normal Cost (A1 x A2)	\$	<u>122,185</u>
B. <u>Financial Requirement</u>		
1. Normal Cost (A3)		122,185
2. Anticipated Insurance Premiums		0
3. Anticipated Administrative Expense		20,913
4. Amortization Payment, if any		<u>0</u>
5. Financial Requirement (B1 + B2 + B3 + B4)	\$	<u>143,098</u>
C. <u>Minimum Municipal Obligation</u>		
1. Financial Requirement (BS)	\$	143,098
2. Anticipated Employee Contributions		0
3. Funding Adjustment, if any		<u>7,229</u>
4. Minimum Municipal Obligation (C1 - C2- C3)	\$	<u>135,869</u>

NOTES:

1. 2025 General Municipal Pension System State Aid may be used to fund part or all of the municipal obligation and must be deposited within 30 days of receipt. Any remaining balance must be paid from municipal funds.
 2. Deposit into the Plan's assets must be made by December 31, 2025 to avoid an interest penalty.
 3. Any delinquent Minimum Municipal Obligation from prior years must be included in the 2025 budget along with an interest penalty.
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I hereby certify that the above calculations, to the best of my knowledge, are true, accurate, and conform with the provisions of Chapter 3 of Act 20S of 1984.

**BOROUGH OF WEATHERLY EMPLOYEE PENSION PLAN FINANCIAL
REQUIREMENT AND MINIMUM MUNICIPAL OBLIGATION
FOR 2025 MUNICIPAL BUDGET**

A. <u>Normal Cost</u>		
1. Normal Cost as a Percent of Payroll		5.349%
2. Estimated 2024 Payroll for Active Participants	\$	<u>828,727</u>
3. Normal Cost (A1 x A2)	\$	<u>44,329</u>
B. <u>Financial Requirement</u>		
1. Normal Cost (A3)	\$	44,329
2. Anticipated Insurance Premiums		0
3. Anticipated Administrative Expense		19,061
4. Amortization Payment, if any		<u>30,646</u>
5. Financial Requirement (B1 + B2 + B3 + B4)		<u>94,036</u>
C. <u>Minimum Municipal Obligation</u>		
1. Financial Requirement (BS)	\$	94,036
2. Anticipated Employee Contributions		0
3. Funding Adjustment, if any		<u>0</u>
4. Minimum Municipal Obligation (C1 - C2-C3)	\$	<u>94,036</u>

NOTES:

1. 202S General Municipal Pension System State Aid may be used to fund part or all of the municipal obligation and must be deposited within 30 days of receipt. Any remaining balance must be paid from municipal funds.
 2. Deposit into the Plan's assets must be made by December 31, 202S to avoid an interest penalty.
 3. Any delinquent Minimum Municipal Obligation from prior years must be included in the 202S budget along with an interest penalty.
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I hereby certify that the above calculations, to the best of my knowledge, are true, accurate, and conform with the provisions of Chapter 3 of Act 205 of 1984.

A motion to approve the MMOs for the Non-Uniform and Police Pension plans was made by Norman Richie, seconded by Jeffery Miller and approved by roll call vote:

Theresa D'Andrea	Yes	Vincent Cuddeford II	Yes
Norman Richie	Yes	Jeffery Miller	Yes
Joseph Cyburt	Yes	Paul Hadzick	Yes

EXECUTIVE SESSION – CONTRACTS:

A motion to enter executive session at 5:18 pm was made by Joseph Cyburt, and seconded by Theresa D'Andrea.

A motion to exit the executive session at 5:45 pm was made by Joseph Cyburt and seconded by Theresa D'Andrea.

ADJOURN:

A motion to adjourn the meeting at 5:45 pm was made by Norman Richie, and seconded by Joseph Cyburt.