

## ORDINANCE NO. 2018-07

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING CHAPTER 596: "SPECIAL IMPROVEMENT DISTRICT" TO INCLUDE ADDITIONAL PROPERTIES IN THE SPECIAL IMPROVEMENT DISTRICT AND A NEW EXHIBIT A ATTACHED THERETO LISTING SAID PROPERTIES

Councilman Zipprich offered the following ordinance and moved for its adoption:

**WHEREAS**, the Borough Tax Assessor of the Borough of Red Bank (the "Borough") and the Borough's Designated District Management Corporation, RiverCenter, have recommended that the Borough's Special Improvement District be expanded to include certain properties and to exclude certain presently included properties that are no longer subject to assessment under Chapter 596: "Special Improvement District" of the Borough's Revised General Ordinances;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey, as follows:

1. That the Governing Body hereby amends the Special Improvement District with respect to the properties listed in Exhibit A attached hereto.
2. That Chapter 596: "Special Improvement District" of the Borough's Revised General Ordinances is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

#### **§ 596-1 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **DISTRICT MANAGEMENT CORPORATION**

Special Improvement District of Red Bank, New Jersey, Inc., d/b/a Red Bank RiverCenter (also referred to as "Management Corporation"), an entity incorporated pursuant to Title 15A of the New Jersey Statutes and designated by municipal ordinance to receive funds collected by a special assessment within the Special Improvement District, as authorized by this article and any amendatory supplementary ordinances.

#### **EXPANDED DISTRICT PROPERTIES**

The properties identified by block and lot number and street address in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07.

#### **ORIGINAL DISTRICT PROPERTIES**

The properties identified by block and lot number and street address on Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07.

#### **SPECIAL IMPROVEMENT DISTRICT (sometimes also referred to as DISTRICT)**

An area within the Borough of Red Bank designated by this article as an area in which a special assessment on property within the District shall be imposed for the purposes of promoting the economic and general welfare of the District and the municipality. The Special Improvement District includes the expanded district properties.

#### **§ 596-2 Findings.**

The Mayor and Council find and declare:

- A. That the Expanded District Properties, as identified by block and lot number and street address in Exhibit A to this article in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, will benefit from being included within the Special Improvement District;
- B. That the District Management Corporation will provide administrative, management and other services to benefit the businesses, employees, residents

and consumers in the Original District Properties and the Expanded District Properties;

- C. That a special assessment shall be imposed and collected by the Borough with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transmitted to the District Management Corporation to effectuate the purposes of this article and to exercise the powers granted to it pursuant to this article;
- D. That it is in the best interests of the Borough to expand the Special Improvement District to include the Expanded District Properties and designate the District Management Corporation to administer the District, inclusive of the Original District Properties and the Expanded District Properties;
- E. That the business community should be encouraged to provide self-help and self-financing programs to meet local business needs, goals and objectives.

**§ 596-3      Creation of District.**

- A. There is hereby created and designated within the Borough of Red Bank a Special Improvement District, to be known as the "Red Bank Special Improvement District," consisting of the properties designated and listed on Schedule A by tax lot and block number and street addresses, as amended by Exhibit A to Ordinance No. 2018-07, including the expanded district properties as set forth and identified by block and lot number and street address in Exhibit A of Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07. The Special Improvement District shall be subject to special assessments on all affected property within the District, which assessment shall be imposed by the Borough of Red Bank for the purposes of promoting the economic and general welfare of the District and the municipality.
- B. All business properties within the Special Improvement District, including all private, nonresidential assessed properties, are deemed included in the assessing and taxing provisions of this article and are expressly subject to potential tax or assessment made for Special Improvement District purposes.
- C. All properties within the Special Improvement District that are tax-exempt or are used exclusively for residential purposes are deemed excluded from the assessing or taxing provisions of this chapter and are expressly exempt from any tax or assessment made for Special Improvement District purposes. The tax-exempt and residential properties that shall be accordingly exempt from any tax or assessment for special improvement district purposes are specifically identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, as "Tax-Exempt Properties" and "Residential Properties."
- D. All properties within the Special Improvement District that are of a mixed use, and where the residential use is equal to 75% or more of the fair market value of the property as determined by the Borough Assessor, are deemed excluded from the assessing or taxing provisions of this chapter and are expressly exempt from any tax or assessment made for Special Improvement District purposes.
- E. The status of the properties identified in Schedule A to Ordinance No. 1994-17,

as amended by Exhibit A to Ordinance No. 2018-07, and in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, as "Tax-Exempt Properties" and "Residential Properties" are based upon the current uses for such properties. In the event that any residential property use shall change to a commercial use, or any tax-exempt property shall become subject to taxation and used for commercial purposes, such property will be subject to the assessment pursuant to Ordinance No. 2007-4 and Ordinance No. 1994-17 and Ordinance No. 2018-07. Should any commercial property currently subject to assessment pursuant to Ordinance No. 2007-4 and Ordinance No. 1994-17 and Ordinance No. 2018-07 change its legal use from commercial to residential, or should any such property become legally tax-exempt, such property shall no longer be subject to assessment hereunder.

**§ 596-4      Appeal of property owner from inclusion in District.**

Any owner of property included within the Special Improvement District, including the properties identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and the expanded district properties set forth in Exhibit A of Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, and subject to the assessing and taxing provisions of this article, may appeal to the Tax Assessor of the Borough of Red Bank requesting to be excluded from the District and from any assessment and taxing provisions of this chapter. This appeal is only as to whether or not a property should be included within the District under the standards set forth in § 596-3 of this article. It is not an appeal with regard to any taxes. Appeals with regard to taxes should be taken in the usual manner to the Monmouth County Board of Taxation or to the Tax Court. This appeal seeking exclusion from the District and any assessment and taxing provisions of this article shall be in writing and specifically detail the factual basis for the appeal. The Assessor shall investigate the matter and conduct an informal hearing or conference within 30 days of receipt of the appeal. Within 10 days after the conclusion of the informal hearing or conference, the Assessor shall file a report and recommendation with the governing body. The governing body shall review the matter and act within 30 days upon receipt of the report and recommendation from the Assessor.

**§ 596-5      Assessments.**

- A. Operation and maintenance of District. Annual operation and maintenance costs relating to services peculiar to the District, including the properties identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and the expanded district properties set forth in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, as distinguished from services normally provided by the Borough, will provide benefits primarily to the properties included within the District rather than to the Borough as an entirety. These annual costs shall be assessed and taxed to the benefited properties pursuant to the provisions of this chapter and N.J.S.A. 40:56-65 et seq.
- B. Development, construction or acquisition costs. All costs of development, construction and acquisition relating to improvements to the District, including the properties identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and the expanded district properties set forth in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to

Ordinance No. 2018-07, shall be financed and assessed to properties especially benefited thereby. The Borough may, by separate ordinance, or by amendment to this chapter, provide that improvements and facilities hereinafter acquired or developed shall be operated and maintained and the costs taxed to the benefited properties.

**§ 596-6      Designation of District Management Corporation.**

The nonprofit corporation, Special Improvement District of Red Bank, Inc., d/b/a/ Red Bank RiverCenter, is hereby designated as the District Management Corporation for the District. This Management Corporation shall conduct its business in accordance with the Open Public Meetings Law. This Corporation shall have no power of condemnation or eminent domain. It shall regularly file copies of the minutes of its meetings with the Borough Clerk so the minutes shall be conveniently available to the public for inspection.

**§ 596-7      Powers of District Management Corporation.**

The District Management Corporation, in addition to acting as an advisory board to the Mayor and Council, shall have all powers and responsibilities necessary and requisite to effectuate the purposes of this article and the District, including, but not limited to:

A.      Bylaws; Board of Directors.

- (1)     Adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties; these bylaws shall be submitted to the Mayor and Council for approval and may not thereafter be modified without the approval of the Mayor and Council, and the bylaws and other corporate documents shall provide that the Corporation shall conduct its business in accordance with the Open Public Meetings Law, shall conduct regular meetings not less than quarterly and that the Board of Directors shall consist of 30 members. As to the membership of the Board of Directors, it shall include the Mayor or the Mayor's designee; a member of the Borough Council selected by the Borough Council; and two residents of the Borough, who shall not be owners or occupants of property within the District, to be selected by the Borough Council. All of these appointments shall serve at the pleasure of the appointing authority.
- (2)     Additionally, the Board of Directors shall consist of one member appointed by each of the following bodies:
  - (a)     Riverview Medical Center.
  - (b)     The Monmouth County Arts Council.
  - (c)     Eastern Monmouth Area Chamber of Commerce.
- (3)     The members appointed by these bodies shall serve at the pleasure of the appointing body. Not less than 16 of the remaining 23 members of the Board of Directors shall consist of owners or occupants of property located within the District, including the expanded district properties. The existing Board shall continue to carry on the duties of the nonprofit corporation and hereafter members shall be, in accordance with the bylaws, elected to the Board of Directors by owners and/or occupants of property included within the District. Any vacancies with regard to these

elected members shall be filled by a majority of the Board members for the balance of the term.

- B. Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation;
- C. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;
- D. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation, including contracts with any person, firm, corporation, governmental agency or other entity;
- E. Administer and manage its own funds and accounts and pay its own obligations;
- F. Borrow money from private lenders and from governmental entities;
- G. Fund the improvement for the exterior appearance of properties in the District through grants or loans. Standards for eligibility and for terms of such grants and loans shall be established by the Board of Directors.
- H. Fund the rehabilitation of properties in the District through grants or loans. Standards for eligibility and for terms of such grants and loans shall be established by the Board of Directors.
- I. Accept, purchase, rehabilitate, sell, lease or manage property in the District;
- J. Enforce the conditions of any loan, grant, sale or lease made by the corporation;
- K. Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality;
- L. Undertake improvements designated to increase the safety or attractiveness of the District to businesses which may wish to locate there or to visitors to the District including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Borough of Red Bank;
- M. Publicize the District and the businesses included within the District boundaries;
- N. Recruit new businesses to fill vacancies in, and to balance the business mix of, the District;
- O. Organize special events in the District;
- P. Provide special parking arrangements for the District; and
- Q. Provide temporary decorative lighting in the District.

**§ 596-8      Annual budget, hearing and assessments.**

- A. The fiscal year of the District and of the Management Corporation shall be the calendar year. The current budget has been approved by the Mayor and Council. Hereafter, the District Management Corporation shall submit no later than December 1 of each year a detailed annual budget for the following year for approval by the Mayor and Council. The budget shall be processed and adopted by the Borough on or before April 1 of each year in accordance with the procedures set forth in N.J.S.A. 40:56-84.
- B. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the Special Improvement District. The budget shall be reasonably itemized, including any different tax rate or different tax tier for various properties within the District, and shall include a summary of the categories of cost properly chargeable as follows:

- (1) The amount of such costs to be charged against the general funds of the municipality, if any.
- (2) The amount of costs to be charged and assessed against properties benefited in the District, including the properties identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and the expanded district properties set forth in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07, in proportion to benefits which shall be the aggregate of costs of annual improvements to be made in the District during the ensuing year;
- (3) The amount of costs, if any, to be specially taxed against properties in the District, including the properties identified in Schedule A to Ordinance No. 1994-17, as amended by Exhibit A to Ordinance No. 2018-07, and the expanded district properties set forth in Exhibit A to Ordinance No. 2007-4, as amended by Exhibit A to Ordinance No. 2018-07.

C. Each year, when the Mayor and Council shall have acted on the estimated costs and/or on the budget, the Municipal Assessor shall prepare an assessment roll setting forth separately the amounts to be specially assessed against the benefited and assessable properties in the District, including expanded district properties. Descriptions of such properties, and the names of the then-current owners of such properties, so far as names are available, shall be included in each annual assessment roll. The assessment roll, when so prepared, shall be filed in the Office of the Municipal Clerk and be there available for inspection. The Mayor and Council shall annually meet to consider objections to the amounts of such special assessments at least 10 days after a notice of hearing has been published once in the official newspaper and mailed to the named owners of all tracts, parcels and lots of property proposed to be assessed. The notice shall set forth the time and place of meeting and set forth the purpose of such meeting, but may refer to the assessment roll for further particulars. When the governing body shall have approved the amounts of the special assessments set forth therein, or as may be changed by it, the Municipal Clerk shall forthwith certify a copy of the assessment roll, with such changes, if any, to the Monmouth County Tax Board.

D. For the purpose of this section, "annual improvements" shall mean and include any reconstruction, replacement or repair of trees and plantings and other facilities of the Special Improvement District and the furnishing of any other local improvement which benefits properties within the District, including expanded district properties. For the purpose of this chapter, "costs" shall, with respect to annual improvements to and operation and maintenance of the Special Improvement District, mean costs of annual improvements; and all other costs, including planning costs, incurred or to be incurred in connection with annual improvements to and operation and maintenance of the District.

E. Moneys appropriated and collected on account of annual improvement costs, and costs of operating and maintaining a Special Improvement District, shall be credited to a special account. The Mayor and Council may incur the annual costs of improving, operating and maintaining a Special Improvement District, during

any fiscal year, though not specifically provided for by line item or other category in an approved estimate for such fiscal year, if in its discretion it shall be deemed necessary to provide for such annual improvements or operation or maintenance prior to the succeeding fiscal year and so long as the total amount of the account as approved for that year is not exceeded by that expenditure. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be conserved and applied towards the financial requirements of the succeeding year.

F. The Mayor and Council shall pay over funds to the Management Corporation quarterly on the first day of March, June, September and December of each year.

**§ 596-9      Annual audit of the District Management Corporation.**

The District Management Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Mayor and Council, and for that purpose, the Corporation shall employ a certified public accountant of New Jersey. The annual audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the Corporation, and a certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days of the filing of the audit with the Mayor and Council.

**§ 596-10      Annual report to municipality.**

The District Management Corporation shall, within 30 days after the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the Mayor and Clerk of the Borough.

**§ 596-11      Municipal powers retained.**

Notwithstanding the creation of a Special Improvement District, the Borough of Red Bank expressly retains all its powers and authority over the area designated as within the Special Improvement District. No improvements or modifications shall be made to any public property without the prior formal approval of the Borough governing body.

**§ 596-12      Ordinance reenactment.**

This article reenacts in its entirety the ordinance entitled "An Ordinance Creating a Special Improvement District Within the Borough of Red Bank and Designating a District Management Corporation," as heretofore adopted, amended and supplemented.

**BE IT FURTHER ORDAINED** that a copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies for their review and comment pursuant to applicable New Jersey Statutes.

**BE IT FURTHER ORDAINED** that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

**BE IT FURTHER ORDAINED** that, if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Councilman Yngstrom and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Taylor	( X )	( )	( )	( )
Councilman Whelan	( X )	( )	( )	( )
Councilman Yngstrom	( X )	( )	( )	( )
Councilman Ballard	( X )	( )	( )	( )
Councilman Zipprich	( X )	( )	( )	( )
Councilwoman Horgan	( X )	( )	( )	( )

Dated: March 28, 2018

First Reading/Introduction: March 14, 2018

Second Reading/Public Hearing: March 28, 2018

Adoption: March 28, 2018

I hereby certify the above to be a true copy.

Pamela Borghi

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Pamela Borghi, Municipal Clerk