

TOWN OF NEWTON
Ordinance 2017-XX

**ORDINANCE OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX,
NEW JERSEY, ESTABLISHING A SPECIAL IMPROVEMENT DISTRICT AND
DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the Mayor and Town Council of the Town of Newton (the “**Town**”) regard the existence of a thriving business community as a vital economic and social force for the Town; and

WHEREAS, the Town commissioned a feasibility study to determine whether the creation of a special improvement district pursuant to *N.J.S.A. 40:56-65 et seq.* may aid in the development and support of the business community; and

WHEREAS, North Branch Associates, LLC delivered a report entitled “Town of Newton SID Feasibility Study” dated January 27, 2014 (the “**Report**”), which recommended the creation of a special improvement district and the designation of a non-profit corporation to administer said district; and

WHEREAS, after input from Town merchants, business owners, and residents of the community, the Mayor and Town Council have revisited the concept of a special improvement district and have determined it is in the best interests of both the business community and the community at-large to implement and create a special improvement district in the Town,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Newton, as follows:

Section 1. Definitions.

- a. “**District Management Corporation**” means “Newton Business Alliance, Inc.” (also referred to as “**District Management Organization**”), an entity to be 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 Ordinance and any amendatory or supplementary ordinances.
- b. “**SID Law**” means *N.J.S.A. 40:56-65 et seq.*, as the same may be amended and supplemented.
- c. “**Special Improvement District**” (sometimes also referred to as “**District**”) means an area within the Town of Newton, designated by this Ordinance, as an area in which special assessments on property within the District shall be imposed for the purposes of promoting the economic and general welfare of the District.

Section 2. Findings. The Mayor and Town Council hereby find and declare:

- a. That the areas within the Town of Newton Historic District, as described by lot and block number, and by street addresses as set forth in Schedule A of this Ordinance, will most benefit from being designated as a Special Improvement District.
- b. That a District Management Corporation would provide administrative and other services to benefit the businesses, employees, residents and consumers in the Special Improvement District. These services shall be over and above the services already provided to the District by the Town.
- c. That a special assessment shall be imposed and collected by the Town with the regular property tax payment or payment in lieu of taxes or otherwise, and that all of these payments received by the Town shall be transferred to the District Management Corporation to effectuate the purposes of this ordinance and to exercise the powers given to it by this ordinance.
- d. That it is in the best interests of the municipality and the public to create a Special Improvement District and to designate a District Management Corporation.
- e. That the business community should be encouraged to provide self-help and self-financing programs to meet local business needs, goals and objectives.
- f. That revitalization of the downtown core area is of vital importance to the Town.
- g. That locating the Special Improvement District within the already defined and accepted Historic District builds on one of the Town's core community assets, will serve as a valuable marketing tool in bringing business and customers to the Special Improvement District, will provide new tools to promote the ongoing strength and vibrancy of the Historic District, and will foster local economic needs, goals and objectives in support of the Spring Street corridor, downtown, and associated areas.

Section 3. Creation of the District.

- a. There is hereby created and designated within the Town of Newton a Special Improvement District to be known as the Town of Newton Special Improvement District consisting of the properties designated and listed on Schedule A by tax lot and block number and street addresses. The Special Improvement District shall be subject to special assessments on all affected property within the District which assessment shall be imposed by the Town of Newton for the purposes of promoting the economic and general welfare of the District.
- b. All business properties within the Special Improvement District which are nonresidential assessed properties, as well as residential rental properties with five (5) or more units are deemed included in the assessing provisions of this ordinance and are expressly subject to a potential assessment made for Special Improvement District purposes.
- c. All properties within the Special Improvement District that are tax-exempt and do not otherwise make payments in lieu of taxes to the Town, or which are used exclusively for residential purposes not described in subsection (b) above, are

deemed excluded from the assessing provisions of this Ordinance and are expressly exempt from any assessment made for Special Improvement District purposes.

Section 4. Appeal of Property Owner from Inclusion in the District. Any owner of property included within the Special Improvement District and subject to the assessing provisions of this ordinance may appeal to the Tax Assessor of the Town requesting to be excluded from the District and from any assessment 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 Section 3 of this Ordinance. It is not an appeal with regard to any taxes. Appeals with regard to taxes should be taken in the usual manner to the Sussex County Board of Taxation or to the Tax Court. This appeal seeking exclusion from the District and any assessing 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 Governing Body. The Governing Body shall review the matter and act within thirty (30) days upon receipt of the report and recommendation from the Assessor.

Section 5. Assessments.

- a. Operation and Maintenance of District. Annual operation and maintenance costs relating to services peculiar to the District, as distinguished from services normally provided by the Town, which will provide benefits primarily to the properties included within the District rather than to the Town as an entirety. These annual costs shall be assessed and billed to the benefited properties pursuant to the provisions of this Ordinance and the SID Law.
- b. Development, Construction or Acquisition Costs. All costs of development, construction and acquisition relating to improvements to the District shall be financed and assessed to properties especially benefited thereby. The municipality may, by separate ordinance, or by amendment to this ordinance, provide that improvements and facilities hereinafter acquired or developed shall be operated and maintained and the costs assessed to the benefited properties.

Section 6. The Designated District Management Corporation. The non-profit corporation, Newton Business Alliance, Inc., is hereby designated as the district management corporation for the District, such designation to take effect immediately upon the incorporation of such body under Title 15A of the New Jersey Statutes. This management corporation shall conduct its business in accordance with the Open Public Meetings Act and the Open Public Records Act. This corporation shall have no power of condemnation or eminent domain. It shall regularly file copies of the minutes of its meetings with the Town Clerk so the minutes shall be conveniently available to the public for inspection. The District Management Corporation shall also file its bylaws or any amendments thereto, upon the adoption thereof, with the Town Clerk.

Section 7. Powers of the Designated 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 Ordinance and the District, including, but not limited to the adoption of 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. The bylaws and other corporate documents shall provide that the corporation shall conduct its business in accordance with the Open Public Meetings Act and the Open Public Records Act, shall conduct regular meetings no less than quarterly and that the Board of Directors shall consist of nine (9) members. As to the membership of the Board of Directors it shall provide that one member shall be the Mayor of the Town of Newton, one member shall be the Town Manager of the Town of Newton, and one member shall be a member of the Newton Governing Body selected by the Newton Governing Body.

The term of the Mayor shall be concurrent with the Mayor's term of office. The term of the Town Manager shall be concurrent with the Town Manager's employment. The member of the Governing Body shall be selected by a majority vote of the Governing Body at its annual reorganization meeting in July for a one-year term commencing on the date of the Governing Body reorganization. The member of the Governing Body so selected, shall serve for such one-year term.

The remaining six (6) members of the Board of Directors shall consist of owners or occupants of properties subject to the special assessment in accordance herewith located within the District. The bylaws shall provide for an election to create the Board of Directors by owners and/or occupants of such properties included within the District, which election shall be held on or before the third month anniversary from the date of the adoption of the ordinance. Said elections will be for a term of three (3) years; except, however, at the first election two (2) members shall be elected for one (1) year; two (2) members shall be elected for two (2) years and two (2) members shall be elected for three (3) years. Any vacancies with regard to these elected members shall be filled by a majority vote of the Board members for the balance of the term.

In accordance with the SID Law, the corporation shall also have the following powers:

- a. Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation.
- b. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money.
- c. 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.
- d. Administer and manage its own funds and accounts and pay its own obligations.
- e. Borrow money from private lenders for periods not to exceed 180 days and from governmental entities for that or longer periods.

- f. Fund the improvement for the exterior appearance of properties in the District through grants or loans. Standards for eligibility and standards for terms of such grants and loans shall be established by the Board of Directors.
- g. Fund the rehabilitation of properties in the District through grants or loans. Standards for eligibility and standards for terms of such grants and loans shall be established by the Board of Directors.
- h. Accept, purchase, rehabilitate, sell, lease or manage property in the District.
- i. Enforce the conditions of any loan, grant sale or lease made by the Corporation.
- j. Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality.
- k. 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, security and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Town of Newton.
- l. Publicize the District and the businesses included within the District boundaries.
- m. Recruit new businesses to fill vacancies in, and to balance the business mix of the District.
- n. Organize special events in the District.
- o. Provide special parking arrangements for the District.
- p. Provide temporary decorative lighting in the District.

Section 8. Annual Budget, Hearing and Assessments.

- a. The fiscal year of the District and of the District Management Corporation shall be the calendar year. The first budget of the Corporation, on file in the office of the Town Clerk, is hereby approved and shall be prorated for the term August 1, 2017 to December 31, 2017. Hereafter, beginning December 1, 2017, 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 Town on or before April 1st of each year in accordance with the procedures set forth in the SID Law.
- b. The budget shall be submitted with a report, which explains how the budget contributes to goals and objectives for the Special Improvement District together with the following:
 - 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 in proportion to benefits which shall be the aggregate of costs of annual improvements to be made in the District during the year.
 - 3. The amount of costs, if any, to be specially assessed against properties in the District.

- c. Each year, when the Mayor and Council shall have acted on the estimated costs and/or on the budget, the Assessor shall prepare an assessment roll setting forth separately the amounts to be specially assessed against the benefited and assessable properties in the District. 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 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 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 Sussex 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. For the purpose of this act, "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 District Management Corporation quarterly on the first day of March, June, September and December of each year.

Section 9. Annual Audit of District Management Corporation. The District Management Corporation shall cause an annual independent 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 an independent auditor who shall be 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.

Section 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 for their approval. The District Management Corporation shall also present its annual audit and performance data to the municipality on an annual basis in accordance with the SID Law.

Section 11. Municipal Powers Retained. Notwithstanding the creation of a Special Improvement District, the Town of Newton expressly retains all its powers and authority over the area designed as within the Special Improvement District. No improvements or modifications shall be made to any public property without the prior approval of the Governing Body.

Section 12. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions of the Ordinance and to this end the provisions of this Ordinance are severable.

Section 13. Effective Date. This Ordinance shall take effect in accordance with law. This Ordinance shall expire five (5) years from the effective date hereof unless re-enacted by the Mayor and Council.

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on _____, 2017. It will be considered for adoption, after public hearing and final reading thereon, at a regular meeting of said Governing Body to be conducted on _____, 2017 at 7 p.m. at the Newton Municipal Building, 39 Trinity Street, Newton, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

Schedule A

Properties

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