

**AN ORDINANCE AMENDING AND
SUPPLEMENTING CHAPTER 25
OF THE REVISED GENERAL ORDINANCES AND
CREATING A SPECIAL IMPROVEMENT DISTRICT
WITHIN THE TOWNSHIP OF WEST ORANGE AND
APPOINTING A GOVERNING MANAGEMENT ORGANIZATION
OF THE DISTRICT**

This Ordinance amends, supplements and consolidates the following earlier enacted Ordinances: 1534-98, including Schedule A; 1570-98; 1581-98; 1593-99; 1602-99, which are now superceded by this Ordinance.

BE IT ORDAINED by the TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE in the County of Essex in the State of New Jersey pursuant to NJSA 40:56-84 et seq. as follows:

SECTION 1. Policy

WHEREAS, the Township of West Orange recognizes the unique contributions that are made to the Township by the residential, recreational, historic and commercial properties in the Downtown Neighborhoods of West Orange; and

WHEREAS, the Township of West Orange, in consultation with State agencies, other communities in New Jersey and property owners in the Township has determined that a Special Improvement District in the Township dedicated to the preservation and economic revitalization of the neighborhoods of Eagle Rock, Tory Corner, St. Mark=s and the Valley will improve the quality of life for all residents of West Orange; and

WHEREAS, Township of West Orange deems it desirable to create a Special Improvement District in anticipation that the Special Improvement District will encourage self-help and self-financing programs within the business community to enhance the commercial viability and attractiveness of the business areas as will as promote economic growth and employment within the Township of West Orange.

Section 2. Definitions

a. Special Improvement District (also referred to as District) shall mean areas within the Township of West Orange designated by this Ordinance as an area in which a special assessment on property within the District shall be imposed for the purposes of promoting the economic, historic preservation and general welfare of the District and the Township.

b. District Management Corporation shall mean the Downtown West Orange Alliance (also referred to as Alliance) which shall be organized as a non profit, tax exempt entity, incorporated pursuant to Title 15A of the New Jersey Statues and designated by municipal

ordinance to receive funds collected by a special assessment within the Special Improvement District, as authorized by this ordinance and amendments thereto.

Section 3. Findings

a. The area within the Township of West Orange as described by tax block and lot numbers and by street addresses as set forth in Schedule AA@ of this ordinance, will benefit from being designated as a Special Improvement District. Schedule AA@ will be compiled by the Municipal Tax Assessor annually. Notices and appeal as per section 8 of this ordinance shall apply.

b. That the Alliance would provide administrative and other services to benefit the welfare of all those who reside, are employed in or visit the District and the Township of West Orange.

c. That a special assessment may be imposed and collected by the Township of West Orange Tax Collector on a semi annual basis, and that all of these payments shall be transferred to the Alliance to effectuate the purpose of this ordinance and to exercise the powers given to it by this ordinance.

d. That among the services that will be performed Alliance will be:

1. Beautification of public areas.
2. Providing assistance to property and business owners for improving and preserving their buildings and properties.
3. Encouraging other physical improvements or policies that will improve the economic opportunities for residents, businesses and persons employed in West Orange.
4. Marketing, promotion and public relations for the District and its neighborhoods, in conjunction with other efforts that are pursued by other groups or organizations.
5. Recruitment and retention of businesses or organizations that enhance the economic and historic qualities of the District and West Orange.

e. That the business community should be encouraged to provide self-help and self-financing programs to meet local need.

Section 4. Creation of the Special Improvement District

a. There is hereby created and designated within the Township of West Orange a Special Improvement District, consisting of the properties designed and listed on Schedule A. by tax block and lot numbers and by street addresses. The District shall be subject to special assessments on all affected properties within the District, which assessment shall be imposed by the Township of West Orange for the purposes of promoting the economic, historic and general welfare of the District and the Township of West Orange.

b. All properties within the District, excluding single family residences and tax-exempt properties, are deemed included in the assessing provisions of this ordinance and are expressly subject to assessment made for Special Improvement District purposes.

c. Unimproved property is deemed excluded from the assessing or taxing provisions of this ordinance and are expressly exempt from any tax or assessment made for Special Improvement District purposes. Parking lots are considered improved property and are assessed.

- d. All assessable property within the District shall be designated as either Tier I, Tier II or Tier III. Tier I properties shall be those properties of which any portion of the property fronts Main Street. Tier II are all other properties not included in Tier I and Tier III. Tier III properties shall be commercial buildings that are at least used 80% for office space.
- e. Tier I's rate of assessment shall be greater than Tier II's rate of assessment. Tier II's rate of assessment shall be greater than Tier III's rate of assessment.

Section 5. Assessment

- a. All of the monies collected through the assessment, pursuant to this ordinance, shall be spent solely to benefit the properties included in the district.
- b. Failure of any property owner to pay the annual assessments shall be treated in the same manner as failure to pay property taxes as regulated by Municipal and State laws.

Section 6. The Designated District Management Corporation

- a. The Council of the Township of West Orange hereby designates Downtown West Orange Alliance, a non-profit corporation, as the District Management Corporation for the District.
- b. On adoption of this Ordinance, the Board of Trustees of the Downtown West Orange Alliance will immediately assume the management of the Special Improvement District.
- c. Board Members will serve until the election of new members at the first Annual Meeting, which shall be held within sixty (60) days of the adoption of this Ordinance.

Section 7. Membership

- a. The membership of the Alliance shall be as follows:
 - 1. The owners of real property, subject to the assessment under this ordinance, in the West Orange Special Improvement District as created by the Council of West Orange. Each taxable property as determined by the Tax Assessor's office of the Township of West Orange shall be entitled to one (1) vote.
 - 2. Persons who are legal tenants of property subject to the assessment in the district and who have paid an annual dues to the Alliance shall be entitled to one (1) vote.
 - 3. Any business, organization or individual interested in supporting the purposes of the Alliance may become a non-voting ex-officio member by filing an application in such form as the Board shall prescribe, and paying such dues, if applicable, as the Board may establish.
 - 4. The Board of Trustees, , will consist of thirteen (13) voting members, composed of the following;
 - (a) One Township Council Member to be appointed by the majority vote of the Township Council for a term period from July 1 to June 30.
 - (b) Each Township council Member and the Mayor shall appoint a trustee who either lives in the Township, works in the district or owns property in the Township. All terms shall run concurrent with the appointing official, and shall be effective from July 1 of the calendar year in which the appointment is made. In the event the appointing person's term ends, the Trustee's term shall also terminate. The new Mayor or Council person filling the appointing person's position shall appoint a new Trustee. Notwithstanding anything to the contrary, no term shall

exceed four (4) years. However, any trustee may be reappointed for additional terms.

- (c) Two persons, who either live in the Township, work in the District or own property in the Township, to be elected at the Annual Meeting , held in December of each calendar year, by the Members. Except as hereinafter provided, these persons shall be elected for a term of four (4) years. The initial two persons elected shall randomly be chosen to serve a two year term, a three year term and a four year term. The terms begin January 1, immediately following the annual meeting.
- (d) Two persons who either live in the Township, work in the district or own property in the Township , shall be elected at the December Annual Meeting by the Members. Except as hereinafter provided, these persons shall be elected for a term of four (4) years. The initial two persons elected shall randomly be chosen to serve a two year term, a three year term and a four year term. The terms begin January 1, immediately following the annual meeting.
- (e) The Township Planner will be a non-voting Member who acts as a liaison between the Planning Department and the Alliance.
- (f) The Township Council, by a majority vote of the total Township Council membership, shall appoint two additional members to the Board for a one (1) year term who are property owners in the Special Improvement District. These two members may be reappointed for three (3) successive terms.

5. All vacancies of an appointment of the Mayor and Township Council will be filled by consensus by the Mayor and Township Council to fulfill the remainder of the term. If a vacancy of an elected Member occurs, the Board Members shall appoint a person to fill the vacancy until the next Annual Meeting at which time a new Member will be elected at the Annual Meeting to complete the vacant term.

6. The Board shall elect an Executive Board that will consist of a President, Vice President, Treasurer and Secretary.

7. All members of the Board of Trustees will serve on a volunteer basis and none will receive any form of compensation for service on the Board. For all Board of Trustees meetings, a majority of members will constitute a quorum.

8. All Board Members shall disclose any and all business interests which may be involved or affected in the District. A Board Member shall recuse him/herself from consideration and voting on any contract or direct expenditure to the Board Member, his/her business or any family members= business. In the event a Board Member is unsure about a possible conflict, said Member shall state the possible conflict and the Township Attorney shall determine if a conflict exists.

9. The Board of Trustees will:

- (1) Adopt and amend the by-laws, rules, regulations and policies in connections with the performance of its duties and the regulation of its affairs.
- (2) Publish an annual Program of Work, copies of which will be delivered to the Township Council.
- (3) Adopt an Annual Budget that will be submitted for approval by the Township Council.
- (4) Elect officers and develop working committees for the District.

- (e) Retain appropriate insurance for the Alliance and its Board.
- (f) Hire persons as may be required to perform its duties and pay their compensation from funds available to the Alliance.

10. At the regular Board meeting one month prior to the expiration of terms, the Board's Nominating Committee shall submit a slate of candidates for election to the Board, to which may be supplemented by nominations from other Members. The Secretary of the Board will attest to the eligibility of each candidate.

11. The Board of Trustees will hold regular monthly meetings and conduct an Annual Meeting, held in December. The meeting schedule will be prominently posted in Town Hall and announced in the Newspaper of Record. Meeting minutes, financial statements and other pertinent documents will be available for inspection during normal business hours at the Board's offices.

12. The Board of Trustees shall implement the purpose of this ordinance. Among its powers and obligations necessary to fully implement these purposes are:

- (a) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds for a gift, grant or donation of property or money;
- (b) Make and execute agreements which may be necessary or convenient to exercise of the powers and functions of the Alliance, including contract with any person, firm, corporation, governmental agency or other entity.
- (c) Administer and manage its own funds and accounts and pay its own obligations.
- (d) Administer exterior, physical improvements to properties within the District with funds provided by federal, state or local grant and or loan programs. The Management Corporation can supplement these funds for these purposes. Any improvements to properties shall be funded through the special assessment only if appropriate grant and loan programs are not available to the Management Corporation.
- (e) Fund the rehabilitation of properties in the District, subject to the provisions enumerated in this ordinance;
- (f) Accept purchase, rehabilitate, sell, lease or manage property in the District with the approval of the Township Council of West Orange;
- (g) Enforce the conditions of any loan, grant, sale or lease made by the Alliance with the approval of the Township Council of West Orange;
- (h) Enforce bidding requirements consistent with State of New Jersey law;
- (i) Provide security, sanitation and other services to the District, supplemental to those provided normally by the Township of West Orange with the approval of the Township Council of West Orange;
- (j) Undertake improvements designated to increase the safety or attractiveness of the District to businesses which may wish to locate there or to visitors to the District including, but not limited to litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Township of West Orange;
- (k) Publicize the District and the businesses located within the District boundaries;
- (l) Recruit new businesses to fill vacancies in, and to balance the business mix in the District
- (m) Organize special events in the District pursuant to pertinent regulations of the Township Council.
- (n) Provide special parking arrangements for the District subject to prior Township Council approval

- (o) Provide temporary decorative lighting in the District.
- (p) Other matters related to the purposes of this ordinance as may be directed by the Township Council.

Section 8. Annual Budget, Hearing and Assessments.

a. The fiscal year of the District and the Alliance shall be January 1 to December 31. The Alliance shall submit no later than November 1 of each year a detailed Annual Budget for approval by the Mayor and Council. The budget shall be processed and adopted by the Council of the Township of West Orange in accordance with procedures set forth in NJSA 40:56-84.

b. The budget shall be submitted with a report that explains how the budget contributes to the goals and objectives for the Special Improvement District. The budget shall be reasonably itemized and shall include a summary of the categories of costs and property chargeable as follows:

1. All projected revenues and proposed expenditures
2. Each source of revenue shall be separately designated for the fiscal year.
3. A five year projection of the goals and a strategy for the implementation of

these goals of the Alliance.

c. The salary for a manager will be funded by the Township of West Orange, within the Department of Planning & Development.

d. Each year, the Alliance shall present to the Township Council a proposed budget. A public hearing shall be held to hear any objections and then the Township Council shall adopt said budget. The Tax Assessor shall prepare the list of properties in the district that are assessed according to this ordinance. This list of property owners, known as the Assessment role@ shall be filed in the Municipal Clerk=s office and be available for public inspection during normal office hours. Each property owner on the Assessment role@ shall receive a notice annually, by mail from the Municipal Clerk at least ten days before a public hearing to consider objections to be levied against the benefitted and assessable properties in the West Orange Special Improvement District. In addition, notice will be published in the official newspaper. The notice shall set forth the time, place and purpose of the meeting. After the public meeting, the official assessment role shall be certified by the Municipal Clerk and sent to the Essex County Tax Board.

e. The Alliance shall be responsible to refund the pro rata share of any portion of this special assessment due to a tax appeal.

f. For the purposes of this section, Aannual improvements@ shall mean and include any reconstruction, replacement or repair of trees and planting and other facilities of the Special Improvement District and the furnishing of any other local improvements that benefits properties within the District. For the purpose of this act, Acost@ shall, with respect the annual improvements and all other costs, include planning costs, incurred or to be incurred in connection with annual improvement to and operation and maintenance of the District.

g. Any balance of funds remaining unexpended at the end of the fiscal year shall remain available to the Alliance.

h. The Township shall pay over funds to the Alliance semi annually on the last day of April and October.

Section 9. Annual Audit of the District Management Corporation

The Alliance shall cause an annual audit of its books, accounts and financial transactions to be

made and filed with the Mayor and Township Council. For this purpose, the Alliance shall employ a certified public accountant of New Jersey. The annual audit shall be completed and filed with the Mayor and Township Council within 180 days after the close of the fiscal year of the Alliance and a certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Community Affairs Department within five days of the filing with the Mayor and Township Council.

Section 10. Annual report to the Municipality

The Alliance shall, within sixty (60) days after the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the Mayor and Township Council.

Section 11. Municipal Powers Retained.

Notwithstanding the creation of a Special Improvement District, the Township of West Orange expressly retain all its powers and authority over the areas designated as within the Special Improvement District.

Section 12. Severability

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

Section 13. No Limitation of Powers.

Nothing contained herein shall prevent the Township Council at any time subsequent to the adoption of this ordinance, by ordinance, from abandoning the operation of the Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the Special Improvement District or rescinding the designation or redesigning a Corporation. The Township Council may at any time enact, change or repeal any rule or regulation adopted on the operations of the Special Improvement District.

Section 14. Effective Date.

This ordinance shall take effect upon passage, approval and publication as required by law or on July 1, 1998, whichever is later and shall stay in effect for a period of 4 years from the date upon which the Special Improvement District shall become operable. At the end of said four year period this ordinance shall be deemed repealed, unless by resolution the City Council extends the effect of this ordinance for a specified period of time following a public hearing, prior notice of which shall be advertised in an official newspaper.

APPROVED AS TO FORM AND
LEGALITY ON THE BASIS OF
FACTS PROVIDED.

Kenneth W. Kayser
Assistant Township Attorney

John Skarbnik, Council President

John F. McKeon, Mayor

DATED:

LEGISLATIVE HISTORY

Ordinance 1534-98 was adopted on August 11, 1998 and there were four additional amendments to this Ordinance. The amendments are as follows:

1570-98	adopted October 27, 1998
1581-98	adopted December 15, 1998
1593-99	adopted February 23, 1999
1602-99	adopted March 2, 1999

These amendments were in response to public comment from property owners, merchants, residents and public officials of the Township of West Orange.

The Special Improvement District Ordinance will permit the establishment of a Special Improvement District and permit a special assessment to be collected for the support of such. The proposed district will provide administrative and other support services to the properties and business located in the designated area which will be a benefit to the entire municipality.

The Township of West Orange recognizes the unique contributions that are made to the Township by the residential, recreational, historic and commercial properties in the Downtown Neighborhoods of West Orange.

This Ordinance amends, supplements and supercedes all SID Ordinances for the purpose of clarity and to bring all amendments together in one document.

The Township of West Orange, in consultation with State agencies, other communities in New Jersey and property owners in the Township has determined that a Special Improvement District in the Township dedicated to the preservation and economic revitalization of the neighborhoods of Eagle Rock, Tory Corner, St. Mark=s and the Valley will improve the quality of life for all residents of West Orange.

The Township of West Orange deems it desirable to create a Special Improvement District in anticipation that the Special Improvement District will encourage self-help and self-financing programs within the business community to enhance the commercial viability and attractiveness of the business areas as well as promote economic growth and employment within the Township of West Orange.

This Ordinance includes all properties in the district except single family, tax exempt and unimproved vacant land. In addition, this Ordinance increases the Downtown West Orange Alliance Board of Trustees from eleven members to thirteen members.