

ORDINANCE NO. NP2023-16

BOROUGH OF RED BANK

ORDINANCE AMENDING ADMINISTRATIVE CODE TO IMPLEMENT THE VOTER-ADOPTED COUNCIL-MANAGER FORM OF GOVERNMENT PURSUANT TO THE REQUIREMENTS OF THE FAULKNER ACT AT N.J.S.A. 40:69A-207(C)

WHEREAS, in the November 2022 general election, the voters of Red Bank voted affirmatively to a public question adopting the Council-Manager form of government, pursuant to the Optional Municipal Charter Law, commonly known as the Faulkner Act, N.J.S.A. 40:69A-1 et seq.; and

WHEREAS, the public question specifically provided as follows:

Shall the COUNCIL-MANAGER PLAN of the Optional Municipal Charter Law, providing for SEVEN (7) council members to be ELECTED AT LARGE for STAGGERED terms at NON-PARTISAN elections to be held in MAY, with the MAYOR ELECTED DIRECTLY BY THE VOTERS, with run-off elections to be held thereafter if a sufficient number of candidates fail to attain a majority of votes, be adopted by the Borough of Red Bank?

; and

WHEREAS, pursuant to the adopted public question, the Borough of Red Bank implemented its new Council-Manager form of government effective upon reorganization on July 1, 2023; and

WHEREAS, the Faulkner Act directs a newly organized form of government to adopt revisions to its administrative code to reflect same, as further set forth in N.J.S.A. 40:69A-207(c):

Within 90 days after the date of organization of the first municipal council elected under the optional plan, the municipal governing body shall adopt, by ordinance, an administrative code organizing the administration of the municipal government, setting forth the duties, responsibilities and powers of all municipal officers, departments and agencies, and establishing the manner of performance thereof.

The code shall restate the major provisions of the municipal charter and the applicable sections of general law, and provide such additional details as are necessary to present a complete guide describing: the municipal offices; how municipal officers are selected; how municipal departments, divisions, boards, commissions, and agencies are organized; lines of supervisory

responsibility and accountability; and procedures to be followed to carry out the functions and activities of the municipal government.

; and

WHEREAS, consistent with this statutory requirement, the governing body seeks to adopt an ordinance to amend its administrative code to provide for the implementation of the Council-Manager form of government adopted by voters, as well as any other appropriate revisions identified as part of this review.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Red Bank, in the County of Monmouth, as follows:

SECTION 1. Section 1-25 is hereby established as follows:

Part I: Administrative Legislation

Chapter 1 General Provisions

§ 1-25 Implementation of Council-Manager Form of Government.

In the November 2022 general election, the voters of Red Bank approved the adoption of the Council-Manager Form of Government established under the Faulkner Act, N.J.S.A. 40:69A-1 et seq., which took effect on July 1, 2023.

On October 12, 2023, the Red Bank Council adopted Ordinance NP2023-16, titled “An Ordinance Implementing the Faulkner Act Council-Manager Form of Government in Red Bank.”

This Ordinance was adopted in accordance with the requirements of N.J.S.A. 40:69A-207(c), which requires a municipal government implementing a Faulkner Act form of government to adopt certain revisions to its administrative code.

The revisions contained in Ordinance-NP2023-16 shall be liberally construed to effectuate the purpose of effectuating the implementation of the Council-Manager Form of Government in Red Bank.

All ordinances or parts of ordinances adopted prior to the adoption of Ordinance NP2023-16 are hereby repealed to the extent of any inconsistency with the provisions contained in NP2023-16.

SECTION 2: Chapter 85, titled “Mayor and Council,” is hereby repealed in its entirety and replaced as follows:

Chapter 85 Borough Council

§ 85-1 Establishment

A: The Borough Council is established under the charter adopted by the voters of Red Bank in the November 2022 general election.

B: The provisions of said charter are amended by Ordinance #NP-2023-01, adopted pursuant to N.J.S.A. 40:45-7.1, changing the date of the Red Bank regular municipal election to the date of the general election in the corresponding year.

§ 85-2 Organization

A: The Borough Council shall consist of a mayor and six (6) councilmembers, each elected at large by the voters of Red Bank.

B: The position of mayor shall be elected directly by the voters of Red Bank, separately designed and voted upon.

C: The terms for the mayor and councilmembers shall be staggered. Of those elected to the first council, the mayor and two councilmembers shall serve for four years, and four councilmembers shall serve for two years, chosen by lot. In all subsequent elections, the seats for the mayor and/or councilmembers whose terms are set to expire shall be elected to four-year terms.

D: Elections for mayor and/or councilmembers shall be conducted on a nonpartisan basis as part of a regular municipal election to be conducted on the same date as the November general election in the corresponding year.

E: The municipal charter provides for runoff elections. Candidates for mayor and/or councilmembers are required to attain a sufficient number of votes under N.J.S.A. 40:45-18 to be elected. In the event the candidates fail to attain a sufficient number of votes, a run-off election shall be conducted in accordance with N.J.S.A. 40:45-18 et seq.

F: The terms for mayor and councilmembers shall commence on the first day of January next following their election.

§ 85-3 Mayor

A: The mayor shall preside at all meetings of the Borough Council and shall have a voice and vote in its proceedings.

B: The Mayor shall execute all bonds, notes, contracts and written obligations of the Borough of Red Bank.

C: The Mayor shall fill vacancies in the trustees of the public library.

§ 85-4 Deputy Mayor

A: At each annual organization meeting immediately following the election of councilmembers to a full term, the Borough Council shall elect a Deputy Mayor from among its membership, to serve a two-year term.

B: In the event of the Mayor's absence or inability to act, the Deputy Mayor shall carry out the duties of the Mayor.

C: In the event of a vacancy in the position of Deputy Mayor, the office shall be filled following the election procedure in subsection (A) for the unexpired term.

§ 85-5 Council

A: All powers of the municipality shall be vested in the Borough Council, except as otherwise provided by the Faulkner Act or other general law.

B: The determination of all policy matters shall be vested in the Borough Council, except as otherwise provided by the Faulkner Act or other general law.

C: The Borough Council shall act as a body in all matters and shall deal with the administrative service solely through the manager.

D: The following restrictions apply to councilmembers acting in individual capacities:

1. Individual councilmembers shall not give orders to any subordinates of the manager, either publicly or privately.

2. Individual councilmembers shall not seek to individually influence the official acts of the municipal manager, or any other officer.

3. Individual councilmembers shall not direct or request the appointment or removal of any person from an office.

4. Individual councilmembers shall not interfere in any way with the performance of the municipal manager of his or her duties.

5. Any individual councilmember that violates the provisions of subsections (1) to (4) is subject to removal by a court of competent jurisdiction pursuant to N.J.S.A. 40:69A-91.

E: Notwithstanding the provisions in section (D), the Council may appoint committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to such committees or commissions such powers of inquiry as the Council may deem necessary.

F:

1. The Borough Council shall continue or create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, as it may deem necessary for the proper and efficient conduct of the affairs of the municipalities. Any department, board or office so continued or created may at any time be abolished by the Borough Council.

2. Except for any positions specifically established by ordinance, the salaried positions established by the Borough Council shall be those contained within a salary ordinance adopted by the Borough Council from time to time.

SECTION 3: Chapter 90 (Officers and Employees) Article VI (Business Administrator), Sections 90-25 to 90-29 are hereby repealed in their entirety. Chapter 86, titled “Borough Manager,” is hereby established as follows:

86-1 Establishment

Pursuant to N.J.S.A. 40:69A-92, there shall be a Borough Manager of the Borough of Red Bank.

86-2 Appointment, Term.

A: The Borough Manager shall be appointed by resolution of the governing body.

B: The Borough Manager shall hold office for an indefinite term and may be removed by a majority vote of the council.

C: At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal.

D: At the time of adoption of a preliminary resolution under subsection (C), the governing body may suspend the manager from duty.

E: Upon suspension or removal, whichever occurs first, the Borough Manager shall receive any unpaid balance of his or her salary and his or her salary for the next 3 calendar months following adoption of the preliminary resolution unless removed for good cause, defined as conviction of a crime or offense involving moral turpitude, the violation of N.J.S.A. 40:69A-163 to -167, or the violation of any code of ethics in effect within the municipality.

86-3 Qualification

A: The Borough Council shall choose a Borough Manager solely upon the basis of his or her executive and administrative qualifications, with special reference to his or her actual experience in, and his or her knowledge of, accepted practice in respect to the duties of office.

B: At the time of appointment, the Borough Manager does not need to be a resident of Red Bank. During his or her tenure of office, the Borough Manager may reside outside of Red Bank with the consent of the governing body.

86-4 Absence or Disability

A: The Borough Manager may designate a qualified administrative officer of the municipality to perform his or her duties during his or her temporary absence or disability.

B: In the event of the Borough Manager's failure to make such designation, the governing body may by resolution appoint an officer of the municipality to perform the duties of the manager during such absence or disability until he or she shall return or his or her disability shall cease.

86-5 Duties and Powers of Borough Manager

A: The municipal manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council. The municipal manager shall:

- (1) Be the chief executive and administrative official of the municipality;
- (2) Execute all laws and ordinances of the municipality;
- (3) Appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants, except a municipal tax assessor and clerk, for whose selection or removal no other method is provided in this article, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;
- (4) Negotiate contracts for the municipality subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;
- (5) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;
- (6) Attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote;
- (7) Recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality,

make reports to the council as requested by it, and at least once a year make an annual report of his work for the benefit of the council and the public;

(8) Investigate at any time the affairs of any officer or department of the municipality;

(9) Perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

B: The Borough Manager shall be appraised in his or her job performance by the Borough Council on an annual basis.

C: The Borough Manager shall conduct an appraisal of the job performances by all employees that directly report to him or her on an annual basis.

86-6 Deputy Manager

A: Pursuant to N.J.S.A. 40:69A-90, the Borough Council hereby codifies the position of Deputy Manager.

B: The Deputy Manager shall be appointed by the Borough Manager and shall serve at the pleasure of the Borough Manager.

C: The Deputy Manager shall perform the duties assigned to him or her by the Borough Manager, and shall be compensated in accordance with the Borough's Salary Ordinance.

D: The Borough Manager may designate the Deputy Manager to serve in the event of his or her temporary absence or disability if so designated consistent with Ordinance 86-3.

E: Notwithstanding the provisions of this ordinance section and/or § 85-5(F)(2), the position of Deputy Manager shall only be deemed to be established if the position of Deputy Manager is contained within the Borough's salary ordinance.

SECTION 4: The following provisions of Chapter 90 (Officers and Employees) are revised as follows:

Chapter 90 Officers and Employees

Article I Municipal Clerk

§ 90-1 Appointment; qualifications.

There shall be a Municipal Clerk appointed by the ~~Mayor and~~ Borough Council. The qualifications, term and duties of the Clerk shall be as per N.J.S.A. 40A:9-133 et seq. The Municipal Clerk shall hold a Registered Municipal Clerk Certificate as required by law.

Article II Deputy Borough Clerk

§ 90-4 Created.

Pursuant to N.J.S.A. ~~40A:9-135 40:46-2.1~~, there is hereby created the office of Deputy Borough Clerk, who shall be appointed by the Borough Manager of the Borough at the organizational meeting or any time thereafter, in the event such appointment by the ~~Mayor and Council~~ Borough Manager is deemed advisable or necessary.

§ 90-6 Duties.

The duties of any Deputy Borough Clerk to be appointed as herein provided shall be to aid and assist the Borough Clerk under the direction and supervision of the Borough Clerk, to do and perform such duties as may be assigned by the Borough Clerk, and the Borough Mayor and Council, ~~or the chairman of any committee of the Borough Council~~, and to have all the powers and perform all the duties of the Borough Clerk for such times and for such specific periods as the Borough Clerk shall be absent.

Article III Prosecutor

§ 90-8 Created.

There is hereby established the position of Prosecutor for the Borough, which position shall be filled by ~~the~~ appointment of the ~~Mayor, with the advice and consent of the~~ Borough Council, to perform the duties and functions as per N.J.S.A. 2B:25-1 et seq.

Article IV Purchasing Agent

§ 90-14 Compensation and appointment.

A. The salary for the Purchasing Agent shall be fixed annually by the ~~Mayor and~~ Borough Council in the Borough's Salary Ordinance. Adequate and competent secretarial help will be available to the Purchasing Agent by the Borough in order for him to properly carry out the duties set forth herein.

B. The Purchasing Agent will be appointed by the ~~Mayor with the consent of Council~~ Borough Manager and will be appointed annually to serve at the pleasure of the ~~Mayor and Council~~ Borough Manager.

Article V Fire Marshal

§ 90-24 Compensation and appointment.

A. The salary of the Fire Marshal shall be fixed annually by the ~~Mayor and~~ Borough Council in the Borough's Salary Ordinance. Adequate and competent secretarial help will be provided to the Fire Marshal by the Borough in order for him to properly carry out the duties set forth herein.

B. The Fire Marshal will be appointed in accordance with § 361-6B by the ~~Mayor with the consent of the Council~~ Borough Manager to serve at the pleasure of the ~~Mayor and Council~~ Borough Manager.

Article VII Tax Collector

§ 90-30 Established.

There is hereby created and established the office of Municipal Tax Collector and Tax Searcher in the Borough of Red Bank, County of Monmouth, pursuant to the provisions of N.J.S.A. 40A:9-141 et seq., who shall be appointed by the ~~Mayor and Council~~ Borough Manager and who shall hold office for the term provided in the law.

Article VIII Assistant Treasurer

§ 90-32 Created; duties.

There is hereby created the office of Assistant Treasurer who shall be ~~nominated by the Mayor with the advice and consent of the Council at the organizational meeting, or at any time thereafter~~ appointed by the Borough Manager, in the event such appointment ~~by the Mayor and Council~~ is deemed advisable or necessary by the Borough Manager. The Assistant Treasurer shall operate under the direction of the ~~Mayor and Council~~ Borough Manager and under the supervision of the Chief Financial Officer. The duties of the Assistant Treasurer shall be as follows:

A. – D. [NO CHANGES]

Article IX Director of Public Utilities

§ 90-36 Created.

Pursuant to N.J.S.A. 40:48-1, there is hereby created the office of Director of Public Utilities, who shall be ~~nominated by the Mayor, with the advice and consent of the Council~~ appointed by the Borough Manager, at the organizational meeting, or at any time thereafter, in the event such appointment by the ~~Mayor and Council~~ Borough Manager is deemed advisable or necessary. The duties of the Director of Public Utilities shall be:

A. Operate Borough sewer and water plants, including the direct supervision of all personnel (excluding financial operations), and ~~approval~~ review of all purchases and/or claims vouchers. All personnel changes ~~to~~ shall be approved by personnel committee, and Mayor and Council the Borough Manager, unless such authority is delegated by the Borough Manager to the Director of Public Utilities.

B. – M. [NO CHANGES]

N. Any other special assignments made by the ~~Mayor and Council~~ Borough Manager.

§ 90-37 Additional duties.

The Director of Public Utilities will also assist other departments of the Borough as required and directed by the ~~Mayor and Council~~ Borough Manager including, but not limited to, the following:

- A. Construction Official in his work on plans and specifications.
- B. Borough Attorney for plans and specifications and other descriptions needed.
- C. Borough Assessor in Tax Map adjustments.
- D. Parks and Recreation Committee for maintenance of facilities and specifications for new or repairs to existing facilities.
- E. Assistance to Fire Department in testing, selection and specifications for repairs or new equipment.
- F. Assistance to the Board of Adjustment, Planning Board and Shade Tree Commission as needed.
- G. To work closely with Borough Treasurer and Water Department Controller to insure proper receipts and collection of all amounts due to the Borough for work done for public and to insure proper disbursements of funds in accordance with the established budgets.

§ 90-38 Director to answer complaints.

The Director of Public Utilities shall have direct contacts with the public to answer all complaints referred to him or coming directly to him relating to the departments under his supervision or such other matters as are referred to him by the ~~Mayor and Council~~ Borough Manager.

Article X Chief Financial Officer

§ 90-46 Appointment.

Pursuant to N.J.S.A. 40A:9-140.1 et seq., the Borough Council establishes the position of Chief Financial Officer, to be appointed by the governing body. The Chief Financial Officer shall be appointed for a term of four years, which shall run from January 1 in the year in which the Chief Financial Officer is appointed.

Article XI Parking Utility Operations Manager

§ 90-47 Appointment; salary; supervision.

A Parking Utility Operations Manager may be appointed by the ~~governing body~~ Borough Manager, and the salary for this position shall be as fixed from time to time by the governing body. Said Manager shall be under the supervision of the Borough ~~Administrator~~ Manager; and shall report directly to the ~~Council representative designated as the Mayor's representative on the parking utility~~ Borough Manager.

Article XII Public Defender

§ 90-49 Created.

Pursuant to N.J.S.A. 2B:24-1 et seq., ~~t~~There hereby is created the office of Municipal Court Public Defender. The Public Defender shall be ~~nominated by the Mayor, with the advice and consent of the~~ appointed by the Borough Council, ~~in the event such appointment by the Mayor and Council is deemed advisable or necessary.~~

~~Article XIV Assistant Borough Administrator~~

~~§ 90-56 Assistant Administrator [REPEALED IN ITS ENTIRETY]~~

~~§ 90-57 Acting Administrator. [REPEALED IN ITS ENTIRETY]~~

Article XV Municipal Housing Liaison

§ 90-60 Established; appointment.

A. [NO CHANGES]

B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the ~~governing body~~ Borough Manager and may be a full- or part-time municipal employee.

Article XVI Director of Information Technology

§ 90-66 Appointment; term; vacancy.

The appointment of the Director of Information Technology shall be by the Borough ~~Council~~ Manager. The appointment shall be for a term of one year. The term shall commence as of January 1 of each year and expire as of December 31 each year. Any vacancy in such office shall similarly be filled by appointment of the Borough Council.

Article XVII Municipal Attorney

§ 90-70 Appointment and term of office.

Pursuant to N.J.S.A. 40A:9-139, ~~the~~ Municipal Attorney shall be appointed by the Mayor, with ~~the advice and consent of the~~ Borough Council, and shall serve a term of office of one year commencing on January 1 of the year of appointment and ending on December 31, or until a successor shall be appointed and qualified.

SECTION 5. Chapter 9 (Boards, Committees and Commissions), Article I (Advisory Board of Health), Sections 9-1 to 9-6 are hereby repealed in their entirety and replaced as follows:

9-1 Board of Health

A: Pursuant to N.J.S.A. 26:3-1 et seq., municipalities are authorized under State law to establish boards of health to carry out statutory responsibilities contained therein.

B: In Myers v. Tp. of Cedar Grove, 36 N.J. 51 (1961), the Court held that a municipality operating under the Faulkner Act may exercise the powers of a Board of Health through its governing body, rather than a separate Board of Health.

C: In accordance with the foregoing, the Borough Council is hereby authorized to exercise any statutory powers afforded for a Board of Health.

D: The Borough Council is further authorized to delegate the powers of a Board of Health to another entity, including pursuant to a shared services agreement with another public body.

SECTION 6: Chapter 9 (Boards, Committees and Commissions), Article II (Housing Authority), Section 9-7 is hereby revised as follows:

A: Pursuant to the provisions of N.J.S.A. 40A:12A-17 et seq., 55:14A-1 et seq., as amended, the Local Housing Authorities Law, a body corporate and political to be known as the there is hereby established a "Housing Authority of the Borough of Red Bank," be and the same is hereby created and established. an agency and instrumentality of the Borough of Red Bank.

B: The Housing Authority shall be comprised of seven members. Five members shall be appointed by the Borough Council, one member shall be appointed by the Mayor, and one member shall be appointed by the Commissioner of Community Affairs. A certificate of the appointment or reappointment of any member shall be filed with the clerk of the municipality and that certificate shall be conclusive evidence of the due and proper appointment of that member.

C: The members shall serve for terms of five (5) years and until their respective successors have been appointed and qualified.

D: The terms shall be staggered. Of the five members first appointed by the governing body one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years.

E: Vacancies shall be filled in the same manner as the original appointments were made, but for the unexpired term.

F: If a vacancy is not filled by the appointing authority within ninety (90) days of the occurrence of the vacancy, the Commissioner of the Department of Community Affairs shall notify the appointing authority of his or her intent to fill the vacancy if it is not filled in thirty (30) days. If the vacancy is not filled within that thirty (30) day period, the commissioner may appoint a member for the unexpired term.

G: No more than one member of a housing authority may be an officer or employee of the municipality or county by which the authority is created.

H: A member of an authority shall receive no compensation for his services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of membership, including travel expenses.

I: Four members shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and all other purposes. Action may be taken by the authority upon the affirmative vote of the majority, but not less than four of the members present, unless in any case the bylaws of the authority shall require a larger number.

J: The authority shall select a chairman and a vice-chairman from among its members, and shall employ an executive director, who shall be its secretary.

K: No member or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in such a project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with any housing project. If any member or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in a housing project he shall immediately disclose the same in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to disclose such an interest shall constitute misconduct in office. A member or employee required by this subsection to make such a disclosure shall not participate in any action by the authority affecting the property with respect to which such disclosure is required.

L: For inefficiency or neglect of duty or misconduct in office a member of an authority may be removed by the governing body or officer by which he was appointed; but a member may be removed only after he has been given a copy of the charges at least 10 days prior to a hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of any member of an authority a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county or municipality.

SECTION 7: Chapter 9 (Boards, Committees and Commissions), Article V (Environmental Commission), Section 9-13 to 9-14, is hereby revised as follows:

§ 9-13 Created.

There is hereby created, pursuant to N.J.S.A. 40:56A-1, an Environmental Commission which shall consist of seven commissioners plus two alternate commissioners, who shall be designated at the times of their appointment as "Alternate No. 1" and "Alternate No. 2," all of whom shall be residents of the Borough of Red Bank and one of whom shall be a member of the Planning Board. Each member of the Environmental Commission shall be ~~nominated and~~ appointed by the Mayor ~~only with the advice and consent of the Borough Council~~ and shall serve without compensation. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

§ 9-14 Terms of office.

A. – B. [NO CHANGES]

C. Vacancy. A vacancy occurring otherwise than by expiration of the terms shall be filled for the unexpired term by the Mayor ~~with the advice and consent of the Borough Council~~.

D. Removal. The Mayor ~~or the Borough Council of the Borough of Red Bank~~ may remove any member of the Commission for cause, on written charges served upon the Commissioner and after a hearing thereon at which the Commissioner shall be entitled to be heard.

E. Exception. Notwithstanding any other provision herein to the contrary, the term of any Commissioner common to the Planning Board shall expire upon the expiration of the term of membership on the Planning Board.

SECTION 8: Chapter 9 (Boards, Committees and Commissions), Article VI (Parks and Recreation Committee), Section 9-19, is hereby revised as follows:

A. [NO CHANGES]

B. Term. The Committee members first appointed shall be appointed as follows: three members for a term to expire ~~December 31, 1990~~ after one year of service; two members for a term to expire ~~December 31, 1991~~ after two years of service; and two members for a term to expire ~~December 31, 1992~~ after three years of service. Thereafter, all appointments shall be for terms of three years and until the appointment and qualification of their successors. Alternate members shall serve for a term of two years, and until the appointment and qualification of their successors. The terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2, so that the term of not more than one alternate member shall expire in any one year. Appointments to fill vacancies shall be made in the same manner as original appointments, and all such appointments shall be for the unexpired term only. The members shall serve until their respective successors are appointed and shall qualify. The members shall receive no compensation for their services.

C. [NO CHANGES]

SECTION 9: Chapter 9 (Boards, Committees and Commissions), Article VII (Human Relations Advisory Committee), Section 9-24 et seq., is hereby revised as follows:

Article VII ~~Human Relations Advisory Committee~~
Community Engagement and Equity Advisory Committee

§ 9-24 Created.

There is hereby created a Committee to be known as the "Community Engagement and Equity Advisory Committee" The Committee shall consist of seven members plus two Alternate Commissioners, who shall be designated at the times of their appointment as "Alternate No. 1" and "Alternate No. 2," to be appointed by the ~~Mayor of the Borough with the advice and consent of the~~ Borough Council. All members are to serve without compensation. To the greatest extent possible, the ethnic composition of the Committee shall be comparable to that of the Borough of Red Bank. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

§ 9-25 Term.

All members of the Advisory Committee shall serve for a term of three years, except that upon the original organization of the Committee, two members shall be appointed for a term of one year; two members for a term of two years and three members for a term of three years. Thereafter, the term of each member shall be for three years. Alternate Committee members shall serve for a term of two years except that upon the original appointments, one alternate shall serve for one year and one alternate shall serve for two years. Thereafter, the term of each alternate shall be for two years. All Committee members shall serve until a successor is duly appointed and qualified. The appointment of a member to an unexpired term shall be for the unexpired term of said Committee member only. The Borough ~~Administrator~~ Manager shall serve as an ex officio member of the Committee.

§ 9-26 ~~Chairman.~~

~~The Mayor shall annually designate the Chairman of said Community Engagement and Equity Advisory Committee.~~ The Community Engagement and Equity Advisory Committee shall annually select a Chair, Vice Chairman, and such other officers from its members as the Community Engagement and Equity Advisory Committee may determine.

§ 9-27 Powers and duties.

A. The Community Engagement and Equity Advisory Committee shall act in an advisory capacity to the ~~Mayor and Borough~~ Council of the Borough of Red Bank and shall attempt to foster, through community effort or otherwise, goodwill, cooperation and conciliation between the diverse inhabitants of the Borough. The Committee shall make recommendations to the

~~Mayor and Borough~~ Council for the development of bylaws, policies and procedures for the Committee in general. Additionally, the Committee shall recommend to the ~~Mayor and Borough~~ Council programs of formal and informal education that will aid toward the elimination of all types of discrimination based on, but not limited to, race, creed, color, national origin, ancestry, religion, gender, social and economic status, physical and intellectual disabilities, political belief, sexual orientation, gender identity, or age. The Committee will advise on efforts to improve decisionmaking that represents everyone and is less likely to suffer from unintentional blind spots and biases.

B. – D. [NO CHANGES]

§ 9-28 Meetings; annual report.

The Community Engagement and Equity Advisory Committee shall meet periodically and shall make an annual report, in December, to the ~~Mayor and Borough~~ Council of its activity, and shall make such recommendations periodically as may be necessary to carry out the purposes of this article.

SECTION 10: Chapter 9 (Boards, Committees and Commissions), Article IX (Shade Tree Committee), Section 9-35 et seq., is hereby revised as follows:

§ 9-35 Creation; composition.

Pursuant to N.J.S.A. 40:64-1 et seq., ~~There~~ is hereby created a Shade Tree Committee, which will be known as "The Shade Tree Committee of the Borough of Red Bank." The Committee shall consist of five members, plus two Alternate Commissioners, who shall be designated at the times of their appointment as "Alternate No. 1" and "Alternate No. 2," all to be appointed by the Mayor ~~with the advice and consent of Council~~. The members shall be residents of the Borough and shall serve without compensation except as hereinafter provided. Members shall be appointed on the basis of their qualifications, fitness and desire to fulfill and advance the objectives and purposes of the Committee as set forth herein. An alternate commissioner may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular commissioner. A vote shall not be delayed in order that a regular commissioner may vote instead of an alternate commissioner. In the event that a choice must be made as to which alternate commissioner is to vote, Alternate No. 1 shall vote first.

§ 9-36 [NO CHANGES]

§ 9-37 Removal of members.

The ~~Mayor and Borough~~ Council shall have the discretion, upon recommendation from the Committee, to remove any member who is not fulfilling his or her duties and responsibilities.

§ 9-38 [NO CHANGES]

§ 9-39 Budget.

During the month of December of each year, the Committee shall submit a budget request to the Mayor and Council. In each annual budget of the Borough, a sum shall be appropriated as may be determined by the ~~Mayor and~~ Borough Council to be necessary for the Committee to accomplish the purposes set forth herein and to implement those recommendations of the Committee which the ~~Mayor and~~ Borough Council, in its discretion, deems feasible and appropriate.

§ 9-40 [NO CHANGES]

SECTION 11: Chapter 9 (Boards, Committees and Commissions), Article X (Affordable Housing Design Review Committee), Section 9-41 et seq., is hereby revised as follows:

Article X Affordable Housing Design Review Committee

§ 9-41 Establishment and composition.

A. Establishment. There shall be a Affordable Housing Design Review Committee of the Borough of Red Bank, which Committee shall consist of:

- (1) The Mayor;
- (2) The Borough ~~Administrator~~ Manager;
- (3) The Chairperson of the Planning Board;
- (4) The Borough Engineer, and
- (5) The following individuals, all of whom shall be appointed by the ~~Mayor~~ Borough Council:
 - (a) One Council member;
 - (b) One licensed architect who is a resident of the Borough; and
 - (c) One resident at large.

B. Term. The Mayor, Borough ~~Administrator~~ Manager, and Chairperson of the Planning Board, ~~the Borough Engineer and the Council member~~ shall serve on the Committee for a term coextensive with their term of office, ~~or appointment~~, as applicable. All other members shall serve for a one-year term, which shall expire on December 31 of each year. Appointments to fill vacancies shall be made in the same manner as original appointments, and all such appointments shall be for the unexpired term only. The members shall serve until their respective successors are appointed and shall qualify.

C. Removal or vacancy. The Borough Council may remove any member for cause, on written charges served upon the member, and after a hearing thereon, at which the member shall be entitled to be heard in person or by counsel. Any member with three or more unexcused absences from Committee meetings in any one year shall be presumed to have given cause for removal. A vacancy on the Committee occurring for whatever cause shall be promptly filled for the unexpired term in the same manner as an original appointment.

§ 9-42 Organization and officers.

A. The Affordable Housing Design Review Committee shall, after the initial organization, reorganize annually in the month of February. It shall elect a ~~Chairman~~ and Vice ~~Chairman~~ from among its members.

B. The Committee shall meet as frequently as reasonably required by the developer of any affordable housing project within the Borough to review the conceptual plans for the project.

§ 9-43 Powers and duties.

Unless waived by the ~~Mayor and~~ Borough Council, the Affordable Housing Design Review Committee shall study and make recommendations regarding conceptual plans for all Borough-funded, or Borough-sponsored, affordable housing projects within the Borough, as well as such other projects within the Borough as requested by the governing body, prior to the submission of development applications to any Borough land use board. The scope of the Committee's review shall include, but not be limited to:

- A. Project design and layout;
- B. Aesthetically pleasing architectural design;
- C. Review and approval of all finish materials;
- D. Proposed traffic flow and parking;
- E. Sound control measures;
- F. Public space and active recreation;
- G. Consultation with any appropriate local, county, state or federal agencies as may be necessary; and
- H. Any other matters deemed reasonable and necessary by the Committee.

§ 9-44 Expenses and finances.

The Affordable Housing Design Review Committee shall not have the power to expend public funds. The governing body will, in its discretion, authorize expenditures it determines appropriate

for the Committee. All financial records and financial matters, such as payroll and purchasing, shall be maintained by and conducted through the usual Borough departments.

§ 9-45 Records and annual reports.

The Affordable Housing Design Review Committee shall keep records of its meetings and activities and shall report to the ~~Mayor and~~ Borough Council as often as directed by the ~~Mayor and~~ Borough Council.

SECTION 12: Chapter 9 (Boards, Committees and Commissions), Article XI (Teen Advisory Committee), Section 9-46 to 9-47 is hereby repealed in its entirety.

SECTION 13: Chapter 9 (Boards, Committees and Commissions), Article XII (Animal Welfare Advisory Committee), Section 9-48 to 9-52, is hereby revised as follows:

§ 9-48 Creation; membership.

The ~~Mayor and~~ Borough Council of the Borough of Red Bank herewith create an Animal Welfare Advisory Committee (hereinafter "the Committee") to be composed of seven members, plus two alternate members, who shall be designated at the times of their appointment as "Alternate No. 1" and "Alternate No. 2" appointed by the ~~Mayor~~ Borough Council, which appointments shall be for a three-year period for full members and a two-year period for alternate members, ~~subject to confirmation by the Council of the Borough of Red Bank~~. Initial Committee members shall serve the following initial terms: two members for a term of one year; two members for a term of two years; and three members for a term of three years. Initial alternate members shall serve for the following initial terms: Alternate No. 1 for one year; Alternate No. 2 for two years. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first. The members shall serve until successors are qualified if no appointment is made on the anniversary of that member's appointment.

§ 9-49 [NO CHANGES]

§ 9-50 Powers and duties.

The Committee shall meet on an as-needed basis and shall provide reports to the ~~Mayor and~~ Borough Council by May 31 and September 31 of every year concerning its activities and shall make regular recommendations to the ~~Mayor and~~ Borough Council concerning issues involving animal welfare and shall be afforded opportunities for the dissemination of information on the Borough's website concerning animal welfare issues as they arise, subject to the approval of the ~~chief administrative officer~~ Borough Manager of the Borough of Red Bank.

§ 9-51 [NO CHANGES]

The Committee shall not have any rights, duties, or obligations that are specifically delegated by law to enforcement agencies of the state, county, or municipality concerning animal cruelty issues of any type.

§ 9-52 [NO CHANGES]

SECTION 14: Chapter 490 (Planning and Development Regulations), Section 490-7 (Planning Board), is hereby revised as follows:

§ 490-7 Planning Board.

A. Establishment.

(1) Pursuant to N.J.S.A. 40:55D-23 et seq., there is hereby established ~~The Planning Board presently in existence pursuant to Chapter 291, P.L. 1975, N.J.S.A. 40:55D-1 et seq., is hereby continued to~~ consisting of nine members of the following four classes:

(a) Class I: the Mayor or his or her designee.

(b) Class II: one of the officials of the Borough other than a member of the Borough Council, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV or alternate members.

(c) Class III: a member of the Borough Council, to be appointed by it.

(d) Class IV: six other citizens of the Borough, to be appointed by the ~~Mayor~~ Borough Council. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.

(2) Alternates. The Mayor shall also appoint two alternate members who shall meet the qualifications of Class IV members. Alternate members shall be designated by the Mayor at the time of appointment as "Alternate No. 1" and "Alternate No. 2."

B. Terms.

(1) The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first.

(2) The term of a Class IV member who is also a member of the Zoning Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

(3) The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such term shall be evenly distributed over the first four years after their appointment as determined by resolution of the Borough Council; provided, however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years, except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

C. Alternate members; powers; terms of office.

(1) The Mayor may appoint not more than two alternate members with the advice of the Borough Council. Alternate members shall meet the qualifications of Class IV members of nine-member Planning Boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

(2) No alternate member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

(3) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

D. – S. [NO CHANGES]

SECTION 15: Chapter 490 (Planning and Development Regulations), Section 490-8 (Zoning Board of Adjustment), is hereby revised as follows:

A. Establishment. Pursuant to N.J.S.A. 40:55D-69 et seq., there is hereby established a ~~The~~ Zoning Board of Adjustment ~~presently in existence pursuant to N.J.S.A. 40:55D-1 et seq. is hereby continued to~~ consisting of seven regular members and not more than four alternate members, all of whom shall be residents of the Borough appointed by the Mayor ~~and confirmed by the Council.~~

B. Terms and alternates.

(1) The members of the Board of Adjustment shall continue until their respective terms expire. Thereafter, the term of each member shall be four years from January 1 of the year of their appointment. The terms of members first appointed under this subsection shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment and, in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years, and the term of each alternate member shall be two years. The terms of not more than two alternates shall expire in any one year.

(2) The Mayor may appoint ~~and the Borough Council may confirm~~ not more than four alternate members who shall be designated at the time of their appointment as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4." Alternate members shall meet the same qualifications as regular members.

(3) Alternate members may participate in all matters, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.

C. – P. [NO CHANGES]

SECTION 16: Chapter 25 (Claims Procedure; Pay to Play) is hereby revised as follows:

§ 25-3 Procedure for presentation of claims.

A. The procedure for presentation of claims against the Borough of Red Bank shall be prepared by the Chief Financial Officer and Purchasing Agent to comply with the regulations promulgated by the New Jersey Department of Community Affairs, Division of Local Government Services.

B. Each claim presented to the Borough Clerk for payment shall be certified by ~~a member of the Borough Council or other officer or employee of the Borough designated by the Borough~~

~~Council by resolution the Borough Manager, as a certifying officer, acting in consultation with any or all or-employee(s) who shall have knowledge of the fact that the goods have been received by or the services rendered to the Borough. The signature of the one so certifying shall appear on every claim, and it shall be the duty of the Borough Clerk to determine whether such signature appears thereon.~~

~~§ 25-4 Claims presented to Chairman of Appropriate Committees.~~

~~Claims shall then be presented to the Chairman of the Committee responsible for the placing of the order and to the Chairman of the Finance Committee, who, if satisfied the claims are proper, shall approve the same. In the event the Chairman of the Finance Committee is unavailable for the presentation of the claim prior to the next Borough meeting, the claim shall be presented to any other member of the Finance Committee. After the claims have thus been presented, the same shall either be approved or disapproved with reasons for disapproval and returned to the Borough Clerk, who shall then present these claims to the Borough Council for formal approval or disapproval at a regular meeting or at a regular adjourned meeting.~~

~~§ 25-5 Mayor authorized to approve claims prior to Borough Council approval.~~

~~The Mayor may approve claims prior to the time they are presented to the Borough Council for approval. Where the Mayor does not approve claims prior to the time they are presented to the Borough Council for approval, it shall be his duty to incorporate in the official minutes, by signing the approving resolution or by approving the schedule of claims approved by the Borough Council, that he has examined the same and has officially approved the same for payment. Where the President of Council is acting in the place and stead of the Mayor pursuant to law, then and in that event the President of Council may approve claims as Acting Mayor in the place and stead of the Mayor.~~

§ 25-6 Approval by Borough Council; disproved claims.

Claims certified by the Borough Manager shall be considered by the Borough Council, which shall approve the same, except that the Borough Council may reject any claim presented to it stating the reason for such rejection. Any disapproved claim shall be referred back to the Borough ~~Clerk~~ Manager with such instructions as the Borough Council may give at the time of disapproval.

§ 25-7 to -11 [NO CHANGES]

SECTION 17: Chapter 97 (Parking Utility) is hereby revised as follows:

§ 97-1 Preamble.

The great reliance upon individual motor vehicles has caused traffic congestion and parking problems in the Borough. The parking of the motor vehicles on the streets of the Borough contribute to this congestion to such an extent as to interfere with the primary use of such street. The consolidation and combination of the parking facilities of the Borough under a single

publicly owned and operated utility will benefit the Borough in the development, control and regulation of the parking facilities in the Borough so as to result in a reduction of congestion and a more orderly, safe and efficient flow of traffic and use of streets within the Borough. The ~~Mayor and Borough Council have~~ has determined that it is in the best interests of the Borough to establish a utility known as a Public Parking System which will serve to consolidate, combine and establish public parking in the Borough for the purposes hereinbefore stated.

§ 97-4 Organization.

The Red Bank Parking Utility shall be organized accordingly and in accordance with relevant municipal ordinances approved by the ~~Mayor and Borough Council~~ and under the direction of the Borough ~~Administrator~~ Manager according to the Administrative Code.

A. – B. [NO CHANGES]

SECTION 18: Chapter 105 (Personnel Policies) is hereby revised as follows:

A. [NO CHANGES]

B. The Borough ~~Administrator~~ Manager shall be responsible to implement and enforce the personnel policies and procedures adopted by ordinance or resolution authorized pursuant to this article. If there is a conflict between said personnel policies and procedures and any duly adopted and lawful collective bargaining agreement, personal services contract, the Police Department Rules and Regulations for the Governing of the Police Department, or federal or state law, the terms and conditions of that agreement, contract, rules and regulations, or law shall prevail. In all other cases, the policies and procedures adopted pursuant to this article shall prevail.

SECTION 19A: Chapter 118 (Police Department) is hereby revised as follows:

§ 118-1 Definitions.

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

BOROUGH COUNCIL

The ~~Mayor and~~ Borough Council of the Borough.

DEPARTMENT

The Police Department of this Borough.

POLICE COMMITTEE

~~The Committee appointed by the Mayor with jurisdiction over the Department.~~

§ 118-4 Rules and regulations established.

A. The ~~Police Committee hereby establishes the~~ Department Rules and Regulations under cover to be known as the "Red Bank Police Department Rules and Regulations" ~~and~~ heretofore

or hereafter adopted by the appropriate authority shall be binding and effective as though incorporated as part of this article.

B. ~~The Police Committee~~ Borough Manager shall be the "Appropriate Authority" pursuant to N.J.S.A. 40A:14-118.

§ 118-5

Right to amend or revoke.

For the good of the service, in accord with N.J.S.A. 40A:14-118, the right is reserved by the Police Chief as the representative of the Borough ~~Council~~ to amend or to revoke any of the rules, regulations, or procedures, or add thereto, as the circumstances require, subject to the approval of the ~~Mayor and Council~~ Borough Manager.

SECTION 19B: Notwithstanding any other provision of this Ordinance to the contrary, immediately following the adoption of this Ordinance, the governing body shall serve as the appropriate authority under § 118-4(B) on a temporary basis until the Borough Council thereafter completes an appointment of a permanent, non-interim Borough Manager pursuant to law, at which time provisions of Section 19A shall immediately begin to govern by operation of this ordinance.

SECTION 20: Chapter 136 (Retirement) is hereby revised as follows:

§ 136-1 Eligible positions.

Pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- A. ~~Statutory based, untenured Business Administrator~~ Borough Manager;
- B. ~~Department heads that are filled by action of the governing body and whose positions involve executive decision-making or are senior management of the organization report directly to an elected official(s) or chief administrative officer, notwithstanding that said individual's appointment may be made by the Borough Manager instead of the Borough Council in the council-manager form of government, in accordance with Local Finance Notice 2008-10;~~
- C. Municipal Court Judge.

SECTION 21: Chapter 231 (Animals) is hereby revised as follows:

§ 231-7 Enforcement; appointment of designated authority.

The ~~Mayor and Borough~~ Council shall have the power to appoint a Poundmaster or other designated authority whose duty it shall be to enforce the provisions of this article. The ~~Mayor and Borough~~ Council shall also have the power to enter into a contract with one or more persons

for the exercise of the duty of Dog Catcher, Dog Warden or Poundmaster, and to enforce the provisions of this article.

SECTION 22: Chapter 238 (Assemblies, Public) is hereby revised as follows:

Immediately following the issuance of a public assembly permit, the Chief of Police shall send a copy thereof to the following:

- A. The Mayor.
- B. The Borough Clerk.
- C. The Fire Chief.
- D. The First Aid Captain.
- E. The Director of Public Works.
- F. The Borough Manager.

SECTION 23: Chapter 252 (Brush, Weeds and Deeds) is hereby revised as follows:

Chapter 252 Brush, Weeds and Deeds

§ 252-2 Code Enforcement Officer.

The Code Enforcement Officer shall report to the Borough ~~Council~~ Manager the existence on any property within the Borough of any trash, property or other material set forth in § 252-1 of this chapter. Such report may also be made to and recognized by the Borough ~~Council~~ Manager from any other source, and the Borough ~~Council~~ Manager may also take cognizance of such existence of its own motion without any such report from other sources and may take such action thereon as is herein authorized.

§ 252-4 Noncompliance with notice.

In the event the owner or tenant neglects or refuses to remove the same within the ten-day period, or within any other time specified in any such notice, the required removal shall be done by the Borough under the direction of the Director of Public Utilities, or such other municipal officer or employee as the Borough ~~Council~~ Manager may designate. The officer or person under whose direction the removal shall be done shall keep an accurate record of the cost of such removal, certify the cost to the Borough Council, and the Borough Council shall examine the items making up the cost, and if found to be correct, notify the Collector of Taxes to charge the cost against the lands from which the same were removed. Any amount so charged shall forthwith be and become a lien on the lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same

rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes and collected as provided and authorized by New Jersey Revised Statutes 40:48-2.13 and 40:48-2.14.

SECTION 24: Chapter 323 (Drug-Free Zones) is hereby revised as follows:

A. [NO CHANGES]

B. The Borough ~~Administrator~~ Manager is hereby directed and shall have the continuing obligation to promptly notify the Borough Clerk of any changes or contemplated changes in the location and boundaries of any public housing facility, public park or public building (as defined in N.J.S.A. 2C:35-7.1 as it may be amended or supplemented).

SECTION 25: Chapter 352 (Fiber Optic Cables) is hereby revised as follows:

Chapter 352 Fiber Optic Cables

§ 352-3 Requirements of applications recommended for approval.

Every application recommended for approval by the Borough Engineer, if approved by the ~~Mayor and Borough Council~~, will require as a condition thereof the following:

A. Payment of a permit fee in accordance with the following schedule:

(1) An engineering and legal professional escrow for review of at least \$3,000, or more, as determined by the Borough ~~Administrator~~ Manager in consultation with the Borough Engineer.

(2) A one-time permit fee of \$2,500 payable to the Finance Department.

B. – D. [NO CHANGES]

SECTION 26: Chapter 355 (Filming) is hereby revised as follows:

Chapter 355 Filming

§ 355-3 Issuance of permits.

A. Permits shall be issued by the Borough ~~Administrator~~ Manager after review and approval of the Borough's Special Events Committee at one of its regularly scheduled meetings. Any such review shall determine whether any additional municipal services may be reasonably required depending upon the nature of the activities proposed.

B. Expedited permits may be issued by the Borough ~~Administrator~~ Manager upon payment of the requisite fee. The Borough ~~Administrator~~ Manager may issue the permit without approval

of the Special Events Committee, so long as the application complies with all other requirements of this section. The Borough ~~Administrator~~ Manager may determine whether any additional municipal services may be reasonably required depending upon the nature of the activities proposed. Expedited permits shall be issued at the close of the fourth business day after submission of a complete permit application.

C. – D. [NO CHANGES]

E. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Red Bank Police Department, the Fire Marshal and the Borough ~~Administrator~~ Manager and with respect thereto.

F. – G. [NO CHANGES]

H. The applicant shall give written notice of the filming to all businesses and residents within 200 feet of the filming location, and further, provide written proof of such notice at least three business days prior to the submission of a completed permit application. Such written notice shall be in a form acceptable to the Borough ~~Administrator~~ Manager and shall inform such businesses and residents that objections may be filed with the Borough ~~Administrator~~ Manager within the next three business days, said objections to form a part of applicant's application and be considered in the review of the same.

SECTION 27: Chapter 412 (Jitneys) is hereby revised as follows:

Chapter 412 Jitneys

§ 412-5 Authorization to release information.

As a condition of conducting the investigation referred to in § 412-4 of this chapter, each applicant, by submitting an application for a jitney license, authorizes the Chief of Police and the Red Bank Police Department to release the results of such investigation to the Borough Council, ~~Mayor, Business Administrator~~ Borough Manager, Borough Clerk, Code Enforcement Officer, Borough Attorney and licensing clerk. No such investigation shall be undertaken without such written authorization by the applicant.

SECTION 28: Chapter 414 (Junkyards and Junk Shops) is hereby revised as follows:

Chapter 414 Junkyards and Junk Shops

§ 414-2 Application.

All persons now engaged in or hereafter engaged in the business of junk shops or junkyards shall from and after the effective date of this chapter make application to the Borough Clerk for the license. The application shall be in writing and shall set forth the names and addresses of all

persons engaged in the operation of the business, and if a firm, corporation or association, the names and addresses of the officers of the same. The application shall also set forth the principal place of business and shall describe the premises upon which the business is to be conducted, giving the street address, the street frontage and depth. The application shall be accompanied by a license fee hereinafter set forth. The application shall be approved by the Health Officer, the Construction Official and the Fire Prevention Bureau of the Borough. Upon approval of the above, the application shall then be presented to the ~~Mayor and~~ Borough Council, and if approved by the ~~Mayor and~~ Borough Council, the Borough Clerk shall issue license, which license shall be effective from the date of issue to April 30 of the year in which the license is issued. All renewals of licenses shall be made in the same manner and shall be effective for one year commencing on May 1.

§ 414-4 Revocation.

The license may be revoked at any time by the ~~Mayor and~~ Borough Council upon good cause of complaint after due notice thereof and a hearing thereon.

SECTION 29: Chapter 430 (Licenses and Permits) is hereby revised as follows:

Chapter 430 Licenses and Permits

§ 430-8 Revocation.

A license may be revoked by the ~~Mayor and~~ Borough Council by reason of the violation of the terms of the license, the violation of any municipal ordinance, state or federal statute or falsification in applying for a license. Before revocation, the licensed person may be granted a hearing by the ~~Mayor and~~ Borough Council, after five days notice thereof and furnishing the person with a written statement of the charges against him.

SECTION 30: Chapter 478 (Parks and Recreation) is hereby revised as follows:

Chapter 478 Parks and Recreation

§ 478-10 Waiving of provisions.

Any or all of the above provisions may be waived by resolution of the ~~Mayor and~~ Borough Council.

§ 478-14 Waiving of provisions.

Any or all of the above provisions may be waived by resolution of the ~~Mayor and~~ Borough Council.

SECTION 31: Chapter 505 (Property Maintenance) is hereby revised as follows:

Chapter 505 Property Maintenance

§ 505-5 Abatement and correction by Borough.

A. Abatement of nuisance, correction of defect. The Borough of Red Bank, by resolution of its governing body, may abate a nuisance, correct a defect, or put premises in proper condition so as to comply with the requirements of any municipal ordinance or state law applicable thereto.

B. Municipal expenditures at the cost of the owner or lessor. The expenses of the municipality for abatement or correction of defects shall also be recoverable from the owner or lessor of the premises and shall be a lien against the premises and collectible similar to a municipal tax lien. Said expenses shall be fixed and determined by resolution adopted by the ~~Mayor and~~ Borough Council.

§ 505-6 Notice.

A. Notice issue. The Borough ~~Administrator~~ Manager, or his designee, shall report to the ~~Mayor and~~ Borough Council the existence of any nuisance or defect of premises that fail to comply with any municipal ordinance or state law, which nuisance or defect adversely affects the public health, safety and welfare. If the ~~Mayor and~~ Borough Council ~~are~~ is of the opinion that the condition at such premises are such that the municipality should abate, correct or otherwise put the premises in proper condition to comply with the applicable laws then, in such event, the Borough ~~Administrator~~ Manager shall notify the owner, lessor or occupant of the property in writing to put the premises in proper condition so as to comply with the requirements of any municipal ordinance or state law applicable thereto.

B. – C. [NO CHANGES]

SECTION 32: Chapter 562 (Sidewalk Cafes and Restaurants) is hereby revised as follows:

§ 562-2 Application, investigation, issuance or denial.

A. – B. [NO CHANGES]

C. Referral to the Office of Code Enforcement.

(1) The Borough Clerk shall forward the application to the Office of Code Enforcement, who shall conduct an investigation and review the data contained in the application. Upon completion of the investigation by the Code Enforcement Officer, he will make a report and recommendation to the ~~Mayor and~~ Borough Council, through the Borough Manager.

D. Action by ~~Mayor and~~ Borough Council. The ~~Mayor and~~ Borough Council will review the report of the Code Enforcement Officer, the application and the report, if any, of the Special Improvement District. The ~~Mayor and~~ Borough Council shall issue or deny the license as in their unlimited discretion they deem appropriate. The ~~Mayor and~~ Borough Council shall take into

consideration the location, potential interference with pedestrian or vehicular traffic, appropriateness of design, the business record of the applicant, any proposed public safety, health and welfare considerations. It is contemplated that no less than five feet of unobstructed sidewalk shall be open and maintained for pedestrians, and that no chairs, tables, or other property shall be located, whether in use or not, within three feet of any curb. Any umbrella or other cover shall maintain a clearance of not less than seven feet for the fabric and not less than eight feet for any frame or rigid material. No license shall be issued until a resolution of the ~~Mayor and~~ Borough Council of the Borough authorizing the issuance of a license shall have been adopted.

§ 562-3 Applications fees and licensing fees.

Any person submitting an application for a sidewalk cafe or restaurant permit, or extension permit, or renewal thereof, shall submit an annual application fee in the amount of \$100 with said application. Should an application be approved by the ~~Mayor and~~ Borough Council of the Borough by resolution as specified herein, the applicant shall pay an initial licensing fee in the amount of \$2 per square foot of sidewalk utilized for said sidewalk cafe or restaurant per permit or permit extension. Applicants seeking renewals of said licenses or permit extensions shall pay an annual licensing fee in the second and all subsequent years in the amount of \$4 per square foot of sidewalk area utilized for the sidewalk cafe or restaurant. Any changes in plans shall require a new application and fee. No sidewalk cafe application will be accepted if there remains an outstanding balance on the applicant's previous year's permit fees.

§ 562-5 Annual renewal.

Any license for a sidewalk cafe permit and/or any permit extension issued pursuant to the terms of this chapter shall be renewed annually before April 1 of each year, as applicable, and at the discretion of the ~~Mayor and~~ Borough Council.

SECTION 33: Chapter 583 (Soil Removal) is hereby revised as follows:

Chapter 583 Soil Removal

A. The ~~Mayor and~~ Borough Council, on receipt of any such application from the Director of Public Utilities of the Borough with his recommendations, shall fix a time and place for a hearing, of which the applicant and any other persons interested or affected shall be notified by the Director of Public Utilities.

B. At and following any such hearing and before final action on any such application, the ~~Mayor and~~ Borough Council shall consider soil erosion, soil fertility, drainage, lateral support, slopes, grades of adjoining lands and of streets, roads, highways, and other thoroughfares, land values and use and such other factors as may bear upon or relate to the coordinated, adjusted and harmonious development of the Borough.

§ 583-4 Conditions of permit.

A. No such permit shall be granted unless the ~~Mayor and~~ Borough Council find the proposed removal will not create or result in conditions inimical to the public health, safety and welfare, will not create or tend to create sharp, deep or unusual declivities, pits, or depressed land values or any other condition which may be inimical to the public health, safety and welfare.

B. Any such permit may be granted with such reasonable terms, provisions and conditions for the protection of persons and property and for the protection of the public health, safety and welfare, as the ~~Mayor and~~ Borough Council shall provide. The ~~Mayor and~~ Borough Council may, as one of the conditions, provide that the applicant shall procure and file a bond with the Borough Clerk, running to the Borough, in such reasonable amount and with such sufficient surety or sureties as the ~~Mayor and~~ Borough Council shall determine, conditioned for the performance by the applicant of such soil removal in accordance with any such permit and any terms, provisions or conditions thereof.

§ 583-5 Purpose.

The ~~Mayor and~~ Borough Council hereby declare and find that this chapter is necessary, advisable and proper for good government, order and for the protection of persons and property and for the preservation of the public health, safety and welfare of the Borough and its inhabitants.

SECTION 34: Chapter 590 (Solid Waste) is hereby revised as follows:

Chapter 590 Solid Waste

§ 590-3 Recycling Coordinator.

A. The position of the Recycling Coordinator is hereby created and established within the Borough of Red Bank.

B. The Recycling Coordinator shall be appointed by the ~~Mayor and Council~~ Borough Manager for a term of four years, expiring on December 31 of the last year of the appointment.

C. The Recycling Coordinator, subject to the approval of the ~~Mayor and Council~~ Borough Manager, and in turn the Borough Council, shall establish and promulgate reasonable rules and regulations as to the manner, days and times for the collection, sorting, transportation, sale and/or marketing of said recyclable resources while minimizing the cost of the recycling program to the Borough of Red Bank.

§ 590-4 Collection by authorized persons.

A. The ~~Mayor and Council~~ Borough Manager may use municipal personnel to collect recyclable material set forth herein at curbside and/or from a dropoff center and shall sell said recyclable material if a market exists therefor pursuant to N.J.S.A. 40A:11-1 et seq.

B. The ~~Mayor and~~ Borough Council may elect to enter into agreements with qualified persons or corporations authorizing them to collect said recyclable material at curbside or from a

dropoff center and to sell said recyclable material, provided the amount of money realized exceeds the cost of collection. All qualified persons and corporations under the above agreement shall provide the Borough of Red Bank Recycling Office with a monthly tally of tonnage of all recyclable materials disposed of for the Borough credit in the state rebate program.

§ 590-6 Collection by unauthorized persons prohibited.

A. Recyclable material as defined herein shall be the property of the Borough of Red Bank once placed on the curbside or brought to a dropoff center.

B. It shall be a violation of this section for any person unauthorized by the ~~Mayor and Council~~ Borough to pick up or cause to be picked up said recyclable material as defined herein. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

SECTION 35: Chapter 596 (Special Improvement District) is hereby revised as follows:

Chapter 596 Special Improvement District

§ 596-2 Findings.

The ~~Mayor and Borough~~ Council finds and declares:

A. – E. [NO CHANGES]

§ 596-7 Powers of District Management Corporation.

The District Management Corporation, in addition to acting as an advisory board to the ~~Mayor and Borough~~ 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. – Q. [NO CHANGES]

§ 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 Borough~~ 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 Borough~~ 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. [NO CHANGES]

C. Each year, when the ~~Mayor and~~ Borough 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~~ Borough 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. – E. [NO CHANGES]

F. The ~~Mayor and~~ Borough 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 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~~ Borough 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, Borough Manager, and Borough Clerk of the Borough.

§ 596-13 Preamble.

A. – E. [NO CHANGES]

F. RiverCenter has urged the ~~Mayor and~~ Borough Council to adopt an ordinance creating the Downtown Business Improvement Zone to cover the entire area within this Special Improvement District of the Borough of Red Bank.

G. [NO CHANGES]

SECTION 36: Chapter 608 (Streets and Sidewalks) is hereby revised as follows:

Chapter 608 Streets and Sidewalks

Article I Visual Obstructions at Intersections

§ 608-4 Neglect or refusal to comply.

In the event the owner or tenant neglects or refuses to cut or trim the same within the ten-day notice period or within any other time herein specified, or as specified in the notice, the required trimming or cutting shall be done by the Director of Public Utilities and the cost thereof, having been certified to the ~~Mayor and Borough Council~~ by the Director of Public Utilities through the Borough Manager and found correct, shall be charged against the lands abutting or bordering such sidewalks, and become a lien upon such lands and be added to and become in form part of the taxes next to be assessed and levied upon the lands, to bear interest at the same rate as taxes and to be collected and enforced by the same officers and in the same manner.

Article VI Removal of Overhanging Branches

§ 608-13 Notice and removal costs.

It shall be the duty of the Director of Public Utilities to give notice to all property owners of any violation on their part of this article and requiring the property owners to trim and cut the hanging branches of trees as aforesaid within 10 days from the receipt of the notice, and in default of compliance therewith, the work shall be done by the Director of Public Utilities, and the cost thereof, having been certified to the ~~Mayor and Borough Council~~ by the Director of Public Utilities through the Borough Manager and found correct, shall be charged against the lands abutting or bordering such sidewalks, and become a lien upon such lands and be added to and become in form part of the taxes next to be assessed and levied upon the lands, to bear interest at the same rate as taxes and to be collected and enforced by the same officers and in the same manner.

Article X Telecommunications Facilities in Public Rights-of-Way

§ 608-53 Small cell facility license application process.

A. Any person who desires a license pursuant to this article shall file an application with the Borough ~~Administrator~~ Manager. The application shall include the following information and requirements:

(1)-(16) [NO CHANGES]

B. [NO CHANGES]

§ 608-54 Determination by Borough ~~Administrator~~ Manager for small cell facility licenses.

A. Upon the Borough ~~Administrator's~~ Manager's determination that an application for a license is complete, including obtaining county approval, when necessary in accordance with this article, the Borough Administrator Manager, after consultation with the Borough Attorney and Borough Engineer, shall issue the determination.

B. Determination shall be issued within 60 days of the applicant's submission of a complete application.

C. If the application is denied, the written determination shall include the reasons for denial and supported by facts upon which the denial is based.

SECTION 37: Chapter 628 (Taxation) is hereby revised as follows:

Chapter 628 Taxation

§ 628-21 Report of Tax Assessor.

A. The Tax Assessor shall report, on or before September 1 of each year, to the Borough Manager and Mayor and Borough Council as to the total amount of real property taxes exempted and the total amount abated within the Borough in the current tax year under this article.

B. The report shall state, for the current tax year, the total amount of payments made in lieu of taxes according to the formula utilized by the Borough and the difference between that total amount and the total amount of real property taxes which would have been paid on the project had the tax agreement not been in effect.

SECTION 38: Chapter 640 (Telephones, Public) is hereby revised as follows:

Chapter 640 Telephones, Public

§ 640-8 Applicability to existing telephones.

A. This chapter shall apply to all existing telephones located on or above public sidewalks. Owners or lessees of such telephones shall have a period of 30 days from the date this chapter becomes final to obtain licenses as required by this chapter. The Borough reserves the right to reject any and all existing locations submitted for approval based upon their conformance with the standards of this chapter.

B. If a license is not obtained within the time specified herein or if the Borough rejects any application for a license, the owner shall forthwith remove said public telephone and all ancillary equipment. If the owner fails or refuses to remove said public telephone within 10 days from notification by the Borough, the Borough ~~Administrator~~ Manager or a designee may cause the

public telephone to be removed. Public telephone equipment removed by the Borough shall be released to the lawful owner thereof upon payment of a fee of \$500 to the Borough.

C. If no person makes a claim for return of a public telephone and/or ancillary equipment removed by the Borough under this chapter within six months from the date of removal, it may be disposed of by the Borough pursuant to law including N.J.S.A. 40A:14-157.

§ 640-9 Suspension or removal of license; hearings.

A. In addition to any other penalties for violation of this chapter, the Borough ~~Administrator~~ Manager or his designee may, after notice and hearing and for just cause, suspend, revoke or not renew any license issued hereunder for:

(1)-(5) [NO CHANGES]

B. Any hearing authorized under this chapter shall be conducted before the Borough ~~Administrator~~ Manager or a designee and shall require written notice to the licensee, which notice shall be given not less than 10 days prior to the date scheduled for said hearing.

SECTION 39: Chapter 652 (Towing) is hereby revised as follows:

Chapter 652 Towing

§ 652-12 Discipline, including suspension or removal from tow list.

In the event that a person or entity shall fail to perform satisfactorily, or performs in violation of this chapter, such person or entity may be disciplined, including removal from the tow list, by the towing performance review committee, consisting of two members of the Internal Affairs Unit of the Police Department. Discipline may run from a reprimand to removal from the tow list. As soon as practical after a decision by the Towing Performance Review Committee, the Chief of Police shall cause written notice of such action to be given to the person or entity to be disciplined. The person or entity disciplined shall have the right to submit in writing, for the record, such rebuttal as deemed appropriate and an explanation of the steps being taken and procedures being implemented to correct any deficiencies. Any person or entity receiving a suspension for more than five days may appeal the disciplinary action to the Borough ~~Administrator~~ Manager. The ~~Administrator~~ Manager, or his/her designee, shall hold a hearing regarding such appeal prior to the discipline being implemented. Any appeal must be made and served upon the ~~Administrator~~ Manager within 10 days of receipt by the person or entity disciplined of the written notice from the Police Department regarding the suspension or removal.

§ 652-14 Authority of Police Department.

The Police Chief is hereby given the authority to promulgate rules or regulations necessary to carry out the intent and purpose of this chapter, subject to approval of such rules and regulations by resolution of the ~~Mayor and~~ Borough Council of the Borough of Red Bank.

SECTION 40: Chapter 665 (Trees) is hereby revised as follows:

Chapter 665 Trees

§ 665-5 Violations and penalties.

A. – B. [NO CHANGES]

C. The Code Enforcement Department and the Borough ~~Administrator~~ Manager shall have the authority to issue summonses, to initiate proceedings for the collection of civil penalties and to otherwise enforce the provisions of this chapter.

SECTION 41: Chapter 18 (Borough Facilities, Use of) is hereby revised as follows:

Chapter 18 Borough Facilities, Use of

§ 18-1 Requirements.

Borough-owned facilities may be utilized by organizations, groups, committees, individuals; not sponsored, controlled or regulated by the Borough of Red Bank, who meet the following requirements:

A. – B. [NO CHANGES]

C. Approval by ~~Mayor and~~ Borough Council.

§ 18-2 Borough Clerk; responsibilities.

A. The Borough Clerk will be responsible for the processing of said applications and submission in complete form to the ~~Mayor and~~ Borough Council to be acted upon at a regular Borough Council meeting.

B. [NO CHANGES]

§ 18-4 Fees and additional requirements.

A. The ~~Mayor and~~ Borough Council may impose fees to cover costs to the Borough associated with the proposed use, and the Mayor and Borough Council may impose additional requirements deemed to be necessary to protect the health, safety and welfare of the general public.

B. – D. [NO CHANGES]

SECTION 42: Chapter 37 (Court, Municipal) is hereby revised as follows:

§ 37-6 Municipal Court Clerk and Deputy Clerk.

There shall be a Administrator and a Deputy Administrator of the Municipal Court, who shall be appointed by the ~~Mayor and Council~~ Borough Manager and who shall serve for a term of one year from the date of his appointment and until his successor is appointed and qualified. The Administrator and the Deputy Administrator shall perform such functions and duties as shall be prescribed for him by law, the rules applicable to Municipal Courts, and by the Municipal Judge.

SECTION 43: Chapter 50 (Emergency, State of) is hereby revised as follows:

Chapter 50 Emergency, State of

§ 50-1 Preamble.

~~A. Widespread public disorder has erupted in municipalities throughout the country resulting in numerous deaths and personal injuries and in property damage of hundreds of millions of dollars. The Borough Council is charged by N.J.S.A. 40:48-1(6) to make and enforce ordinances to preserve the public peace and order and to prevent and quell riots, disturbances and disorderly assemblages; and by the provisions of N.J.S.A. 2A:48-1 et seq., the Borough is liable for destruction or injury to real or personal property by reason of a mob or riot, subject to the conditions therein set forth.~~

~~B. The Mayor is the chief executive and administrative official of the Borough charged with the duty of executing all laws and ordinances of the Borough; and it is deemed necessary and in the public interests that the Borough take all appropriate action to insure that orderly procedures exist to protect persons and property of the citizens of the Borough.~~

§ 50-2 Powers of Mayor in emergency.

~~Whenever the Mayor, in his judgment, or in the event of his absence, disability or other inability to act, the President of the Council, or in the temporary absence or disability of both the Mayor and President of the Council, then the Chief of Police determines that an emergency exists as a result of mob action or other civil disobedience, including riot, rout or unlawful assembly, or real and present danger thereof causing or likely to cause danger or injury to or damages to persons or property, he shall have the power to impose by proclamation any or all of the following regulations deemed by him necessary to preserve the peace and order of the Borough.~~

~~A. To impose a curfew upon all or any portion of the Borough, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, areas, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining initial public services, fireman and authorized or requested law enforcement officers and personnel shall be exempted from such curfew.~~

~~B. — To order the closing of any business establishments anywhere within the Borough for the period of emergency, such businesses to include, but not be limited to those selling intoxicating liquors, cereal malt beverages, gasoline or firearms and ammunition.~~

~~C. — To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic.~~

~~D. — To call upon regular and auxiliary law enforcement agencies and organizations within or without the Borough to assist in preserving and keeping the peace within the Borough.~~

~~E. — Issue such other orders as are immediately necessary in his judgment for the protection of life and property.~~

§ 50-1 Municipal Emergency Management Coordinator.

A. Pursuant to the authority granted thereto in N.J.S.A. App.A:9-40.1, there shall be a Municipal Emergency Management Coordinator in the Borough of Red Bank to be appointed by the Mayor from among the residents of the municipality.

B. Pursuant to N.J.S.A. App.A:9-44, the Municipal Emergency Management Coordinator shall be responsible for the planning, activating, coordinating, and the conduct of emergency management operations within the Borough of Red Bank and shall be empowered with and subject to all the powers and responsibilities delegated by N.J.S.A. App.A:9-30 et seq.

C. The Municipal Emergency Management Coordinator shall serve for a term of three years from the date of the initial appointment by the Mayor. Any vacancy in the position of Municipal Emergency Management Coordinator shall be filled by the Mayor for the time remaining on the unexpired term of the prior Coordinator.

§ 50-2 Local Emergency Management Council.

A. Pursuant to N.J.S.A. App.A:9-41, there shall be a Local Emergency Management Council in the Borough of Red Bank composed of not more than 15 members to assist the Borough in establishing the various local volunteer agencies needed to meet the requirements of all local emergency management activities and to assist in supervising and coordinating of the Borough's local emergency management activities.

B. The Municipal Emergency Management Coordinator, as authorized by N.J.S.A. App.A:9-41 and appointed pursuant to § 50-1 of the municipal Code, shall be a member of the Local Emergency Management Council and shall serve as the chair thereof.

C. Notwithstanding the Municipal Emergency Management Coordinator, all appointments to the Local Emergency Management Council shall be by the Mayor for a term of one year from the date of the initial appointment. Any vacancy in the position of member of the Local Emergency Management Council shall be filled by the Mayor for the time remaining on the unexpired term of the prior member.

§ 50-3 State of emergency.

A. Pursuant to the power of N.J.S.A. App.A:9-40.5, whenever, in the opinion of the Borough's Municipal Emergency Management Coordinator, disaster has occurred or is imminent in the Borough of Red Bank, the Municipal Emergency Management Coordinator shall proclaim a state of local disaster emergency within the Borough.

B. The Municipal Emergency Management Coordinator, in accordance with regulations promulgated by the State Director of Emergency Management, shall be empowered to issue and enforce such orders as may be necessary to implement and carry out emergency management operations and to protect the health, safety, and resources of the residents of the municipality.

C. The powers conferred to the Municipal Emergency Management Coordinator by this chapter are confined to those conferred by N.J.S.A. App.A:9-40.5 and shall be exercised in a manner strictly consistent therewith.

SECTION 44: Chapter 55 (Eminent Domain, Use of) is hereby revised as follows:

Chapter 55 Eminent Domain, Use of

§ 55-2 Eminent domain pursuant to Local Housing and Redevelopment Law prohibited.

The ~~Mayor and~~ Borough Council shall not exercise the power of eminent domain pursuant to the Local Redevelopment and Housing Law to acquire any privately owned property within any redevelopment area created within the Borough for the purpose of selling or transferring such property to a developer or other private entity in furtherance of any redevelopment project.

SECTION 45. Severability.

The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION 46. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 47. Effective Date.

This ordinance shall take effect upon final adoption and publication in accordance with law.

LEGAL NOTICE

Publication by Summary Pursuant to N.J.S.A.40:49-2

This Ordinance amends the Red Bank administrative code to implement the voter-approved council-manager form of government pursuant to the requirements of the Faulkner Act at N.J.S.A. 40:69A-207(c).

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				KRISTINA BONATAKIS			X			
					X	DAVID CASSIDY			X			
	X	X				NANCY FACEY-BLACKWOOD	X		X			
X		X				BEN FOREST		X	X			
					X	LAURA JANNONE			X			
		X				KATE TRIGGIANO			X			
		X				MAYOR WILLIAM PORTMAN			X			
Introduced: September 28, 2023						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: October 12, 2023												
						<hr/> Laura Reinertsen, Borough Clerk						