

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, NEW JERSEY, CREATING A NEW CHAPTER IN THE CODE OF THE CITY OF BAYONNE ENTITLED "PENINSULA AT BAYONNE HARBOR SPECIAL IMPROVEMENT DISTRICT" PURSUANT TO N.J.S.A. 40:56-65, et seq.**

WHEREAS, pursuant to the terms of *N.J.S.A. 40:56-65 et seq.* (the "SID Law"), municipalities are authorized to protect the public welfare and preserve and enhance the function and appearance of business districts through the creation of pedestrian malls or special improvement districts; and

WHEREAS, to determine whether certain parcels of land warrant the creation of a special improvement district or pedestrian mall under the SID Law, the municipal council (the "City Council") of the City of Bayonne (the "City") authorized the commencement of studies and preliminary plans and specifications for the creation and maintenance of a special improvement district, including estimates of construction and maintenance as well as estimates of the potential gross benefit assessment; and

WHEREAS, the City Council believes it is in the best interests of the City to designate the properties identified on Schedule A attached hereto and made a part hereof as the Special Improvement District.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:**

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The new chapter entitled "Peninsula at Bayonne Harbor Special Improvement District," shall be created as follows:

**1. FINDINGS**

a. The area within the City of Bayonne (the "City") as described by lot and block numbers and street addresses set forth in Schedule "A" of this Chapter will benefit from being designated as a Special Improvement District.

b. A District Management Corporation would assist the City in promoting and managing development of the properties within the Special Improvement District by providing administrative, planning and other services to benefit the businesses, employees, residents and consumers of the Special Improvement District and promoting overall growth and employment.

c. An assessment shall be imposed on properties within the Special Improvement District and collected by the City of Bayonne with the regular property tax payment or payment in lieu of taxes or otherwise, and that such assessment shall be transferred to the District Management Corporation

to exercise the powers given to it by this ordinance and to effectuate the purposes of *N.J.S.A. 40:56-65, et seq.*

d. That it is in the best interest of the City and the public to create such Special Improvement District and to designate such a District Management Corporation.

e. The business community should be encouraged to provide self-help and self-financing programs to meet local business needs, goals and objectives.

## 2. DEFINITIONS

a. "District Management Corporation" means an entity created by municipal ordinance or incorporated, pursuant to *N.J.S.A. 15A:1-1 et seq.* and designated by municipal ordinance to receive funds collected, by an assessment within the Special Improvement District, as authorized by this Article.

b. "Special Improvement District" means an area within the City, as designated by this Article, in which an assessment on all property within the district shall be imposed for the purpose of planning and promoting the economic and general welfare of the district and the municipality.

c. Special Improvement District Description: the following properties are hereby designated as included in the district: Schedule "A" attached hereto and made a part hereof, which may be found in the City Clerk's office. Properties may be added or deleted from the district only through adoption of an ordinance by Council of the City of Bayonne (the "City Council").

## 3. CREATION OF DISTRICT

a. There is hereby created and designated within the City of Bayonne a Special Improvement District to be known as the "Peninsula at Bayonne Harbor Special Improvement District" consisting of the properties designated and listed on Schedule "A" by tax lot and block number and street addresses.

b. All commercial properties, including properties improved by multi-tenant residential buildings, within the Special Improvement District, including all private, non-residential assessed properties, and any tax-exempt land which contain uses or improvements subject to property tax, are deemed included in the assessing and taxing provisions of this Chapter and are expressly subject to potential tax or assessment made for Special Improvement District purposes. Business properties as referred to herein shall include properties used for commercial establishments, offices and four (4) family or greater homes.

c. All properties within the Special Improvement District that are owned and fully occupied by a nonprofit entity and that are completely exempt from real property taxes pursuant to Title 54, Chapter 4 of the Revised Statutes are exempt from any assessment for Special Improvement District purposes.

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d. Any owner of property included within the District and subject to the assessing and taxing provisions of Ordinance, may appeal to the Tax Assessor of the City of Bayonne requesting to be excluded from the District and from any assessment and taxing provisions of this Ordinance. This appeal is only as to whether or not a property should be included within the District under the standards set forth in this section. It is not an appeal with regard to any taxes. Appeals with regard to taxes should be taken in the usual manner to the Hudson County Board of Taxation or to the Tax Court. This appeal seeking exclusion from the District and any assessment and taxing provisions of this Ordinance, 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 thirty (30) days of receipt of the appeal. Within ten (10) days after the conclusion of the informal hearing or conference, the Assessor shall file a report and recommendation with the City Council. The City Council shall review the matter and act within thirty (30) days upon receipt of the report and recommendation from the assessor.

#### **4. ASSESSMENTS**

a. All properties included in the Special Improvement District, unless excluded pursuant to Section 3 of this Chapter, shall be assessed for operation, maintenance and improvement costs as set forth in this Article.

b. Annual operation and maintenance costs relating to services peculiar to the Special Improvement District, as distinguished from services normally provided by the City, will provide benefits primarily to the properties included within the Special Improvement District rather than to the City as an entirety. These annual costs shall be assessed and taxed to the benefited properties pursuant to the provisions of the Chapter and *N.J.S.A. 40:56-65, et seq.*

c. All costs of development, construction and acquisition relating to improvements to the District shall be financed and assessed to properties especially benefited thereby. The City 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.

#### **5. DISTRICT MANAGEMENT CORPORATION**

a. Designation Powers. There shall be hereby created a District Management Corporation which shall assist the City in planning and promoting the economic development and improvement within the Special Improvement District and shall serve as an advisory board to the Mayor and Council. The District Management Corporation is hereby designated as eligible to receive the funds collected as assessment with the Special Improvement District. In addition, the District Management Corporation shall have all powers necessary and requisite to effectuate the purposes of this Chapter and Special Improvement District, including but not limited to:

b. Adopt by-laws for the regulations of its affairs and the conduct of its business and to prescribe the rules, regulations and policies in connection with the performance of its functions and duties.

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- c. Employ such persons as may be required and fix and pay their compensation from funds available to the District Management Corporation.
  - d. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money.
  - e. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the District Management Corporation, including contracts with any person, firm, corporation, governmental agency or other entity.
  - f. Administer and manage its own funds and accounts and pay its own obligations.
  - g. Borrow money from private lenders and from governmental entities.
  - h. Fund the improvement of the exterior appearance of properties in the Special Improvement District through grants or loans.
  - i. Fund the rehabilitation of properties in the Special Improvement District.
  - j. Accept, purchase, rehabilitate, sell, lease or manage property in the Special Improvement District.
  - k. Enforce the conditions of any loan, grant, sales or lease made by the District Management Corporation.
  - l. Provide security, sanitation and other services to the Special Improvement District supplemental to those provided normally by the City.
  - m. Undertake improvements designed to increase the safety or attractiveness of the Special Improvement District to businesses which may wish to locate there or to visitors to the Special Improvement District, including but not limited to litter clean-up and control, landscaping, parking operations and facilities and rest areas and facilities, pursuant to pertinent regulations of the City.
  - n. Publicize the Special Improvement District and businesses including with the Special Improvement District boundaries.
  - o. Recruit new business to fill vacancies in and to balance the business mix of the Special Improvement District.
  - p. Organize special events in the Special Improvement District.
  - q. Provide special parking arrangements.
  - r. Provide temporary decorative lighting in the Special Improvement District.
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## 6. BOARD OF TRUSTEES.

The corporation shall be governed by a board of trustees consisting of no more than nine (9) members appointed by the City Council as follows:

a. One (1) member appointed by the Mayor; one (1) member of the City Council appointed by a majority vote of the full Council; the City Business Administrator or Director of Planning and Development, or their designee; three (3) persons who are owners of real estate located within the district, or officials of a corporation or entity owning real estate within the district; and three (3) persons who are proprietors or employees of businesses conducted in the district.

b. The appointment of members of the board of trustees shall initially be as follows: two (2) members for one (1) year term; three (3) members for a two (2) year term; and three (3) members for a three (3) year term. Thereafter, appointments will be for a three (3) year term. Terms shall expire on December 31. The term of the member of the City Council shall expire on December 31 of each year.

c. Appointments to the board of trustees shall be made by the City Council. Vacancies on the board will be filled by the City Council for the expired term.

d. The chairperson of the board of trustees shall be appointed by the City annually.

## 7. ANNUAL BUDGET, HEARING AND ASSESSMENTS

a. Concurrent with the submission of the improvement implementation plan for the special improvement district and annually thereafter, the district management corporation shall report to the City Council an estimate of the cost of operating and maintaining and annually improving the district for the next fiscal year to be incurred under the plan and an estimate of changes in the amounts of the costs which would follow upon the adoption of any addition or amendment to the plan recommended to or under consideration by the City Council.

b. Such estimate shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable in accordance with N.J.S.A. 40:56-80. The Finance Director, with the assistance and concurrence of the district management corporation, shall submit a detailed annual budget for approval by resolution of the City Council in accordance with the statute.

c. The annual costs of operation, maintaining and improving the Special Improvement District shall be reported to the City Council, assessed, collected and appropriated as provided in N.J.S.A. 40:56-80.

Section 3. If any section, subsection, provision, clause or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such adjudication shall not affect the remaining sections, subsections, provisions, clauses or portions which shall be deemed severable therefrom.

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Section 4. At least ten (10) days prior to the date fixed for a public hearing on this ordinance, a copy hereof and notice of the date, time and place of said hearing shall be mailed by First Class Mail to all parties in accordance with *N.J.S.A. 40:56-71*.

Section 5. Notwithstanding the creation of a Special Improvement District, the City of Bayonne expressly retains all of its power and authority over the area designated as within the Special Improvement District.

Section 6. Any ordinance provisions inconsistent with this Ordinance are hereby repealed.

Section 7. This ordinance shall become effective after adoption and publication according to law.

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**SCHEDULE "A"**

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