

## **Borough of Highlands Public Notice**

Please take notice that the following ordinance was introduced and passed upon first reading at a meeting of the Governing Body of the Borough of Highlands, in the County of Monmouth, State of New Jersey, on January 7, 2015. Notice is hereby given that the following ordinance will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Highlands Elementary School, 360 Navesink Avenue, Highlands, NJ 07732, on Wednesday, February 18, 2015 at 8:00 PM. At that time, the public is invited to participate in the discussion of the Ordinance. Copies of the Ordinance are available in the Municipal Clerk's Office located at 42 Shore Drive, Highlands, NJ and are posted on the Display Board at the Municipal Building. Copies are available at no charge to the general public.

### **BOROUGH OF HIGHLANDS COUNTY OF MONMOUTH**

**O-15- 3**

#### **AN ORDINANCE REPLACING ORDINANCE O-11-9 AND RE-ENACTING CHAPTER 17 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS THAT ESTABLISHED A BUSINESS IMPROVEMENT DISTRICT WITHIN THE BOROUGH OF HIGHLANDS**

**WHEREAS**, the Borough of Highlands, by Ordinance O-11-9 and codified in Chapter XVII of the Code of the Borough of Highlands, established a business improvement district, which Ordinance expired on December 31, 2014; and

**WHEREAS**, the Borough of Highlands finds that it is in its best interest to renew Ordinance O-11-9 for an additional three-year period.

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of the Borough of Highlands as follows:

**SECTION ONE:** Chapter XVII of the Revised Borough Code of the Borough of Highlands shall be readopted as follows (underscores represent additions; strikethroughs represent deletions):

#### **CHAPTER XVII BUSINESS IMPROVEMENT DISTRICT\***

##### **17-1 DEFINITIONS.**

*Business Improvement District* (sometimes also referred to as "District" or "Special Improvement District") shall mean an area within the Borough of Highlands, designated by this chapter, 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.

*District Management Corporation* shall mean "Business Improvement District of Highlands, New Jersey, Inc. (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 Business Improvement District, as authorized by this chapter and any amendatory supplementary ordinances.

(Ord. No. O-11-9)

## **17-2 FINDINGS.**

The Mayor and Council find and declare:

a. That the area within the Borough of Highlands, as described by lot and block number, and by street addresses as set forth in Schedule A of this chapter\*\*, will benefit from being designated as a Business Improvement District.

\*\***Editor's Note:** Schedule A, referred to herein, may be found at the end of this chapter.

b. The rental apartments containing five (5) or more units on the attached Schedule A as Class 4C are hereby included within the Special Improvement District as established by this chapter, provided, however, that no assessment shall be collected from Shore Landings, L.L.C. unless the decision of the Superior court, Law Division in Shore Landings v. Borough of Highlands is modified or reversed by appeal or agreement.

All the properties included on Schedule A as Class 4 income producing properties hereto are hereby deemed to be included within the Special Improvement District as established by this chapter.

c. That a District Management Corporation would provide administrative and other services to benefit the businesses, employees, residents and consumers in the Business Improvement District. These services shall be over and above the services already provided to the District by the Borough.

d. 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 of these payments shall be transferred to the District Management Corporation to effectuate the purposes of this chapter and to exercise the powers given to it by this chapter.

e. That it is in the best interests of the municipality and the public to create a Business Improvement District and to designate a District Management Corporation.

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

(Ord. No. O-11-9)

\***Editor's Note:** Schedule A, referred to herein, may be found at the end of this chapter.

### **17-3 CREATION OF DISTRICT.**

a. There is hereby created and designated within the Borough of Highlands a Business Improvement District to be known as the Highlands Business Improvement District consisting of the properties designated and listed on Schedule "A" by tax lot and block number and street addresses. The Business Improvement District shall be subject to special assessments on all affected property within the District which assessment shall be imposed by the Borough of Highlands for the purposes of promoting the economic and general welfare of the District.

b. All business properties within the Business Improvement District, including all private, nonresidential assessed properties, are deemed included in the assessing provisions of this chapter and are expressly subject to potential assessment made for Business Improvement District purposes.

c. All properties within the Business Improvement District that are tax-exempt or are used exclusively for residential purposes, are deemed excluded from the assessing provisions of this chapter and are expressly exempt from any assessment made for Business Improvement District purposes.

(Ord. No. O-11-9)

### **17-4 APPEAL OF PROPERTY OWNER FROM INCLUSION IN THE DISTRICT.**

Any owner of property included within the Business Improvement District and subject to the assessing provisions of this chapter, may appeal to the Tax Assessor of the Borough of Highlands, requesting to be excluded from the District and from any assessment 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 Section 17-3 of this chapter. 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 provisions of this chapter, 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.

(Ord. No. O-11-9)

### **17-5 ASSESSMENTS.**

a. *Maintenance of District.* Annual operation and maintenance costs relating to services peculiar to the District, 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 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 assessed to the benefited properties.  
(Ord. No. O-11-9)

#### **17-6 DESIGNATED DISTRICT MANAGEMENT CORPORATION.**

The nonprofit corporation, Highlands Business Partnership, Inc., 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, and all of its operations shall be subject to the Open Public Records Act (OPRA). This Corporation shall have no power of condemnation or eminent domain.

To comply with the provisions of OPRA, the Corporation shall maintain its records at the Highlands Borough Hall and 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. (Ord. No. O-11-9)

#### **17-7 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 chapter and the District, including, but not limited to:

a. 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; the bylaws and other corporate documents shall provide that the corporation shall conduct its business in accordance with the Open Public Meeting Law; shall conduct regular meetings no less than quarterly and that the Board of Directors shall consist of twenty-one (21) members. As to the membership of the Board of Directors it shall include (1) a member of the Governing Body selected by the Governing Body; (2) a member of the Borough Planning Board selected by the Governing Body; (3) one (1) resident of the Borough who shall not be an owner or occupant of commercial property within the District. All of these appointments shall serve at the pleasure of the appointing authority.

Additionally the Board of Directors shall consist of one (1) nonvoting member appointed from bodies such as:

1. Northern Monmouth Area Chamber of Commerce

2. Gateway National Park
3. Twin Lights Historic State Park
4. Not named

b. The members appointed by these bodies shall serve at the pleasure of the appointing body. The remaining fourteen (14) members of the Board of Directors shall consist of owners or occupants of commercial property located within the District. The Mayor and Council will designate the BID Steering Committee members to carry on the duties of the nonprofit corporation, to include securing corporate and nonprofit status and creation of bylaws, form a nominating and election committee, utilize technical assistance of the League of Women Voters. The BID Committee shall not expend or commit any District Management Corporation funds without a simple majority vote of BID Committee members. The bylaws shall provide for an election to create the Board of Directors by owners and/or occupants of commercial property included within the District, which election shall be held on or before the third month anniversary from the date of the adoption of the chapter (this chapter was adopted May 5, 1999 by Ordinance No. O-99-06). Said elections will be for a term of three (3) years, except, however, at the first election five (5) members shall be elected for one (1) year; four (4) members shall be elected for two (2) years and five (5) 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.

c. The Designated District Management Corporation shall also:

1. Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation.
2. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money.
3. 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.
4. Administer and manage its own funds and accounts and pay its own obligations.
5. Borrow money from private lenders for periods not to exceed one hundred eight (180) days and from governmental entities for that or longer periods.
6. 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.
7. 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.

8. Accept, purchase, rehabilitate, sell, lease or manage property in the District.

9. Enforce the conditions of any loan, grant, sale or lease made by the corporation.

10. Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality.

11. 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 Highlands.

12. Publicize the District and the businesses included within the District boundaries.

13. Recruit new businesses to fill vacancies in, and to balance the business mix of, the District.

14. Organize special events in the District.

15. Provide special parking arrangements for the District.

16. Provide temporary decorative lighting in the District.

(Ord. No. O-11-9)

#### **17-8 ANNUAL BUDGET, HEARING AND ASSESSMENTS.**

a. The fiscal year of the District and of the management corporation shall be the calendar year. The first budget has been approved by the Mayor and Council. Hereafter, beginning December 1, 1999, 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<sup>st</sup> 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 Business 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 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. Descriptions of such properties, and the names of the ten (10) 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 ten (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 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 Business 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 Business 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 Business Improvement District, shall be credited to a special account. The Mayor and Council may incur the annual costs of improving, operating and maintain a Business 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.  
(Ord. No. O-11-9)

#### **17-9 ANNUAL AUDIT OF 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 (4)

months after the close of the fiscal year of the corporations, 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 (5) days of filing of the audit with the Mayor and Council. (Ord. No. O-11-9)

**17-10 ANNUAL REPORT TO MUNICIPALITY.**

The district management corporation shall, within thirty (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. (Ord. No. O-11-9)

**17-11 MUNICIPAL POWERS RETAINED.**

Notwithstanding the creation of a Business Improvement District, the Borough of Highlands expressly retains all its powers and authority over the area designed as within the Business Improvement District. No improvements or modifications shall be made to any public property without the prior formal approval of the Borough Governing Body. (Ord. No. O-11-9)

**17-12 SEVERABILITY.**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions of the chapter and to this end the provisions of this chapter are severable. (Ord. No. O-11-9)

**17-13 EFFECTIVE DATE.**

This chapter shall take effect immediately after passage and publication as required by law, nunc pro tunc January 1, 2015. This chapter shall expire in three (3) years unless reenacted by the Mayor and Council of the Borough of Highlands prior to December 31, 2017-2014. Upon the third anniversary of the Business Improvement District, the chapter will expire unless the Board of Directors recommends the continuation of the BID with the approval of the Mayor and Council.(Ord. No. O-11-9)

**17-14 DOWNTOWN BUSINESS IMPROVEMENT ZONE (D-B12).**

**17-14.1 Purpose.**

The purpose of this section is to (a) promote economic growth and employment within the business district and, in particular, the Business Improvement District; (b) foster and encourage self-help programs to enhance to local business climate; and (c) authorize, permit and facilitate the Business Improvement District and the Highlands Business Partnership to apply for and accept funds or loans from the State Department of Community Affairs for public improvements as contemplated by P.L. 1998, c. 115. (Ord. No. O-13-11)



**17-14.2 Zone Created.**

There is hereby created and designated within the Borough a Downtown Improvement Zone ("D-BIZ") which shall be co-extensive with the Business Improvement District as defined by the Code of the Borough of Highlands, Section 17-3. (Ord. No. O-13-11)

**SCHEDULE A**  
(Section 17-2)

<b>Block</b>	<b>Lot</b>	<b>Qual Class</b>	<b>Property Location</b>
7	1	4C	44 SOUTH BAY AVENUE
8	1	4A	42 SOUTH BAY AVENUE/RIPAR
9	5	4A	PORTLAND & BRIDGE
9	7	1	1 SOUTH BAY AVENUE
11	18	4A	NEW RD & GRAND TOUR
14	1.01	4A	PORTLAND ROAD
20	1	4A	1 NAVESINK AVENUE
34	8	4A	1 WOODLAND STREET
35	17	4C	82 VALLEY AVENUE
38	3	4A	36 NAVESINK AVENUE
38	4	4A	30 NAVESINK AVENUE
38	5	4A	26 NAVESINK AVENUE
38	6	4A	22 NAVESINK AVENUE
38	8	4A	2 NAVESINK AVENUE
38.01	11.01	4A	1 BAY AVENUE
38.01	12	4A	15 BAY AVENUE
38.01	13	4A	19 BAY AVENUE
38.01	15.01	4A	23 BAY AVENUE
39	7.01	4A	34 BAY AVENUE
39	8	4A	26 BAY AVENUE (DOCK)
39	9	4A	24 BAY AVENUE
39	10	4A	18 BAY AVENUE

39	12	4A	12 BAY AVENUE
39	14	4A	2 BAY AVENUE
39	15	4A	2 SOUTH BAY AVENUE
40	11.02	2	EXTENSION OF FIRST ST
40	15.01	2	116 NAVESINK AVENUE
40	18.19	4A	MILLER STREET
41	8	4A	75 BAY AVENUE
41	9	4A	BAY AVENUE
42	10	4A	88 BAY AVENUE
42	13	4A	78 BAY AVENUE
42	15	2	68 BAY AVENUE
43	1	4A	18 SHREWSBURY AVENUE
45	4.01	4A	102 BAY AVENUE
46	1	4A	103-107 BAY AVENUE
46	2	4A	111 BAY AVENUE
46	3	4A	123 BAY AVENUE
46	7	2	143 BAY AVENUE
47	6	4A	132 BAY AVENUE
47	7	4A	130 BAY AVENUE
47	8	4A	128 BAY AVENUE
47	9	4A	126 BAY AVENUE
47	11	4A	122 BAY AVENUE
47	12	4A	120 BAY AVENUE
48	1	4C	45 CENTER STREET
48	7	4A	30 JACKSON STREET
50	1	4A	52 SHREWSBURY AVENUE
50	2	4A	52 SHREWSBURY AVENUE
50	4	4A	56 SHREWSBURY AVENUE
51	2	4A	3 CORNWALL STREET

52	2	4A	140 BAY AVENUE
53	2	4C	65 MILLER STREET
53	8	4A	157 BAY AVENUE
53	9	4A	151 BAY AVENUE
54	1	4A	150 BAY AVENUE
54	3.01	4A	146-148 BAY AVE
54	4	4A	144 BAY AVENUE
54	24.01	4A	11-13 MILLER STREET
55	1	4A	70 SHREWSBURY AVENUE
55	4.01	4A	88 SHREWSBURY AVENUE
56	14	4C	18 FIFTH STREET
56	15	2	22-24 FIFTH STREET
56	16	2	26 FIFTH STREET
58	18	4A	190 BAY AVENUE
58	19	4A	188 BAY AVENUE
58	23.01	4A	182 BAY AVENUE
58	24	4A	170 BAY AVENUE
58	25	4A	168 BAY AVENUE
58	26	2	164 BAY AVENUE
59	9	4A	165 BAY AVENUE
60	7.01	4A	SHORE DRIVE
63	5	2	197 BAY AVENUE
63	7	2	205 BAY AVENUE
63	19.01	4A	231 BAY AVENUE
64	1	4A	196 BAY AVENUE
64	24	4A	214 BAY AVENUE
64	28.01	4A	208 BAY AVENUE
66	12	4A	62 FIFTH STREET
69	4.01	4A	242 BAY AVENUE

69	13	4A	ATLANTIC STREET
72	8	4A	FT OF ATLANTIC ST
72	9.012	4A	MARINA ON THE BAY
72	11.01	4A	270 BAY AVENUE
72	12	4A	272 BAY AVENUE
74	9	4A	277 BAY AVENUE
75	1	2	274-276 BAY AVENUE
81	10.01	4A	295 BAY AVENUE
82	1.01	4A	297-299 BAY AVENUE
82	5.01	2	83 HUDDY AVENUE
83	1	4A	300 BAY AVENUE
84	2.01	4A	MARINE PLACE
88	1.01	4A	311 BAY AVENUE
88	3	4A	71 WATERWITCH AVENUE
88	4.01	4A	67-69 WATERWITCH AVENUE
88	5	4A	321 BAY AVENUE
89	1	4A	310 BAY AVENUE
96	3	2	409 BAY AVENUE
100	27	4A	326 SHORE DRIVE
100	27.06	4C	SHORE LANDING APARTMENTS
101	12.01	4A	348 SHORE DRIVE
101	14	4A	354 SHORE DRIVE
101	27	4A	WILLOW STREET
101	30	4A	LOCUST ST
105.107	1.1	4A	SHADOW LAWN TRAILER PARK
108	1	4A	440 NAVESINK AVENUE
108	2.01	4A	450 HWY 36
108	2.02	4A	HIGHWAY 36 HIGHLANDS
108	2.03	4A	470 HIGHWAY 36

114	1.01	4A	301 SHORE DRIVE
114	1.02	4A	SHORE DRIVE
116	11	4A	404 NAVESINK AVENUE
116	13	4A	410 NAVESINK AVENUE
116	14	4A	426 NAVESINK AVENUE
120	8.04	4A	254 NAVESINK AVENUE

**SECTION TWO. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

**SECTION THREE. Repealer.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION FOUR. Effective.** This Ordinance shall take effect after final passage and publication as provided by law.

**Carolyn Cummins**  
**Borough Clerk**