

ORDINANCE NO. __ - 2007

DRAFT 2

7/19/07

**AN ORDINANCE ESTABLISHING CHAPTER 317
PROVIDING FOR THE CREATION OF A SPECIAL
IMPROVEMENT DISTRICT AND THE DESIGNATION OF
A BUSINESS IMPROVEMENT DISTRICT WITHIN THE
BOROUGH OF SPRING LAKE.**

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Spring Lake, in the County of Monmouth and State of New Jersey that a new chapter entitled “Special Improvement District” within the Code of the Borough of Spring Lake be and hereby is adopted to read in its entirety as follows:

§1. General (nonsubstantive references to Steering Committee work to be added)

The Borough Council of the Borough of Spring Lake finds as follows:

- A. That, having formed a “Spring Lake Managed District Steering Committee and having received its “Report and Recommendations” dated July 10, 2007, an area within the Borough of Spring Lake, as shall be described hereinafter by lot and block numbers as well as by street addresses, would benefit from being designated as a special improvement district; and
- B. That a District Management Corporation would assist the Borough in promoting economic growth and employment within the business district by providing administrative and other services to benefit the businesses, employees, residents and consumers in the special improvement district; and
- C. That a special assessment shall be imposed and collected by the Borough of Spring Lake with the regular property tax payment or payment in lieu of taxes, and that such special assessment shall be transferred to the District Management Corporation to exercise the powers given it by this chapter and to effectuate the purposes of N.J.S.A. 40:56-65 et seq.;
- D. That it is in the best interests of the Borough of Spring Lake and the public to create such special improvement district and to designate such District Management Corporation, except that no District Management Corporation shall be designated to receive any funds or to exercise any powers unless the Board of Directors of that Corporation shall include at least one member of the Borough Council of the Borough of Spring Lake.

§2. Definitions

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

BOROUGH – The Borough of Spring Lake, County of Monmouth, State of New Jersey

BUSINESS IMPROVEMENT DISTRICT – A district within the Borough of Spring Lake designated by municipal ordinance pursuant to N.J.S.A. 40:56-71.2 and designed to promote economic revitalization of the Borough through the encouragement of business improvements within the Borough’s Downtown Area

DISTRICT MANAGEMENT CORPORATION — 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 a special assessment within a special improvement district as authorized by this chapter.

SPECIAL IMPROVEMENT DISTRICT — An area within the Borough of Spring Lake designated by this chapter as an area in which a special assessment on all property within the district shall be imposed for the purposes of promoting the economic and general welfare of the district and the Borough of Spring Lake.

§3. Special Improvement District Description

There is hereby created and designated within the Borough of Spring Lake a special improvement district pursuant to N.J.S.A. 40:56-65, et seq., which shall be known as the “Spring Lake Improvement District” as more particularly described on Schedule A attached hereto and made a part hereof.

Schedule A may be amended to correct errors and to include or exclude properties which have changed in use thereby affecting their appropriateness as part of the District.

§4. Imposition of Assessment

All of the properties included in the Special Improvement District, as described in this chapter, except for those exempted by this chapter, shall be subject to having imposed thereon by the Borough a special assessment tax for the purposes of promoting the economic and general welfare of the District and the Borough. Such funds raised by the tax assessments shall be spent on those purposes permitted by N.J.S.A. 40:56-65 et seq., and specified in the annual budget approved pursuant to said statute and this chapter.

§5. Special Assessment

The special improvement district, as described on Schedule A, shall be an area in which all of the property included therein, except as hereinafter stated, shall have imposed a special assessment for the purposes of promoting the economic and general welfare of the district and the Borough of Spring Lake.

- A. The improvements and supplemental services in the special improvement district will involve annual costs peculiar only to the special improvement district and will be distinguished from improvements and services normally provided by the Borough. While the improvements and supplemental services shall be maintained and operated pursuant to the provisions of this chapter and to N.J.S.A. 40:56-65 et seq. and the

costs thereof assessed or taxed to the benefited properties pursuant to this chapter, such improvements and supplemental services shall not be substituted by the Borough for improvements and services now supplied to the proposed special improvement district nor be grounds for curtailment of future improvements and services planned.

- B. Properties within the Special Improvement District that are subject to the special assessment shall be separated into two categories as follows:
 - 1) Special District 1: Properties that are completely within the Borough's Retail Commercial (RC) district as designated on the Borough's official zoning map.
 - 2) Special District 2: Properties that are in any zone other than the Borough's Retail Commercial district (GC, R1, R2, R3 or CS-SC) as designated on the Borough's official zoning map.

The appropriate tax rate to be applied to each category of property shall be calculated to generate the amount required to fund the budget adopted per this Ordinance wherein the rate for properties in Special District 2 shall be 50% of the rate for properties in Special District 1.

The foregoing assessment shall be collected by the Borough as a special assessment against the properties that are within the district as defined in Schedule A per the above.

- C. In the event any tax exempt entity makes a payment in lieu of taxes to the Borough of Spring Lake, said entity shall be subject to the imposition of a special assessment.

§6. Exemptions from Special Assessment

The following properties are exempt from the special assessment tax of this chapter:

- A. Property owned by a municipal, county, state, or federal government.
- B. Property used exclusively for a residential purpose.
- C. Property that is unimproved, undeveloped, and in a residential zone.
- D. Exempt properties, under the New Jersey Real Estate Tax laws, including public and parochial school property, church property, cemeteries, exempt charity owned property, and other such exempt property.
- E. Properties owned by nonprofit recreational, cultural or fraternal organizations and used for the purpose.

§7. Amendments to the Assessment List

By December 1 of each pre-tax year, a review of the assessment list, per Schedule A attached, shall be done as follows:

- A. The Borough Tax Assessor shall prepare a list of all benefited and assessable properties in the District. The list will include the block, lot, location, mailing address, preliminary

assessment, and the names of the then-current owners of such properties, so far as names are available.

- B. The assessment list, when so prepared, shall be filed in the office of the Borough Clerk as required by law and be available there for inspection.
- C. The Borough Council shall meet annually to consider including or excluding certain properties from the District 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 included or excluded from the list. 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 list for further particulars.
- D. When the Borough Council shall have approved the amended assessment list, the Borough Clerk shall forthwith certify a copy of the assessment list, with such changes, if any, to the Spring Lake Borough Assessor by no later than December 1 of the pre-tax year.

§8. Downtown Business Improvement Zone.

The entire special improvement district, as described on Schedule A, shall also be designated as a downtown business improvement zone pursuant to N.J.S.A. 40:56-71.2.

§9. District Management Corporation.

Spring Lake Business Development Corporation, Inc., is hereby designated the District Management Corporation which shall assist the Borough of Spring Lake in promoting economic growth and development within the special improvement district. Said District Management Corporation is or will be incorporated pursuant to the provisions of Title 15A of the New Jersey statutes and is hereby designated as eligible to receive the funds collected as special assessment within the special improvement district. In addition, the District Management Corporation shall:

A. Have a membership as follows:

- (1) All owners of the real property subject to assessment under this Chapter, each such property owner entitled to one (1) vote.
- (2) All business owners operating from and tenants of properties referred to in (1) herein. Upon registering with the Corporation the business operator/tenant will be entitled to (1) vote

B. Be Governed by a Board of Directors consisting of 21 members comprised of the following :

- (1) A member of the Borough governing body, to be called the "Borough Director";
- (2) Four persons who are owners of commercial real estate in the RC Zone, or officials of a corporation or entity owning commercial real estate in the RC Zone, to be called the "RC Zone Owner Directors";
- (3) Four persons who operate a retail business in the RC Zone to be called the "RC Zone Business Directors";

- (4) Two persons who operate a service or professional business within the district to be called the “Service Business Directors”;
- (5) One person who owns commercial property or operates a retail, service or professional business within the district but not in the RC Zone to be called the “General Business Director”.
- (6) Two persons who operate a restaurant, food, or dining experience business within the district to be called the “Dining Directors”;
- (7) Two unrelated residents of the district who are neither owners of commercial property within the district nor owners or operators of a business within the district, to be called the “Residential Directors”;
- (8) One person who shall be an owner resident of the Borough, the owner of commercial property within the district or the operator of a business or profession within the district, to be appointed by the Greater Spring Lake Chamber of Commerce, to be called the “Chamber of Commerce Director”;
- (9) One person who shall be an owner resident of the Borough, the owner of commercial property within the district or the operator of a business or profession within the district, to be appointed by the Spring Lake Merchants Association, to be called the “Merchants Association Director”;
- (10) One person who shall be an owner resident of the Borough, the owner of a bed and breakfast within the district, to be appointed by Spring Lake Bed and Breakfast Association, to be called the “Bed and Breakfast Director”;
- (11) One person, who shall be a member, trustee or employee of a cultural organization that serves Spring Lake and is formally designated by that organization as its representative, to be called the “Cultural Director”;
- (12) One person, who shall be a member, trustee or employee of a historic preservation organization that serves Spring Lake and is formally designated by that organization as its representative, to be called the “Preservation Director”;

C. Exercise the following powers:

- (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;
- (2) Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation;
- (3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;
- (4) 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;
- (5) Administer and manage its own funds and accounts and pay its own obligations;
- (6) Borrow money from private lenders and from governmental entities provided that the terms are specifically set forth in the annual budget;

- (7) Accept, purchase, rehabilitate, sell, lease or manage property in the special improvement district;
- (8) Provide security, sanitation and other services to the special improvement district supplemental to those provided normally by the Borough;
- (9) 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, cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, and those improvements generally permitted for pedestrian malls under Section 2 of P.L. 1972, c. 134 (N.J.S.A. 40:56-66), pursuant to pertinent regulations of the governing body;
- (10) Publicize the district and the businesses included within the district boundaries;
- (11) Organize special events in the district provided they are approved in advance by the Borough Administrator or Borough Council;
- (12) Provide special parking arrangements provided they are approved in advance by the Borough Administrator or Borough Council;
- (13) Provide temporary decorative lighting in the district;
- (14) Fund the improvement of the exterior appearance of properties in the district through grants or loans provided that the terms are specifically set forth in the annual budget; ;
- (15) Fund the rehabilitation of properties in the district;
- (16) Enforce the conditions of any loan, grant, sale or lease made by the corporation;
- (17) Recruit new businesses to fill vacancies in, and to balance the business mix of, the district;
- (18) Any and all other powers as may be authorized by Section 17 of P.L. 1984, c. 151, as amended by P.L. 2004, c. 180 (N.J.S.A. 40:56-83).

D. The Spring Lake Business Development Corporation will file with the Brough Clerk a certified copy of the adopted By-laws of the Corporation, which By-laws will be in substantial conformity with the draft By-laws filed with the Clerk prior to the adoption fo this ordinance. The Spring Lake Business Development Corporation will have the right to amend these By-laws from time to time provided that a certified copy of the adopted amendments will be filed with the Clerk and provided any amenedment to such corporation governance items such as the compositon, term or election of the Board of Directors and any aspect of member voting rights is approved in advance by the Borough Council.

§10. Budget.

- A. The District Management Corporation shall submit a detailed annual budget for approval by resolution of the Borough Council of the Borough of Spring Lake. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the special improvement district.
- B. The budget shall be introduced, approved, amended and adopted by resolution passed by

not less than a majority of the full membership of the Borough Council of the Borough of Spring Lake. The procedure shall be as follows:

1. Introduction and approval;
 2. Public advertising;
 3. Public hearing;
 4. Amendments and public hearings, if required;
 5. Adoption
- C. The budget shall be introduced in writing at a meeting of the Borough Council of the Borough of Spring Lake. Approval thereof shall constitute a first reading which may be by title. Upon approval of the budget by the governing body, it shall fix the time and place for the holding of a public hearing upon the budget.
- D. The budget shall be advertised after approval. The advertisement shall contain a copy of the budget and shall set forth the date, the time and place of the hearing. It shall be published at least 10 days prior to the date fixed therefor in a newspaper circulating in the Borough of Spring Lake.
- E. No budget shall be adopted until a public hearing has been held thereon and all persons having an interest therein shall have been given an opportunity to present objections. The hearing shall be held not less than 28 days after approval of the budget.
- F. The public hearing shall be held at the time and place specified in the advertisement thereof, but may be adjourned from time to time until the hearing is closed. The budget as advertised shall be read at the public hearing in full or it may be read by its title, if:
1. At least one week prior to the date of the hearing a complete copy of the approved budget, as advertised;
 - i. Shall be posted in a public place where public notices are customarily posted in the Borough Hall of the Borough of Spring Lake.
 - ii. Is made available to each person requesting the same, during that week and during the public hearing; and
 2. The Borough Council shall, by resolution passed by no less than a majority of the full membership, determine that the budget shall be read by its title and declare that the condition set forth in Subsection F(1) have been met. After closing the hearing, the Borough Council may adopt the budget, by title without amendments, or may approve amendments as provided in Subsection G of this section before adoption.
- G. The Borough Council may amend the budget during or after the public hearing. No amendment by the Borough Council shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon if the amendment shall:
1. Add a new item in an amount in excess of 1% percent of the total amount as stated in the approved budget; or
 2. Increase or decrease any item by more than 10% percent; or
 3. Increase the amount to be raised pursuant to Section 16 of P.L. 1972, c. 134 (N.J.S.A. 40:56-80) by more than 5% unless the same is made pursuant to an emergency temporary appropriation only. Notice of hearing on an amendment shall be advertised at least three days before the date set therefor. The amendment shall be published in full in the same manner as an original publication and shall be read in full at the hearing and before adoption.

- H. Final adoption shall be by resolution, adopted by a majority of the full membership of the Borough Council, and may be by title.

§11. Audit.

Concurrently with the introduction of this chapter and the submission of a plan for the special improvement district, the District Management Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Borough Council of the Borough of Spring Lake, 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 Borough Council of the Borough of Spring Lake.

§12. Annual report.

The District Management Corporation shall, within 30 days of the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the Borough Council of the Borough of Spring Lake.

§13. Costs and assessments.

The annual costs of operating, maintaining and improving the special improvement district shall be reported to the governing body, assessed, collected and appropriated as provided in N.J.S.A. 40:56-80.

§14. Borough's powers retained.

Notwithstanding the creation of the special improvement district, the Borough expressly retains all its police powers and other rights and powers and authority over the area designated as the "Special Improvement District."

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

BE IT FURTHER ORDAINED, that a copy of this Ordinance shall be filed with the New Jersey Department of Community Affairs Division of Local Government Services within ten days of adoption.

BOROUGH OF SPRING LAKE

SCHEDULE A

Borough of Spring Lake
Special Improvement District
Property Listing

Special District 1

| Block | Lot | Property Address |
|-------|--------|------------------|
| 68 | 3 | 217 Morris |
| 68 | 10 | 1114 Third |
| 68 | 11 | 1112 Third |
| 68 | 12 | 1100-1108 Third |
| 68 | 7.011 | 215 Morris |
| 68 | 7.012 | 215 Morris |
| 68 | 7.013 | 215 Morris |
| 68 | 7.014 | 215 Morris |
| 68 | 7.015 | 215 Morris |
| 68 | 7.016 | 215 Morris |
| 68 | 7.017 | 215 Morris |
| 68 | 7.018 | 215 Morris |
| 69 | 3 | Third & Morris |
| 69 | 2 | 1115 Third |
| 69 | 1 | 1113 Third |
| 69 | 23 | 1111 Third |
| 69 | 21 | 1109 Third |
| 69 | 20 | 1107 Third |
| 69 | 19 | 300 Passaic |
| 69 | 4.0101 | 309 Morris |
| 69 | 4.0102 | 309 Morris |
| 69 | 4.0103 | 309 Morris |
| 69 | 4.0104 | 309 Morris |
| 69 | 4.0105 | 309 Morris |
| 69 | 4.0106 | 309 Morris |
| 69 | 4.0107 | 309 Morris |
| 69 | 4.0108 | 309 Morris |
| 69 | 4.0109 | 309 Morris |
| 69 | 4.011 | 309 Morris |
| 69 | 7 | 315 Morris |
| 69 | 9 | 317 Morris |
| 71 | 1 | 1309 Third |
| 74 | 3 | 1221 Third |
| 74 | 2 | 1219 Third |
| 74 | 1 | 1209 Third |
| 74 | 19 | 304 Morris |
| 74 | 18 | 306 Morris |
| 74 | 17 | 308 Morris |
| 74 | 16 | 310 Morris |

| | | |
|----|------|----------------|
| 74 | 15 | 312 Morris |
| 75 | 9 | 217 Jersey |
| 75 | 10 | 221 Jersey |
| 75 | 11 | 1218 Third |
| 75 | 12 | 1214 Third |
| 75 | 13 | 1212 Third |
| 75 | 14 | 1210 Third |
| 75 | 15 | 1214 Third |
| 75 | 16 | 210 Morris |
| 75 | 7 | 210 Morris |
| 80 | 8 | 1312 Third |
| 80 | 10 | 1308 Third |
| 80 | 11 | 1306 Third |
| 80 | 12 | 1304 Third |
| 80 | 13 | 1300 Third |
| 80 | 14 | 212 Jersey |
| 81 | 2 | 1311 Third |
| 81 | 3 | 1313 Third |
| 81 | 3.01 | 305 Washington |
| 81 | 17 | 300 Jersey |
| 81 | 18 | 1303 Third |
| 81 | 19 | 1305 Third |
| 81 | 20 | 1307 Third |
| 85 | 1 | 1401 Third |
| 85 | 2 | 302 Washington |
| 85 | 3 | 1403 Third |
| 86 | 11 | 1400 Third Ave |

Special District 2

| Block | Lot | Property Address |
|-------|------|------------------|
| 11 | 14 | 414 Central |
| 11 | 9 | 417 Ocean Rc. |
| 11 | 9 | 417 Ocean Rd. |
| 13 | 6 | 412 Ocean Rd. |
| 29 | 1 | 201 Atlantic |
| 31 | 12 | 17 Atlantic Ave |
| 31 | 11 | 15 Atlantic |
| 31 | 10 | 13 Atlantic |
| 31 | 7.01 | 7 Atlantic |
| 31 | 7.02 | 7 Atlantic |
| 37 | 9.01 | 412-415 Monmouth |

| | | |
|----|-------|--------------|
| 40 | 17.18 | 200 Monmouth |
|----|-------|--------------|

| | | |
|----|----|--------------|
| 40 | 13 | 214 Monmouth |
|----|----|--------------|

| | | |
|-----|-------|-----------------|
| 48 | 10 | 519 Sussex |
| 49 | 3 | 505 Mercer |
| 54 | 19 | 102 Sussex |
| 54 | 18 | 106 Sussex |
| 62 | 13.01 | 516 Warren |
| 62 | 14 | 514 Warren |
| 62 | 15 | 512 Warren |
| 62 | 16 | 510 Warren |
| 62 | 17 | 508 Warren |
| 62 | 18 | 506 Warren |
| 62 | 19 | 500 Warren |
| 62 | 9.01 | 517 Passaic |
| 62 | 8.01 | 515 Passaic |
| 74 | 5 | 307 Jersey |
| 81 | 15 | 310 Jersey |
| 82 | 26 | 404 Jersey |
| 89 | 4 | 1507 Ocean Ave. |
| 89 | 2 | 1505 Ocean Ave. |
| 101 | 11 | 524 Brighton |
| 102 | 9 | 524 St. Clair |
| 107 | 11 | 19 Tuttle |
| 107 | 13 | 21 Tuttle |
| 107 | 15 | 25 Tuttle |
| 132 | 31 | 218 Vroom |